

CITY OF ALBUQUERQUE

Albuquerque Police Department



Harold J. Medina, Chief of Police



February 1, 2024

City of Albuquerque City Council
P.O Box 1293
Albuquerque, NM 87103

Dear City Council,

Please accept this response to your January 25, 2024 letter, wherein you sought written answers to eight (8) questions related to the recent announcement of an ongoing FBI investigation involving APD officers within the DWI unit and a local criminal defense attorney.

In your letter, you express understanding as to the limitations placed on me, as APD Police Chief, in sharing specific, confidential information. I greatly appreciate your understanding in this regard, as my desire to be transparent must be tempered by my obligation not to disrupt or interfere with this ongoing investigation. I assure you, however, that I will apprise you as to the full extent of this investigation when I am able.

With that said, I have reviewed your questions and believe it is important to provide you broad context so that you can better understand my answers. Specifically, in many of your questions, your focus is on the pre-trial interview process. Additionally, it would be assistive to provide a procedural context for the way DWI cases are processed in Metro Court.

Pre-trial Interviews

Pre-trial interviews have historically and *generally* been made available to a defendant's attorney. The process allows an attorney to ask any APD officer involved in a case specific question as to their personal knowledge of the facts of that case. The decision as to which officers are subject to pre-trial interviews is made by the District Attorney's Office, who places the names of those APD officers involved in a case on a witness list. Once on a witness list, those APD officers are obligated to provide a pre-trial interview. The pre-trial interview itself is often done remotely, and unlike a deposition, is not a sworn statement. They are usually recorded, however, by the prosecution and defense to prepare for trial.

There are nuances in the pre-trial interview process depending on whether the criminal charge was a felony (in District Court) or a misdemeanor¹ (in Metro Court). For the sake

¹ Misdemeanor DWI cases, primarily in Metro Court, would be 1st Offense, 2nd Offense DWI, or 3rd Offense. Those Offenses could be considered Aggravated if the suspect had a BAC of .16 or greater or refused to submit to a breath test. An Aggravated DWI conviction simply expands the basic jail sentences for an offense. Any DWI offense charged as a 4th Offense or higher would be considered a felony and be filed/tried in District Court.

of brevity, my focus in this response centers on the pre-trial interview process in Metro Court and DWI cases.

Before March, 2022, the ability to conduct a pre-trial interview in a misdemeanor case came from Rule 7-504(C) (a copy of which is included). This Rule sets out a defense attorney must “in good faith” work with the District Attorney’s Office and APD to set a date and time for a pre-trial interview. If such a date and time cannot be coordinated, or if an officer cancels or fails to appear at an agreed upon date and time, the Rule mandates that the defense attorney can then seek a judicial subpoena to require the attendance of the law enforcement officer. The issued subpoena, signed by a judge, is then served on an officer.

Irrespective of whether the subpoenaed pre-trial interview occurred or not, the Metro Court would set the DWI case for trial. If the defense attorney reported to the Metro judge that the subpoenaed pre-trial interview did not occur, despite the subpoena being properly served, the judge would have the discretion to suppress the officer’s testimony or simply dismiss the case.

In 2020, the District Attorney’s Office and APD received a grant from NM Department of Transportation (NMDOT) that allowed the DA’s Office to be in charge of pre-trial interviews, whether subpoenaed or not. That office would coordinate with attorneys to complete these interviews and they were conducted at the DA’s office with a representative from the prosecution team.

In March, 2022, the New Mexico Supreme Court suspended the provisions of Rule 7-504 relating to pre-trial interviews. Due to the massive backlog of misdemeanor cases in Metro Court (because of COVID) and acknowledging for the first time that the majority of other states have no pre-trial interview requirement for misdemeanor cases, the Supreme Court effectively ended pre-trial interviews in Metro Court for misdemeanor offenses. Any misdemeanor cases filed after March 24, 2022 were not subject to any requirement for pre-trial interviews, while the prior Rule requirements remained in effect for those cases filed before the Rule change.

In short, to understand this investigation, as well as APD’s policies, please keep in mind that for cases filed in 2023, there were no cases where APD officers failed to appear to a pre-trial interview resulting in the case’s dismissal. Instead, the cases filed after March 24, 2022 (and not subject to pre-trial interviews) that were dismissed, not on the merits, were disposed of because the necessary officer failed to appear to a trial setting.

Metro Court and DWI Process

When a DWI criminal complaint is filed in Metro Court, often following an arrest, an arraignment setting is triggered. The Defendant is often out of custody before the arraignment, and at the arraignment the Metro Court ensures that the Defendant is aware of the charges, enters a plea (almost always not guilty), and sets conditions of release while the case is pending. APD officers do not attend this setting, as it is handled by the District Attorney.

After arraignment, the Court will usually set a pre-trial conference. When such a conference is held is primarily up to a judge, but the purpose of this court hearing is to determine if the prosecution has provided all discovery to the defense. Before March, 2022, the issue of pre-trial interviews would often be a primary topic discussed between the Court and the parties. Currently, the primary inquiry is whether there remains outstanding discovery. APD officers do not attend this setting, as it is also handled by the District Attorney.

Generally, after a pre-trial conference is held, the Court could set another pre-trial conference if there are deficiencies in discovery production or simply set the matter for trial. The trial setting is the primary court hearing² APD officers must attend. If they fail to attend, the prosecution has no testimony to prove their case.

Further, it is vital to acknowledge that unlike District Court, Metro Court is required by Rule to adjudicate any misdemeanor case within 182 days. Known as the “6-month rule” or “the Rule”, this time constraint weighs heavily in the DWI case process, as Metro judges are divested of jurisdiction if the case is not resolved within that time frame, unless otherwise waived by the defendant. The Rule’s starting point is at arraignment, and depending on how many pre-trial conferences are required, the trial setting can sometimes be close to expiration of the Rule. This is an important consideration because if an officer-witness, needed by the prosecution, fails to appear at a trial setting close to the Rule date, the Court may have no choice but to dismiss the case because of its already overwhelmed schedule.

What is the policy regarding officers and court appearances?

APD’s Standard Operating Procedure (SOP) # 2-76 outlines the Department’s expectations and requirements when it comes to its Officers and Court Appearances.

This SOP requires Officers to check the Court Docket via SharePoint every week to see if they are required to appear. Similarly, Officers must check their email to see if they have been subpoenaed to a hearing or received a court notice. *See* # 2-76-4.

I have provided a copy of this SOP for your review.

What are the permissible reasons for an officer to miss a pre-trial interview, court hearings or trial settings?

Generally, there are three situations that present permissible reasons for an officer to miss trial settings/court hearings. As mentioned previously, in the context of misdemeanor DWI pre-trial interviews, since officers are currently not required to submit to such an interview, this aspect of the question is inapplicable.

² Less frequently, a defense attorney may file a motion on various constitutional bases, which could trigger the need for an evidentiary hearing. Those motions could require the testimony of an officer, but often such hearings are set on a trial date so that the Court can address the motion, and if denied, proceed to trial.

One of the most challenging situations for officers involves concurrent or simultaneous settings. For example, Officers who are involved in DWI cases usually have two (2) appearances they must attend throughout the course of a DWI case. Aside from Metro Court trial settings, such officers must also attend MVD Implied Consent Hearings. Unlike Metro Court trial settings, however, the administrative MVD hearings are often conducted telephonically. If an Officer fails to attend this hearing, the Department does not revoke³ a driver's license. With this in mind, SOP #2-76-5-F(1) makes it clear, "[a]ll Department personnel directed to appear in court hearings, pretrial interviews, or MVD hearings must appear and be prepared to testify. A special court notice, the posted court, and MVD hearing notices, or subpoenas are considered an order to appear." Yet, when there are instances where an officer receives notices requiring simultaneous or near-simultaneous appearances, the SOP has prioritized which Court takes precedence. According to the SOP #2-76-4-F(4), when an officer is expected to be in two places at once, that officer must prioritize attending:

- a. U.S. District Court;
- b. Second Judicial District Court;
- c. Felony DA pretrial interviews;
- d. Bernalillo County Metropolitan Court;
- e. Misdemeanor pretrial interviews⁴;
- f. Children's Court;
- g. MVD hearings; and
- h. All other notices or interviews.

This SOP also acknowledges officers may miss a court setting due to illness or a familial emergency. In such cases, supervisors have the discretion to require a doctor's note for a reported illness.

Similarly, officers may be required to complete or participate in a call for service that prevents them from attending a court setting. In those instances, an exception by the APD's executive personnel is considered based on the need relative to the betterment of the Department.

Who may authorize an officer to miss an otherwise required pretrial interview, court hearing or trial setting?

³ The administrative MVD process is an informal hearing where the hearing officer examines the law enforcement witness to determine if the statutory elements of the Implied Consent Act are met. The hearing can last up to an hour, and the law enforcement witness testifies under oath and subject to cross examination. The decision following the hearing comes via a written order with numerous findings and conclusions. If the hearing officer grants the revocation, the driver must install an ignition interlock to legally drive. These MVD hearings are often completed well before a criminal DWI case is set for trial.

⁴ See previous section on the current state of misdemeanor pre-trial interviews. While pre-trial interviews are no longer authorized by Supreme Court order, the Rule authorizing them remains in place. In other words, until Rule 7-504 is rescinded, this SOP must remain in place in the event the Supreme Court reauthorizes pre-trial interviews.

When an officer has scheduled leave or scheduled training, the officer must submit a form called the Court Services Request Leave form to Court Services, and do so at least twenty days prior to the leave or training. If they fail to do so, they are not relieved of their duty to appear in court. *See* SOP 2-76-4(A)(3). If an officer knows they have court in fewer than twenty days and needs to request a continuance, they must contact the assigned prosecutor for the DWI case. *See* SOP 2-76-4(F)(8).

As previously stated, when an officer misses court due to a family emergency or illness, that officer's supervisor has the discretion to require a doctor's note as justification of missing such a setting. Due to the nature of a family emergency and illness, this is not authorized prior to the court setting. Officers who miss court for these reasons are still required per policy to notify the Court Services Unit that they will be missing court and shall do so on the day of the scheduled hearing/trial. *See* SOP 2-76-4(F)(5)-(6).

When an officer is going to miss a required setting due to responding to or participating in a call for service, APD's executive personnel review the request and determine whether the specific officer's participation in the call for service outweighs participation in attending the setting.

As for those instances of simultaneous or concurrent settings, the SOP requires that "when Department personnel are notified of a conflicting hearing of a higher court, they may notify Court Services Unit personnel of the conflict and shall attend the higher court hearing." Thus, officers have no discretion in deciding to attend the higher-priority court setting.

What disciplinary process is there for officers who miss court appearances?

The Superintendent of Reform has the power to impose discipline in the following manner:

According to SOP 2-76-4, missing court is a Sanction 6, for a first offense it could result in either a non-disciplinary corrective action, verbal reprimand, or written reprimand. Incidents where progressive discipline has been established, stricter discipline could be imposed. It should be noted that all discipline is imposed by the Office of the Superintendent of Reform. APD follows the progressive procedures outlined in SOP 3-46.

Class	First Offense			Second Offense			Third Offense			Fourth Offense			Fifth Offense			Sixth Offense			Seventh Offense			Eight Offense
	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	Min.	Pres.	Max.	
7	NDCA	V.R.	W.R.	V.R.	W.R.	8Hrs	W.R.	8Hrs	16Hrs	8Hrs	16Hrs	24Hrs	24Hrs	40Hrs	80Hrs	80Hrs	120Hrs	Dis.	120Hrs	Dismissal	Dismissal	
6	NDCA	W.R.	8Hrs	W.R.	8Hrs	16Hrs	8Hrs	16Hrs	24Hrs	24Hrs	40Hrs	80Hrs	80Hrs	120Hrs	Dis.	120Hrs	Dismissal	Dismissal	Dismissal			
5	W.R.	8Hrs	16Hrs	8Hrs	16Hrs	24Hrs	24Hrs	40Hrs	80Hrs	40Hrs	80Hrs	120Hrs	120Hrs	Dismissal	Dismissal	Dismissal						
4	16Hrs	40Hrs	80Hrs	40Hrs	80Hrs	120Hrs	80Hrs	120Hrs	Dis.	120Hrs	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal							
3	40Hrs	80Hrs	120Hrs	80Hrs	120Hrs	Dis.	120Hrs	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal							
2	80Hrs	120Hrs	Dis.	120Hrs	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal							
1	200Hrs	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal	Dismissal							

What is the procedure for when Department personnel are contacted by defense attorneys on a criminal case?

SOP #2-76-4(E)(1) sets out, “When Department personnel are contacted by defense attorneys on criminal cases, they shall notify the District Attorney’s Office of any request.”

This SOP is currently being revamped to more accurately reflect the current distinctions that exist between felony and misdemeanor cases, and as for the latter, misdemeanor cases prosecuted by the District Attorney’s Office and those cases that are officer prosecuted.

In the context of felony cases, where an officer is designated as a witness by the district attorney, there is no practical reason a defense attorney would have direct contact with such officer without going through the case-assigned district attorney. Therefore, this SOP accurately captures what department personnel should do in felony cases.

In misdemeanor cases where the charge is prosecuted by the District Attorney ⁵there are no current practical reasons why a defense attorney would contact an officer since there are no longer pre-trial interviews available (and the requirement for scheduling them). Therefore, this SOP accurately captures what department personnel should do in misdemeanor, non-officer prosecuted cases. Of course, if the ability to conduct pre-trial interviews in DWI cases is reinstituted, and the requirement that APD and defense attorney’s coordinate in “good faith” to set pre-trial interview dates, this will need to be addressed.

⁵ Those cases are primarily DWI cases, domestic violence cases, and recently shoplifting cases.

Finally, in officer prosecuted cases, Court Services is primarily responsible for providing defense attorney's discovery, submitting witness lists, and other pleadings. Defense attorneys may have reasons to contact Court Services directly to discuss missing or inaccessible discovery. Defense attorneys may also contact officers to discuss potential resolutions to the case. Therefore, this SOP will be amended to reflect what should occur when a defense attorney contacts an officer who is tasked with prosecuting a criminal case.

In 2023, how many times did officers fail to appear at required pretrial interviews, court hearing or trial settings in DWI?

20 cases were dismissed because officers failed to appear to a trial or motion hearing.

In 2023, how many DWI cases were dismissed because officers failed to appear at required pretrial interviews, court hearings or trial settings?

To provide broader context, I have included DWI case dismissals since 2015⁶:

Year	No. of APD DWI Cases Filed	Dismissals	Percentage
2015	1,753	375	21 %
2016	1,339	268	20 %
2017	1,291	527	40 %
2018	1,422	576	40 %
2019	1,633	711	43 %
2020	1,133	378	33 %
2021 ⁷	1,103	410	37 %
2022	1,020	196	19 %
2023	1,027	35	3 %

Specific to 2023, 13 APD cases were dismissed because the officer was training, on FMLA or leave, or sick. 11 APD cases were dismissed because the officer did not appear and lacked a basis. 9 cases were dismissed for failure to appear to a motion hearing, and only 2 cases were dismissed for failing to appear to pretrial interview (in cases filed before the Supreme Court's Order).

In 2023, how many officers were disciplined for failing to appear at required pretrial interviews, court hearings or trial settings?

⁶ These dismissals are not limited to those due to officers failing to appear for pretrial interviews or court hearings. It also includes those dismissed by the DA's Office and the Court for other reasons, such as after a Court granting a suppression motion on constitutional grounds. This data has come from the DA's Office.

⁷ In September, 2021, the APD DWI Unit's shift schedule was modified to have officers in that unit start at 12:00 p.m. through 10:00 p.m. This scheduling shift was designed to allow officers to attend afternoon court sessions, which often started at 1:30, then return to the field. After 10:00 p.m., members of the unit would continue conducting saturation patrols, but we receive overtime through grant-funding as opposed to through City payroll.

According to data from the Superintendent of Reform, his unit received 4 referrals for violations of 2-76-3(C)(1) and -3(F)(1). All of these referrals were sustained.

Next Steps

One of my primary goals as police chief is to reform the department by institutionalizing accountability throughout APD. We've done that through the Court-Approved Settlement Agreement, as well as through changes in other areas of the department where accountability was lacking. Obviously we want to prevent officer misconduct before it occurs. But I believe we have made significant changes that may have disrupted some existing misconduct that appears to have been going on undetected for years. For example, there is now a requirement to submit every instance where an officer fails to appear at a court hearing to our internal tracking system. Internal investigations are conducted, regardless of whether an officer has a valid reason or not.

Another shortfall in the criminal justice system has traditionally been the lack of accountability for tracking missed appearances in court. The District Attorney's Office currently has the responsibility to notify APD of missed appearances. This responsibility was recently confirmed, as Metro Court spokesperson Camille Baca was asked why Metro Court did not follow the recommendation of the National Center for State Courts to publish a list of cases dismissed for officers' failing to appear. Ms. Baca stated, "[t]he justice partner group in Bernalillo County at the time, instead, decided that that recommended practice should be the responsibility of the District Attorney's Office."

We stopped receiving notices in September 2022 due to a system failure at the DA's office. We only recently started receiving the notices again. In addition, APD has never had the ability to independently access court systems to check on officer appearances. We have gained access in the last few weeks. We are now in the process of working with the court data to automate tracking of officer appearances. We recently received access to search for officer appearances through the court system, but we don't have overall access to broadly track those appearances.

Conclusion

I hope I have been able to satisfactorily answer your questions. Undoubtedly, you may have additional questions that spring from these responses. I stand ready to answer such questions, but must reserve the right to ask that such answers be provided at a different time. Please understand that I do not wish to ignore or resist your legitimate inquiries, but rather I must continue to assist federal authorities in fully investigating all facets of this matter, including instances where APD's standards were not adhered to.

Sincerely,

A handwritten signature in black ink that reads "Harold Medina". The signature is written in a cursive, flowing style.

HAROLD MEDINA
Chief of Police



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-76 (Formerly 2-01)

Effective: 12/19/2023 Review: 12/19/2024 Replaces: 06/03/2022

2-76 COURT

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

A. Related SOP(s)

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

B. Form(s)

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

C. Other Resource(s)

None

D. Rescinded Special Order(s)

None

2-76-1 Purpose

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

2-76-2 Policy

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

N/A 2-76-3 Definitions

None

6 2-76-4 Procedures

A. Notification of Court Appearances

1. Department personnel shall:

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



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2. Defense attorney subpoenas will be served to Department personnel through the Court Services Unit. If Department personnel are served by a defense attorney in person, they must accept and notify the Court Services Unit.
3. Notifications to Courts of Vacation, Leave Time, or Schedule Changes
 - a. Department personnel must submit an online Court Services Request Leave form to Court Services Unit personnel a minimum of twenty (20) calendar days before taking leave or attending training.
 - i. Department personnel are prohibited from submitting more than four consecutive weeks leave requests for their regular days off without approval from their chain of command.
 - ii. Department personnel shall notify the United States Attorney's Office to reschedule any cases pending in the U.S. District Court.
 - iii. If Department personnel do not submit the online Court Services Request Leave form a minimum of twenty (20) calendar days before taking leave or attending training, they shall not be relieved of their responsibility to appear in court when they have been properly notified.
 - b. Department personnel shall notify Court Services Unit personnel of permanent schedule changes.
 - i. Department personnel shall notify Court Services Unit personnel of extended temporary duty (TDY) assignments or schedule changes over forty-five (45) days.

B. Logging Out for Court Appearances

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

C. Courtroom Attire and Securing Weapons

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



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- a. Department personnel may appear in semi-formal business attire, which may include business attire or a suit. Suit jackets are optional; or
 - b. Department personnel may wear the Department-approved duty uniform unless they are appearing for personal reasons that are unrelated to their official duties.
3. Upon entering any courthouse, when required, sworn personnel shall secure all firearms in a lock box at the courthouse's security checkpoint.
 - a. However, sworn personnel who are responding to a call for service or an emergency at the courthouse or when they are assigned to the courthouse are exempt from this requirement.

D. Expert Witness Fees for Testimony in Civil Cases

1. Only Department personnel who are named in a subpoena for a civil case shall accept service of the subpoena. Civil subpoenas may only be served in person to the employee named in the subpoena.
 - a. Department personnel who fail to obey a subpoena may be considered in contempt of court.
 - b. Department personnel shall accept service of civil case subpoenas naming them, whether or not fees are attached.
2. If the civil case involves a pending claim or lawsuit against Department personnel, the Department, or the City of Albuquerque, or if Department personnel believe that there may be a potential liability, Department personnel shall notify the Risk Management Division within twenty-four (24) hours of being subpoenaed.
- 5 3. Department personnel who appear in civil court during their normal duty hours shall endorse the offered check as "Payable to the City of Albuquerque Only". Department personnel shall then give the check and the subpoena to City of Albuquerque Fiscal Division personnel in City Hall.
- 5 4. If Department personnel are no longer required to appear in court, any checks received shall be returned to the issuing party.
- 5 5. Department personnel who appear in civil court while off-duty may either keep the check or submit overtime in the same manner as for other court overtime. If the employee elects to submit overtime, they shall endorse the offered check as "Payable to the City of Albuquerque Only". Department personnel shall then give the check and the subpoena to City of Albuquerque Fiscal Division personnel in City Hall.



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E. Contact with Attorneys

1. Criminal Cases

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

2. Civil Cases

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

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

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



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- e. Department personnel shall abide by all court rules and regulations when appearing for court.
 - f. Department personnel shall log on with a court-out status (10-92), specify the court in attendance, and shall indicate the case number in the Computer-Aided Dispatch (CAD) entry comments section.
 - g. When Department personnel attend Metro Court virtually, they are responsible for checking in through the Metro Court Check-in kiosk. To access the virtual kiosk, type <https://app.metrocourt.state.nm.us/officercheckinkiosk/#/> in your toolbar. Department personnel will sign into the system using the APD universal log in:
User: metrocheckin@cabq.gov
Password: APDchecking!1
2. When Department personnel receive more than one (1) court notification requiring concurrent appearances, the higher court notice shall take precedence over the lower court(s). In addition, court hearings shall take precedence over MVD hearings.
 3. When Department personnel are notified of a conflicting hearing of a higher court, they may notify Court Services Unit personnel of the conflict and shall attend the higher court hearing.
 4. Priority of attendance is as follows:
 - a. U.S. District Court;
 - b. Second Judicial District Court;
 - c. Felony DA pretrial interviews;
 - d. Bernalillo County Metropolitan Court;
 - e. Misdemeanor pretrial interviews;
 - f. Children's Court;
 - g. MVD hearings; and
 - h. All other notices or interviews.
 5. When Department personnel are scheduled for court or MVD hearings and are unable to appear or will be late due to unforeseen conditions, they shall notify Court Services Unit personnel or court personnel at the earliest possible time and before the scheduled appearance. Failure of Department personnel to properly notify Court Services Unit personnel or court personnel of their absence from or tardiness for a court hearing shall be considered failing to attend the hearing.
 6. When Department personnel contact Court Services Unit personnel and get their voicemail, they shall leave a message on the voicemail system to include their name, man number, the court hearing information, and the reason they are unable to attend the court hearing.
 - a. For Bernalillo County Metropolitan Court, U.S. District Court, Second Judicial District Court notifications, Department personnel shall notify Court Services Unit personnel on the scheduled court day only.



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- i. Court Services Unit personnel shall notify the appropriate court personnel.
 - b. For grand jury notifications or preliminary hearings, Department personnel shall:
 - i. Notify the presenting Assistant District Attorney of their absence and any witness change; and
 - ii. When available, inform the Assistant District Attorney of an officer that was involved in the case that may be able to testify on their behalf.
 - c. For U.S. District Court notifications, Department personnel shall notify the United States Attorney's Office or shall notify the presenting federal Assistant District Attorney Monday through Friday, 0800 to 1700 hours.
7. Sworn personnel may be excused for missing a court hearing for certain reasons including, but not limited to:
 - a. They are ill or have a family emergency; and
 - i. Supervisors, at their discretion, may require a doctor's note should personnel call in sick for court.
 - b. They are on a call for service and are unable to attend the court hearing.
 - i. Department executive personnel may grant an exception if the employee is needed elsewhere for the betterment of the Department.
 - ii. Department executive personnel shall review each exception on a case-by-case basis and determine the precedence the exception holds over the hearing in question.
8. Court Continuances
 - a. Officer Prosecuted Cases:
 - i. Department personnel requesting a continuance of less than twenty (20) days shall be responsible for contacting defendants or their counsel for objection as required by the Bernalillo County Metropolitan Court.
 1. Department personnel shall not submit a continuance fewer than five (5) working days before the scheduled court hearing.
 - ii. Department personnel may obtain a Motion for Continuance form from Court Services Unit personnel.
 - b. Criminal Cases (Felonies, DWIs, and Domestic Violence):
 - i. Department personnel requesting a continuance with less than twenty (20) days shall contact the assigned prosecutor.

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G. Jury Duty Fees

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



ALBUQUERQUE POLICE DEPARTMENT
PROCEDURAL ORDERS

SOP 2-76 (Formerly 2-01)

Effective: 12/19/2023 Review: 12/19/2024 Replaces: 06/03/2022

H. Conflict of Interest Testimony

1. Department personnel who are subpoenaed to testify in a court case in which they have not been involved as a witness, victim, investigator, or reporting officer shall determine the nature of the testimony.

a. If it appears that the employee will be asked to testify about Department personnel, the Department, or an outside law enforcement agency, they shall contact Risk Management Division personnel before giving any testimony or being deposed.

N/A

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