

1 **8-201. Commencement of action.**

2 A. **How commenced.** An action is commenced by filing one of the following with the  
3 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 either the municipal ordinance or the New Mexico Statutes Annotated, 1978 Compilation, that  
7 contains the offense. A separate 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 municipal 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 8-209(J)  
21 NMRA, and the municipal 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.** Municipal courts have jurisdiction in all cases as may be provided by  
2 law.

3           C.     **Where commenced.** The action shall be commenced in the municipality where the  
4 offense is alleged to have been committed.

5           D.     **When commenced.** All prosecutions for the commission of any offense made  
6 punishable by ordinance shall be commenced within the time provided by law.

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

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

22 [As amended, effective September 1, 1990; November 1, 1991; May 1, 1997; September 15, 1997;  
23 as amended by Supreme Court Order No. 08-8300-047, effective December 31, 2008; as amended

1 by Supreme Court Order No. 16-8300-007, effective for all cases pending or filed on or after  
2 December 31, 2016; as amended by Supreme Court Order No. 20-8300-008, effective for all cases  
3 pending or filed on or after December 31, 2020; as amended by Supreme Court Order No. 21-  
4 8300-022, effective for all cases pending or filed on or after December 31, 2021; as amended by  
5 Supreme Court Order No. S-1-RCR-2023-00003, effective for all cases filed on or after December  
6 31, 2024.]

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8 **Committee commentary.** — For purposes of Paragraph E of this rule, the court may  
9 temporarily open a file and begin background investigation and scheduling of hearings using the  
10 copy of the criminal complaint provided to the local detention center upon arrest of a defendant  
11 without a warrant while waiting for the original complaint. Due to the requirement of background  
12 investigation and validated risk assessment on some cases, the court needs time to perform these  
13 duties. In any event, the original criminal complaint must still be filed within the deadlines  
14 provided in Paragraph E of this rule for the action to continue.

15 [Adopted by Supreme Court Order No. S-1-RCR-2023-00003, effective for all cases filed on or  
16 after December 31, 2024.]