

1 **7-702. Advising defendant of right to appeal.**

2 A. **Duty of metropolitan court.** At the time of entering a judgment and sentence, the
3 court shall advise the defendant of the defendant’s right to the following:

4 (1) ~~[if the appeal is an appeal de novo, to]~~ a new trial in the district court, if the
5 appeal is an appeal de novo; or

6 (2) ~~[if the appeal is an appeal on the record, to]~~ an appeal [on the record] to the
7 [district court] Court of Appeals, if the appeal is on-record.

8 B. ~~[Notice]~~ **Filing of the notice of appeal**~~[filed in district court]~~. The court shall
9 also advise the defendant that if the defendant wishes to appeal, the defendant may do so as
10 follows: [a notice of appeal shall be filed in the district court within fifteen (15) days after entry of
11 the judgment and sentence.]

12 (1) if the appeal is an appeal de novo, a notice of appeal shall be filed in the
13 district court within fifteen (15) days after entry of the judgment and sentence; or

14 (2) if the appeal is an appeal on the record, a notice of appeal shall be filed in
15 the metropolitan court within thirty (30) days after the entry of the judgment and sentence.

16 **C. Appeal on the record or de novo.**

17 (1) The following criminal appeals from metropolitan court shall be appeals
18 on the record to the Court of Appeals:

19 (a) driving while under the influence of intoxicating liquor or drugs; or

20 (b) “domestic abuse” of a “household member” as those terms are
21 defined in Section 40-13-2 NMSA 1978 of the Family Violence Protection Act.

22 (2) All other criminal appeals from metropolitan court shall be de novo to the
23 district court.

1 (3) If the defendant appeals from the conviction of more than one offense, one
2 or more of which is an on-the-record conviction and one or more of which is a de novo appeal
3 conviction, the appeal of all convictions shall be on the record. Unless the defendant appeals an
4 on-the-record conviction, the appeal shall be a de novo appeal, even though the proceedings have
5 been recorded.

6 D. **Audio recordings in on-record appeals.** An audio recording and corresponding
7 index log shall be made of all criminal proceedings in which the metropolitan court is a court of
8 record. When an appeal on the record is specifically permitted by law, the audio recording and
9 corresponding index log shall be a part of the record on appeal. Audio records shall be preserved
10 for ninety (90) days after the entry of mandate.

11 [As amended, effective September 1, 1990; January 1, 1994; January 1, 1997; September 2, 1997;
12 October 15, 2002; as amended by Supreme Court Order No. 12-8300-020, effective for all cases
13 pending or filed on or after August 3, 2012; as amended by Supreme Court Order No. S-1-RCR-
14 2025-00175, effective for all cases pending or filed on or after December 31, 2025.]

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16 ~~[Committee commentary. — The timely disposition of appeals is an essential requirement of~~
17 ~~justice. It was brought to the committee’s attention that the disposition of appeals on the record to~~
18 ~~the district court take significantly longer than *de novo* appeals.~~

19 ~~The above amendments were taken from Rule 12-406 governing the disposition of appeals to the~~
20 ~~Supreme Court and Court of Appeals and Rule 1-054 requiring disposition in civil cases within 60~~
21 ~~days after submission.]~~

22 [Withdrawn by Supreme Court Order No. S-1-RCR-2025-00175.]