

**POLICY DIRECTIVE NO. 10** (Adopted March 22, 1994)

**POLICY RELATING TO THE USE OF VOLUNTEERS OR COMMUNITY SERVICE PARTICIPANTS IN THE MAGISTRATE COURT**

This policy directive is issued in accordance with NMSA 1978, § 35-7-1 to provide guidelines regarding the use of volunteers and community service participants in the magistrate courts.

**A. VOLUNTEERS.** The magistrate courts may allow volunteers to assist the court provided that the courts adhere to the following directives. A "volunteer" is any person who performs any type of clerical or other work for the court who is not a judicial branch employee or who is not paid for the work by funds appropriated to the Administrative Office of the Courts. A person assigned to the court under a DWI local program grant is a court volunteer.

1. Volunteers must comply with all laws, rules, directives, and regulations governing court procedure.

2. The judge must have each volunteer sign a waiver before the volunteer begins work at the court (Waiver form follows). All signed waivers must be filed with the director of the Administrative Office of the Courts. Compliance with the waiver requirement will be subject to audit.

3. Should a volunteer be a party to a case in the magistrate court, either during service to the court or within a reasonable time thereafter, the judge must recuse from the case to avoid the appearance of impropriety.

4. Volunteers shall not perform tasks that involve access to confidential information, such as screening results in DWI cases or affidavits in support of search and arrest warrants, or that are required to be performed by a bonded state employee, such as receiving and receipting funds or issuing notices under seal. Examples of the type of work that volunteers may perform include filing of public records and documents and routine typing of forms or notices that the judge or clerk will sign and serve. If you have any questions about whether a particular task is appropriate for a volunteer, please call the Administrative Office of the Courts.

**B. COMMUNITY SERVICE PARTICIPANTS.** Paragraphs 1 and 4 above also apply to community service participants. Those persons performing community service for the court are not required to sign the waiver because statutory immunity from liability is provided by NMSA 1978, §31-12-3. This statute also states that persons performing community service shall not be entitled to any of the benefits of state employment.

**FORM**

**WAIVER FOR VOLUNTEERS IN THE MAGISTRATE COURT**

I offer to assist the \_\_\_\_\_ County Magistrate Court at my own risk and with full knowledge and understanding that I will receive no remuneration from the court or from the judicial branch of New Mexico state government in any form, that I cannot receive any of the benefits of state employment such as workers' compensation should I be injured, and that I hold the State of New Mexico harmless from any claim for damages, injuries or other losses that may arise during the course of my assistance at the court or as a consequence of my assistance at the court.

I further understand that I will work at the pleasure of the magistrate. I agree to comply with instructions from him or her or from the chief clerk and to refrain from performing any task that I have not been specifically permitted or directed to perform.

I will comply to the best of my ability with all rules, regulations, directives and instructions regarding court procedure. I am aware that I have no authority to act as agent for the court or for the State of New Mexico and will not represent myself to be or purport to be an agent of the court or the State.

I willingly sign this waiver to provide assistance to the court for so long as I am willing to volunteer or for so long as my services are needed by the court.

\_\_\_\_\_  
VOLUNTEER'S NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

APPROVED BY:

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
DATE

Complete the following only if the volunteer is assigned to the court through a DWI local program grant:

PAID  
BY: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUPERVISOR: \_\_\_\_\_