

9-218. Target notice.¹

You are the target of a grand jury investigation in _____ County. The crimes being investigated are:

(Include the name, date and applicable statutory citation for each offense the prosecutor intends to present to the grand jury)²: which are alleged to have occurred on _____ (date) in _____

County, New Mexico. Other possible charges may arise from the grand jury investigation.

You have the following rights with respect to this investigation:

(1) You have a right to counsel to assist you in this matter. If you cannot afford an attorney, one will be appointed for you.

(2) You have a right to testify before the grand jury if you desire.

(3) You have a right not to testify.

(4) You have a right to submit proposed questions and exhibits to the prosecution³.

(5) You have a right to alert the grand jury to the existence of evidence that would disprove or reduce an accusation or that would make an indictment unjustified, by notifying the prosecution³.

This case will be presented to the grand jury on _____ (date) at _____ (a.m.) (p.m.) at the _____ (court) located at _____ (address) in room _____.⁴ If you wish to testify at this proceeding, you may appear at that time and place. For further information on the time and date the grand jury will consider evidence relating to the above charges, you may call _____ (name of person to be notified) at _____ (telephone number).

You or your attorney may submit proposed questions and exhibits to the district attorney at least forty-eight (48) hours prior to the grand jury proceeding. If you or your attorney wishes to submit proposed questions or exhibits, call _____ (person to be notified) at _____ (telephone number).

Date issued: _____

Signature of attorney

Title

I certify that a copy of this notice was [mailed] [faxed] [delivered] to _____ (name of target) on _____ (date) at the following address _____ (street address) _____ (city).

(Signature of person providing notice)

(Title)

USE NOTES

1. This form may be used for a grand jury target notice. See Sections 31-6-4 and 31-6-11 NMSA 1978.

2. Include each offense the district attorney or attorney general intends to present to the grand jury.

3. Section 31-6-4 NMSA 1978 provides that, at least twenty-four (24) hours before grand jury proceedings begin, a target's attorney may submit proposed questions and exhibits to the district attorney or attorney general. Section 31-6-11 NMSA 1978 provides that, at least twenty-four (24) hours before grand jury proceedings begin, the target or his counsel may alert the grand jury to the existence of evidence that would disprove or reduce an accusation or that would make an indictment unjustified, by notifying the prosecuting attorney who is assisting the grand jury in writing regarding the existence of that evidence. However, Rule 5-302A NMRA expands the deadline to forty-eight (48) hours.

4. Section 31-6-11 NMSA 1978 provides that unless otherwise ordered by the presiding judge or unless the target agrees to testify earlier, a target has a right to testify no earlier than:

(a) four (4) days after receiving the target notice, if the target is in custody; or

(b) ten (10) days after receiving the target notice, if the target is not in custody.

[Approved, effective June 1, 2004; as amended by Supreme Court Order No. 10-8300-015, effective for target notices filed on or after May 14, 2010.]