

Administrative Office of the Courts

Supreme Court of New Mexico

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Judicial Information Division (JID)

Pretrial Detention Procedure for Magistrate Courts

Standard Operating Procedure

Version 1.8

Updated: (03/2021)

Pretrial Detention Procedures for Magistrate Courts

COURT / DEPARTMENT / DIVISION

This procedure is to be used by Magistrate Courts for Felony Criminal Cases.

USER

This procedure is to be used by Magistrate Court staff.

PURPOSE

To provide clerks with a standardized procedure for processing Motions for Pretrial Detention.

NAVIGATION

This procedure begins in Odyssey Case Manager.

INTRODUCTION

Magistrate Courts are required to ensure that all Pretrial Detention Motions received from the District Attorney's office requesting Pretrial Detention will be file stamped, entered into the Case Management system and electronically sent to the appropriate staff of District Court.

1. Under the 2016 Amendment to Article II Section 13 of the New Mexico Constitution, bail may be denied in felony cases if the DA's office requests Pretrial Detention and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community.
2. If the defendant was arrested without a warrant, the case must be reviewed for Probable Cause within forty-eight hours of the defendant being placed in custody and no later than the first appearance of the defendant. (Per Rule 6-203 NMRA).
3. Motions must be made in writing.
4. Staff within the Magistrate Court will ensure documents are electronically sent to the appropriate District Court by the end of the business day for which it is filed.
5. Magistrate/Metropolitan Courts cannot release a defendant on a pending case that has a motion for pretrial detention or who has been ordered detained by the District Court.
6. Under the 2020 amendment by Supreme Court Order No. 20-8300-0013, effective for all cases pending or filed on or after November 23, 2020, Rule 6-409 (D) if probable cause has been found and a motion for pretrial detention is filed the Magistrate Court's jurisdiction shall be terminated and the District Court shall acquire exclusive jurisdiction over the case.
7. Upon completion of the Detention Hearing, the District Court **may** send a Notice of the order to the Magistrate Court for entry into the Magistrate Court case. Upon completion of the hearing, the District Court shall send an order closing the Magistrate Court case, per Rule 5-409(I) NMRA.

Relevant data standards

Data Standards were approved by the Supreme Court on May 20, 2020. Using the data standards will result in improved data collection and reporting; improved data quality; improved consistency in case processing; improved court efficiency; and improved ability to establish court staffing needs. Refer to the following data standards for any procedures that may or may not be specifically mentioned in this SOP:

General	Case Specific
1.4.0 Bonds	2.0.0 Adult Criminal Data Standards
1.5.0 Exhibits	2.2.0 Case Initiation
1.6.0 Financials	2.3.0 Parties
1.7.0 Forms	2.4.0 Charges
1.8.0 Hearings	2.5.0 Pleadings
1.9.0 Interpreters	2.6.0 Case Management
1.10.0 Judge Assignments	2.7.0 Case Disposition
1.15.0 Scanning	2.8.0 Case Closure
1.17.0 Time Standards	

A. ARREST WITHOUT WARRANT REQUIRES REVIEW FOR PROBABLE CAUSE

1. If Probable Cause is found.
 - a. File stamp the Probable Cause Determination form.
 - b. Enter the event of Probable Cause Determination/Found (5797) and attach the Probable Cause Determination form to the event.
 - c. If a Motion for Pretrial Detention is filed:
 - Magistrate Court(s) will not set any conditions of release and the procedures in section B will be followed.
2. If **no** probable cause is found (per Rule 6-203(C)(1) NMRA).
 - a. File stamp the Probable Cause Determination form.
 - b. Enter the event of Probable Cause Determination/Not Found (5798) and attach the Probable Cause Determination form to the event.
 - c. The defendant is to be released immediately on personal recognizance under Rule 5-301, 6-203 or 7-203 NMRA.
 - d. If a Motion for Pretrial Detention is filed and no probable cause was found:
 - The Judge shall deny the Motion for Pretrial Detention without prejudice.
 - On the Probable Cause Determination form, check the option denying the State's Motion for Pretrial Detention.
 - Staff will be required to notify the appropriate parties.

B. TRANSFERRING FELONY CASES TO DISTRICT COURT UPON PRETRIAL DETENTION MOTION

1. If a Motion for Pretrial Detention is filed at Magistrate Court(s).
 - a. Immediately file stamp the Motion.
 - Staff will then enter the event of MTN: For Pretrial Detention 5-409 (5105) and attach the motion to the event.
 - b. Prepare Order of Transfer to District Court.
 - Staff will prepare the M-CR-Admin-162-Order of Transfer to District Court For Pretrial Detention for the arraigning Magistrate judge.
 - c. Provide the Motion and Order to the Magistrate judge for review and signature.
 - d. No conditions of release will be set.
 - e. Ensure the physical warrant has been returned to the court by the Law Enforcement Agency.
 - Update the Warrants tab with the most current warrant status.
 - f. Enter a disposition for all charges on the case.
 - Enter the disposition code Transferred (1TRAN) as the disposition on all charges.
 - g. On the disposition tab, click on the case close button.
 - Immediately file stamp the signed Order of Transfer to District Court.
 - Staff will enter the CLS: Transfer to District Court - Pretrial Detention Motion (9835) event and attach the signed Order to the event.
2. Electronically transmit the entire court record to the appropriate District Court.
 - a. Use the functionality on Appeals tab to electronically submit documents to the District Court.
 - Use 'Magistrate Court Motion for Pretrial Detention' as the Appeal type.

C. IF THE DISTRICT COURT SENDS AN ORDER/NOTICE CLOSING THE MAGISTRATE COURT CASE

1. Upon completion of the Detention Hearing, District Court will enter an Order.
2. The District Court shall send an order closing the Magistrate Court case upon completion of the District Court hearing.
3. Immediately file stamp the Order from District Court.
4. Enter the event NTC: Order of District Court Decision on Pretrial Detention (9563) and attach the Order to the event.

D. DOCUMENTS RECEIVED FROM LAW ENFORCEMENT AFTER CASE WAS TRANSFERRED TO DISTRICT COURT

1. If citations are received at the Magistrate Court after the case was transferred to District Court:
 - a. Magistrate Courts will continue to accept citations
 - b. Enter citations into the case.
 - c. Notify the District Court of the filing of citations.
 - Use the functionality on the Appeals tab to electronically submit citations to the District Court.
 - Use 'Magistrate Courts Supplemental for Criminal Cases' as the Appeal type.
2. If physical warrants are received at the Magistrate Court after the case was transferred to District Court:
 - a. Update the Warrants tab with the most current warrant status.