

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 be filed
17 [~~as soon as practicable~~] with the magistrate court within seven (7) days of the issuance of the
18 citation or, in any event, no later than one (1) day prior to the date cited for the defendant to appear.

19 Any citation that sets an appearance date and is untimely filed may be dismissed with or without
20 prejudice by the court on its own motion. All complaints and citations shall be signed, as defined
21 in Rule 6-210(J) NMRA, and the magistrate court shall not accept for filing any unsigned
22 complaint or citation. In the event that an unsigned complaint or citation commences an action,
23 the case shall be dismissed 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
8 transferring the defendant to the custody of the detention facility. If the defendant is not provided
9 a copy of the criminal complaint upon transfer to a detention facility, without just cause or
10 sufficient reason, the complaint may be dismissed without prejudice or the defendant may be
11 released from custody. If the defendant is in custody and the court is open, the complaint shall be
12 filed immediately with the magistrate court. If the court is not open and the defendant remains in
13 custody, the complaint shall be filed the next business day of the court. If the defendant is not in
14 custody, the complaint shall be filed with the court as soon as practicable.

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

18 [As amended, effective September 1, 1990; November 1, 1991; May 1, 1997; September 15, 1997;
19 as amended by Supreme Court Order No. 08-8300-044, effective December 31, 2008; as amended
20 by Supreme Court Order No. 16-8300-007, effective for all cases pending or filed on or after
21 December 31, 2016; as amended by Supreme Court Order No. 20-8300-008, effective for all cases
22 pending or filed on or after December 31, 2020; as amended by Supreme Court Order No. 21-
23 8300-022, effective for all cases filed on or after December 31, 2021.]