

1 **7-204. Issuance of warrant for arrest and summons.**

2 A. **Issuance.** Upon the docketing of any criminal action the court may issue either a  
3 summons or an arrest warrant.

4 B. **Basis for warrant.** The court may issue an arrest warrant only upon a sworn  
5 statement of the facts showing probable cause that an offense has been committed. The showing  
6 of probable cause shall be based upon substantial evidence, which may be hearsay in whole or in  
7 part, provided there is a substantial basis for believing the source of the hearsay to be credible and  
8 for believing there is a factual basis for the information furnished. Before ruling on a request for a  
9 warrant, the court may require the affiant to appear personally and may examine under oath the  
10 affiant and any witnesses produced by the affiant, provided that such additional evidence shall be  
11 reduced to writing and supported by oath or affirmation. The court also may permit a request for  
12 an arrest warrant by any method authorized by Paragraph F of Rule 7-208 NMRA for search  
13 warrants and may issue an arrest warrant remotely provided the requirements of Paragraph G of  
14 Rule 7-208 NMRA and this rule are met.

15 C. **Preference for summons.** The court shall issue a summons, unless in its discretion  
16 [~~and for good cause shown~~], the court finds that the interests of justice may be better served by the  
17 issuance of an arrest warrant.

18 D. **Form.** The warrant shall be signed by the court and shall contain the name of the  
19 defendant or, if the defendant's name is unknown, any name or description by which the defendant  
20 can be identified with reasonable certainty. It shall describe the offense charged. It shall command  
21 that the defendant be arrested and brought before the court. The summons shall be in the same  
22 form as the warrant except that it shall summon the defendant to appear before the court at a stated

1 time and place. A summons or arrest warrant shall be substantially in the form approved by the  
2 supreme court.

3 [As amended by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed  
4 on or after July 15, 2013; amended by Supreme Court Order No. 15-8300-008, effective for all  
5 cases pending or filed on or after December 31, 2015; as amended by Supreme Court Order No.  
6 19-8300-018, effective for all cases pending or filed on or after December 31, 2019.]

7 **Committee commentary.** — Paragraph A was amended in 2013 to permit alternate  
8 methods for requesting and issuing arrest warrants. See Rule 7-208 NMRA and the related  
9 committee commentary for more information.

10 Paragraph C was amended in 2019 to be consistent with Rule 5-208 NMRA, which was  
11 amended at the same time.

12 [Adopted by Supreme Court Order No. 13-8300-011, effective for all cases pending or filed on or  
13 after July 15, 2013; as amended by Supreme Court Order No. 19-8300-018, effective for all cases  
14 pending or filed on or after December 31, 2019.]