

1 **6-201. Commencement of action.**

2 A. **How commenced.** A criminal action is commenced by filing one of the following  
3 with the court:

4 (1) a complaint consisting of a signed, sworn written statement containing the  
5 facts, the common name of the offense charged, and where applicable, a specific section number  
6 of the New Mexico Statutes Annotated, 1978 Compilation, that contains the offense. A separate  
7 complaint shall be filed for each defendant;

8 (2) a traffic citation issued and signed by a state or local traffic enforcement  
9 officer under Section 66-8-130 NMSA 1978;

10 (3) a citation issued and signed by an official authorized by law that contains  
11 the name and address of the cited person, the specific offense charged, a citation to the specific  
12 section of law violated, and the time and place to appear. Unless the person requests an earlier  
13 date, the time specified in the citation shall be at least three (3) days after issuance of the citation;  
14 or

15 (4) an order finding a person to be in direct criminal contempt.

16 A copy of every citation issued shall be delivered to the person cited, and the original shall  
17 be filed with the magistrate court within seven (7) days of the issuance of the citation or, in any  
18 event, no later than one (1) day prior to the date cited for the defendant to appear. Any citation that  
19 sets an appearance date and is untimely filed may be dismissed with or without prejudice by the  
20 court on its own motion. All complaints and citations shall be signed, as defined in Rule 6-210(J)  
21 NMRA, and the magistrate court shall not accept for filing any unsigned complaint or citation. In  
22 the event that an unsigned complaint or citation commences an action, the case shall be dismissed  
23 without prejudice.

1           B.     **Jurisdiction.** Magistrate judges have jurisdiction in all cases as may be provided  
2 by law.

3           C.     **Where commenced.** Unless otherwise provided by law, the action must be  
4 commenced in the magistrate district where the crime is alleged to have been committed.

5           D.     **Arrest without a warrant; criminal complaint.** In all criminal cases, including  
6 cases that are not within magistrate court trial jurisdiction, if the defendant is arrested without a  
7 warrant, a criminal complaint shall be prepared and a copy given to the defendant [~~prior to~~] and  
8 the local detention center at the time of transferring the defendant to the custody of the detention  
9 facility. If the defendant is not provided a copy of the criminal complaint upon transfer to a  
10 detention facility, without just cause or sufficient reason, the complaint may be dismissed without  
11 prejudice or the defendant may be released from custody. If the defendant is in custody and the  
12 court is open, the complaint shall be filed immediately with the magistrate court. If the court is not  
13 open [~~and the defendant remains in custody~~], the complaint shall be filed the next business day of  
14 the court. If the defendant is not in custody, the complaint shall be filed with the court [~~as soon as~~  
15 ~~practicable~~] within seventy-two (72) hours. If the criminal complaint is not filed within the  
16 deadlines stated above, the case shall be dismissed without prejudice.

17           E.     **Name of defendant.** In every complaint or citation the name of the defendant, if  
18 known, shall be stated. A defendant whose name is not known may be described by any name or  
19 description by which the defendant can be identified with reasonable certainty.

20 [As amended, effective September 1, 1990; November 1, 1991; May 1, 1997; September 15, 1997;  
21 as amended by Supreme Court Order No. 08-8300-044, effective December 31, 2008; as amended  
22 by Supreme Court Order No. 16-8300-007, effective for all cases pending or filed on or after  
23 December 31, 2016; as amended by Supreme Court Order No. 20-8300-008, effective for all cases

1 pending or filed on or after December 31, 2020; as amended by Supreme Court Order No. 21-  
2 8300-022, effective for all cases pending or filed on or after December 31, 2021; as amended by  
3 Supreme Court Order No. S-1-RCR-2023-00003, effective for all cases filed on or after December  
4 31, 2024.]

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6 **Committee commentary.** — For purposes of Paragraph D of this rule, the court may  
7 temporarily open a file and begin background investigation and scheduling of hearings using the  
8 copy of the criminal complaint provided to the local detention center upon arrest of a defendant  
9 without a warrant while waiting for the original complaint. Due to the requirement of background  
10 investigation and validated risk assessment on some cases, the court needs time to perform these  
11 duties. In any event, the original criminal complaint must still be filed within the deadlines  
12 provided in Paragraph D of this rule for the action to continue.  
13 [Adopted by Supreme Court Order No. S-1-RCR-2023-00003, effective for all cases filed on or  
14 after December 31, 2024.]