

**104.00 - ARRESTS****104.00 Arrests**

- 104.01 General Arrest Procedures
- 104.02 Female Suspects and Prisoners
- 104.03 General Sessions Summons and Complaint, DPD 287
- 104.04 Investigation and Hold Arrests
- 104.05 Changing Charges
- 104.06 DELETED 04/2013
- 104.07 City Ordinance Violations Committed Out of the Officer's Presence or by a Suspect No Longer at the Scene
- 104.08 Warrantless Arrests
- 104.09 Central Want and Warrant File (Persons and Property)
- 104.10 Arrest Warrants
- 104.11 Searches and Seizure
- 104.12 Warrantless Searches of Automobiles
- 104.13 Plain View Doctrine
- 104.14 Assisting Peace Officer
- 104.15 Right to Communicate with Attorney and Family
- 104.16 Duty of Officers to Admit Attorney
- 104.17 Treatment While in Custody
- 104.18 Processing Pick-ups or Cancellations for Wanted Persons and/or Property
- 104.19 Writs of Habeas Corpus
- 104.20 Use of DPD 366, Statement
- 104.21 Use of DPD 368, List of Witnesses
- 104.22 Use of Advisement, DPD 369
- 104.23 General Session Order-Ins to Court
- 104.24 Order-Ins to Investigative Units
- 104.25 Using the Criminal Summons and Complaint for Misdemeanor Arrests
- 104.26 Arrest of Postal Employees or Persons Operating Trains or Transit Buses
- 104.27 Arrests for Taxi Violations
- 104.28 Arrests and Procedure on Federal Property and Relations with Other Agencies
- 104.29 Arrests for Weapons Related Incidents
- 104.30 Processing Persons with a Mental Illness
- 104.31 Escapes and Hospital Security
- 104.32 Civil Stand-By for the Recovery of Personal Property
- 104.33 Misdemeanor Criminal Mischief and Graffiti Related Arrests
- 104.34 Evictions
- 104.35 Enforcement Protection Orders
- 104.36 Auto Theft and Theft from Motor Vehicle Investigations
- 104.37 DELETED 04/2013
- 104.38 Animal Related Incidents
- 104.39 Contacting Employees at Place of Employment
- 104.40 Colorado Victim Rights Statute
- 104.41 Theft of Meals - Gas
- 104.42 Utilization of Arrest Teams at the Scene of Non-Violent Demonstrations Where Unlawful Acts are Committed
- 104.43 Mass Arrests
- 104.44 Identification Procedures
- 104.45 Persons Held for Colorado State Parole
- 104.46 Night Club Occupancy Regulations - Enforcement
- 104.47 Arrest of Bail Bond Fugitives
- 104.48 Protective Custody
- 104.49 Elderly/Disabled Persons/Persons with Disabilities
- 104.50 Domestic Violence
- 104.51 Arrests in Liquor Licensed Establishments
- 104.52 Arrest/Detention of Foreign Nationals
- 104.53 Nuisance Abatement
- 104.54 Narcotics Investigations and Immediate Entry Search Warrants
- 104.55 Operational Planning
- 104.56 Tactical Event Deconfliction Policy

104.57 Rule 41.1 – Court Order for Non-testimonial Identification

**104.00 - ARRESTS****104.01 General Arrest Procedures (Revised 10/2014)**

*Arrest Defined: A seizure or forcible restraint; an exercise of the power to deprive a person of his or her liberty; the taking or keeping of a person in custody by legal authority, especially, in response to a criminal charge.*

The purpose of an arrest is to bring the arrestee before a court or otherwise secure the administration of the law.

Investigatory stops or detentions are not considered arrests but must be limited and temporary, lasting no longer than necessary to carry out the purpose of the stop or detention. An investigatory stop that lasts too long turns into a de facto arrest that must comply with the warrant requirements of the Fourth Amendment. But no bright line exists for determining when an investigatory stop becomes a de facto arrest, as courts are reluctant to hamstring the flexibility and discretion of police officers by placing artificial time limitations on the fluid and dynamic nature of their investigations. Rather, the test is whether the detention is temporary and whether the police acted with reasonable dispatch to quickly confirm or dispel the suspicions that initially induced the investigative detention.

**Definition taken from West's Encyclopedia of American Law, edition 2. Copyright 2008 The Gale Group, Inc**

- (1) Arrest by peace officer. A peace officer may arrest a person when:
- a. There is a warrant commanding that such person be arrested; or
  - b. Any crime has been or is being committed by such person in the officer's presence; or
  - c. There is probable cause to believe that an offense was committed by the person to be arrested. An arrest warrant must be obtained when possible. Officers have the right to make a warrantless arrest when exigent circumstances exist, i.e. urgent, critical or those that require immediate action.
  - d. Denver Police officers may arrest persons outside Denver's jurisdiction and within the State of Colorado for felonies and misdemeanors that are being, or have been committed, in the presence of a Denver Police officer.
    1. This authority does not extend to Denver Police officers on suspended status.
    2. All Denver Police officers will be accountable to existing procedures or directives governing arrests, use of force and reporting of the same.
    3. All Denver officers making an arrest outside Denver's jurisdiction will report their actions to their commanders in writing before the completion of their next duty shift. An officer on vacation or ASL will make the notification by phone within 24 hours of the arrest.
    4. The local law enforcement agency having jurisdiction shall be immediately notified. Any person arrested shall be released to the custody of the local law enforcement agency. Denver officers will complete any reports required by the local law enforcement agency
  - e. Officers shall not make arrests for offenses when a warning or citation would suffice.
  - f. Individuals may be arrested and subsequently released, without being incarcerated, for reasons that include, but are not limited to, the following:
    1. An arrest was made on the mistaken identity of the person.
    2. An arrest warrant has been recalled or previously served without the officer's knowledge.
    3. Subsequent to an arrest but prior to incarceration, the officer determines that probable cause no longer exists to make an arrest.
  - g. Officers will not place a person under arrest and subsequently release the same individual without fulfilling at least one of the following obligations:
    1. Serve the arrested party with an order-in citation; or

2. Seek the approval of a higher ranking officer prior to releasing the individual. The approving officer must be satisfied that there are no adequate grounds for criminal complaint against the arrested person prior to their release. At minimum, the approving officer must be from the rank of lieutenant, or in the absence of an on-duty lieutenant, the officer's sergeant can make the approval but must notify the lieutenant in their chain of command by leaving documentation of the incident for the lieutenant to review. The arrested party, description of the incident and name of the approving command officer will be documented by the arresting officer in the form a street check. Officers will select the appropriate reason code (Released from Custody) when completing the street check. Documentation must be completed prior to end-of-shift.
3. Officers working secondary employment must comply with #2 above and provide the required documentation to the responding on-duty lieutenant or sergeant.

- (2) Arrest - when and how made.
  - a. An arrest may be made on any day and at any time of the day or night.
  - b. All necessary and reasonable force may be used in making an arrest.
  - c. All necessary and reasonable force may be used to effect an entry upon any building or property or part thereof to make an authorized arrest. C.R.S. §16-3-101. If on federal property, see OMS 104.28.
- (3) Stopping of suspect. A peace officer may stop any person who the officer reasonably suspects is committing, has committed, or is about to commit a crime, and may require the person to show identification. Officers have the right to ask the following:
  - a. Name
  - b. Address, (if the person is driving a motor vehicle, officers may ask for):
    1. Driver's license
    2. Automobile registration
    3. Proof of insurance
  - c. An explanation of the subject's actions (i.e. where they are coming from or going to). The person does not have to reply. The stopping shall not constitute an arrest. C.R.S. §16-3-103.
- (4) When a peace officer has stopped a person for questioning and reasonably suspects that his personal safety requires it, he may conduct a limited search, or FRISK by patting down the outer clothing for weapons.
  - a. If a FRISK reveals what feels like a weapon, he may search for and remove it from the clothing. The officer may take any:
    1. Weapon
    2. Contraband (Possession of any illegal item)
    3. Stolen goods
  - b. If the FRISK reveals what feels like a weapon, the officer will have cause to arrest and make a full search of the person and the immediate area within the person's reach.
  - c. At the conclusion of a "stop and frisk", you must arrest or let the person go.
- (5) There are rules regarding searches of a person, his home, and his car. Generally, a police officer may search only (except for certain emergency situations):
  - a. With the person's permission
  - b. With a search warrant
  - c. When an arrest is made
- (6) A person has the right to know for what he is being arrested, and to be advised of his rights when required.
- (7) All persons taken into custody must be searched for weapons and contraband, while ensuring that it is done in a reasonable and appropriate manner. Regardless of the gender of the suspect an officer is authorized to search for and remove weapons. Common sense must prevail regarding the manner and level of intrusion. Having an officer of the same sex as the suspect conduct a search may or may not be a practical or necessary option. The following considerations should be taken into account:
  - a. Type of crime committed
  - b. Type of clothing worn by the subject / suspect
  - c. Knowledge that the person is carrying or has carried weapons in the past

- d. The level of intrusion deemed necessary
  - e. Presence and immediate availability of an officer of the same sex as the subject
  - f. General efficiency in handling a given situation
  - g. Other potential exigencies or factors
- (8) Strip Searches or Body Cavity Searches - When Authorized or Prohibited (C.R.S. §16-3-405).
- a. "Strip search" means having an arrested person remove or arrange some or all of his or her clothing so as to permit a visual inspection of the genitals, buttocks, anus, or female breasts of such person.
  - b. No person arrested for a traffic or a petty offense shall be strip searched, prior to arraignment, unless there is a reasonable belief that the individual is concealing a weapon or a controlled substance or that the individual, upon identification, is a parolee or an offender serving a sentence in any correctional facility in the state or that the individual is arrested for driving while under the influence of drugs.
  - c. Any strip search that is conducted shall be performed by a person of the same sex as the arrested person and on premises where the search cannot be observed by persons not physically conducting the search.
  - d. Every Denver police officer conducting a strip search shall obtain the written permission of the police commander or an agent thereof designated for the purposes of authorizing a strip search. A Command Officer, Sergeant, or Acting Sergeant is delegated the authority to give written permission.
  - e. No search of any body cavity other than the mouth shall be conducted, without first obtaining a search warrant. In cases where a person is suspected of having secreted narcotics or contraband in a body cavity, assistance shall be obtained through Denver 911 from the on call Vice/Narcotics Bureau supervisor and the on-call attorney from the Denver District Attorney's Office.
    - 1. Written permission will also be required from a police command or an agent thereof authorizing the strip search and/or body cavity search.
    - 2. The search must be performed under sanitary conditions and conducted by a licensed physician or nurse.
  - f. Written permission for a strip search shall be obtained on Strip Search Authorization, DPD 81. The completed form will be retained by the police department and will be maintained in the detective's case filing.
- (9) Officers should order-in, rather than jail, persons who have committed traffic offenses. See OMS 204.05. The following traffic offenses are excepted.
- a. DUI cases - See OMS 204.05(2)c.
  - b. Traffic cases where resistance or interference is involved. See (10) b.
  - c. Juvenile Traffic Arrests
    - 1. When necessary to arrest a juvenile for a traffic violation, the violator shall immediately be taken to Traffic Investigations Unit. See OMS 204.17
    - 2. The investigator will determine if the juvenile is to be incarcerated. The investigator will contact Juvenile Intake to confirm whether the juvenile will be held or not. The decision of Juvenile Intake will be final.
    - 3. Prior to incarcerating a juvenile, the investigator shall place appropriate approval on the reverse side of the City Attorney's copy of the Uniform Traffic Summons and Complaint/Penalty Assessment Notice. See OMS 204.17(7).
- (10) Officers should, at their discretion, order-in rather than jail in assault and disturbance cases, if, in their opinion:
- a. There is no danger of a continuing assault and no danger to other persons, and
  - b. No resistance or interference to the officer involved. Prior to incarcerating a person on the charge of resistance and/or interference, the officer shall receive approval from a superior officer. The officer's log sheet entry shall include the name of the superior officer approving the incarceration. See OMS 105.00, Use of Force.
  - c. For other minor misdemeanors, the officers should generally order-in rather than jail unless there is resistance or interference to the officer.
  - d. If you are in doubt, call your sergeant.

- (11) The scout car shall be used to transport all prisoners whenever possible. Juveniles may be transported in the scout car only in an emergency situation with a supervisor's permission.
- (12) When it is necessary or advisable to transport a prisoner in a solo officer car, the handcuffed prisoner shall be secured with a safety restraining device while sitting in the front seat and to the right of the officer. All necessary precautions will be taken by the officer.
  - a. When the police vehicle is equipped with a prisoner cage, all prisoners being transported shall be handcuffed and placed within the cage. Prisoners shall be secured with a safety restraining device unless, by their resistance or non-cooperation, this is neither practical nor safe for the officer.
- (13) When transporting a prisoner in a two officer car, the handcuffed prisoner will be secured with a safety restraining device while seated in the right rear seat. One officer shall always be seated to the left of the prisoner and directly behind the officer driver. All necessary precautions will be taken by both officers.
- (14) After a suspect has been arrested, the officers shall search the scene of the arrest for weapons, contraband, or evidence that may have been concealed, dropped, or thrown away by the suspect.
- (15) After the suspect has been transported in a patrol car or the scout car, the vehicle shall be searched by the officer for any weapons or evidence that the suspect may have been able to discard therein.
- (16) Keep all suspects separated.
- (17) Do not take suspect(s) back to the scene of the crime or allow them to return to their home, room, car, or elsewhere on any pretext without the consent of a supervisory officer.
- (18) Identification of suspects: When a description of a suspect is so general that there is uncertainty that the proper suspect is being detained, the victim or witness should be transported to the location of the stop to make identification.
- (19) At no time shall a charge of "Safe Keeping" or "Shelter" be placed against a prisoner without authorization of a commanding officer.
- (20) Fugitive Arrests (Revised 05-2011)
  - a. Except in instances of fresh pursuit, fugitives who are arrested in the City and County of Denver for other law enforcement agencies, shall be booked into the Denver Detention Center, "Hold for Fugitive Unit."
    - 1. If there is a representative from another agency who possesses a valid arrest warrant for the fugitive and makes a request that the fugitive be released to their custody, a command officer may approve the release if:
  - b. The fugitive is not wanted by Denver on a felony warrant or any Denver probable cause warrant, and if
    - 1. The arrest did not result in a use of force or a report of injury prior to arrest.
    - 2. The approving command officer will report the circumstances on a DPD 200, along with a picture of the suspect and forward the information to the Investigative Support Division Commander.
  - c. Prior to jailing persons wanted by other jurisdictions, the arresting officer shall bring the party to the Identification Section for warrant verification and bond information.
  - d. The arresting officer must receive a copy of the warrant, a verified signed copy of the computer hit, or a copy of the request for verifying computer hit information to attach to the Warrant Arrest Report, DPD 288. Persons wanted on out-of-state warrants will be charged with "Hold for Fugitive Unit". Persons wanted on in-state warrants will be held for that jurisdiction, i.e., "Hold Jefferson County Sheriff Department, Warrant # xxxxx".
  - e. Whenever an individual is arrested on an out-of-state warrant, the arresting officer shall make a photocopy of the completed Warrant Arrest Report, DPD 288, and attach it to a letter to the Fugitive Unit which outlines the circumstances of the arrest.
  - f. Outside law enforcement agencies arresting persons who are wanted on any Denver warrant have the following options:
    - 1. The arresting agency may process the prisoner through its own facility and later transfer the party to the Denver Detention Center by personnel of the Denver Sheriff Department. These arrangements shall be made by the Fugitive Unit.
    - 2. The arresting agency may bring the prisoner to Denver's Identification Section, verify identity, obtain a copy of the warrant, and deliver the prisoner to the Denver Detention Center for booking.

- g. Juveniles arrested by an outside jurisdiction.
    - 1. Juveniles wanted by Denver for criminal offenses, but arrested in another jurisdiction, will be processed by the arresting jurisdiction in accordance with OMS 104.01(20).
    - 2. Juveniles arrested by another jurisdiction may be transported to the custody of a Denver officer at the City boundary if they are runaways (reported or non-reported) or victims of abuse or neglect occurring in Denver. The arresting jurisdiction must contact Denver 911 to arrange transportation.
  - h. Members of the Denver Police Department will not be sent to or agree to meet a representative of an outside agency for the purpose of accepting a prisoner for transportation to the Denver Detention Center.
- (21) Officers shall not take action on any case reported personally to them, where the Department does not have the original jurisdiction except arrests with warrants, without the approval of their commanding officer.
- (22) Fresh Pursuit
- a. C.R.S. §16-3-106 of the Colorado Revised Statutes (C.R.S.) gives a police officer three (3) alternatives in pursuing a suspect across county lines:
    - 1. To arrest the suspect
    - 2. Issue a summons and complaint
    - 3. Issue a notice of penalty assessment (Not used in Denver)
  - b. A suspect would only be taken into custody in subsection a. 1 above:
    - 1. After pursuit and upon an arrest, in a county other than Denver, the suspect shall be returned and booked in at the Denver Detention Center. (It is not necessary to have the suspect booked into the jail in the county where apprehended; however, as a matter of courtesy the appropriate agency in the jurisdiction will be notified.)
    - 2. Any offense that the suspect might have committed while being pursued in another county would be considered as a continuing offense, which could be included along with the original charge and tried in Denver County Court. See C.R.S. §18-1-202(7).
- (23) Reference can be made to the Mechanics of Arresting, Searching, and the Transporting of Prisoners in the Training Bulletins.
- (24) Investigation Division Arrest Procedures for Adults
- a. All adults arrested between the hours of 7:30 a.m. and 4:00 p.m., for investigation of an offense or pursuant to a warrant, who are the responsibility of the Investigation Division, shall be taken directly to the Investigation Division by the arresting officer.
  - b. The arresting officer will simply take the prisoner, and all related paperwork to a supervisor of the bureau involved. This supervisor will then review the case and assign a detective to the cases requiring immediate attention.
  - c. For those adult arrests that occur between 4:00 p.m. and 7:30 p.m., the arresting officer shall contact his immediate supervisor who will be responsible for approval of all paperwork. The officer shall then forward the paperwork, in Arrest Package Envelope, DPD 130, to the appropriate bureau and book the prisoner for "Investigation" of the applicable offense. NOTE: Statements and documentation must clearly articulate probable cause and all details of the arrest, for each charge.
  - d. In either instance, the supervisor will have final authority in determining the charges placed against the suspect. The supervisor will ensure that all documents necessary to establish probable cause and support the arrest are complete and have been approved by them, prior to being forwarded.
    - 1. Once all paperwork is approved for a felony arrest, the arresting officer will take the accused to the Detention Center, or arrange for transport of the arrestee by Scout Car. In addition to the documents currently required, the arresting officer will also provide the jail with a completed Felony Processing, DPD 275, for bonding and advisement purposes. A thorough Statement of Probable Cause articulating all elements of the offense must accompany the Felony P.A.
    - 2. Should the suspect be held for investigation of a misdemeanor, a completed Misdemeanor Processing, DPD 314, must accompany the suspect to the Detention Center. A thorough Statement of Probable Cause, articulating all elements of the offense, must accompany the Misdemeanor P.A.
    - 3. Officers will not place any dollar amounts for bonds on Felony or Misdemeanor Processing Forms, or on the bottom of the Criminal Summons & Complaint.

4. Each of these forms shall be completed at the direction of the supervisor approving the arrest and paperwork.
  - e. All juvenile arrests must be processed through the Juvenile Intake Desk.
- (25) Arrest of Denver Community Corrections Inmates
- a. When called to a residential halfway house to arrest a rejected inmate placed by the Denver Community Corrections (D.O.C.) Board, the responding officer(s) shall search, handcuff, and transport the subject to the Detention Center.
  - b. The arresting officer(s) will not be required to complete a General Session Summons & Complaint. The staff member at the halfway house will provide the officer with a completed "Officer's Arrest Report", Denver Sheriff Department Form #38, showing the charge of "Hold/Violation of Probation".
  - c. If any additional violations such as resistance, disturbance, etc., occurred during the arrest and transportation of the prisoner, the transporting officer will file these charges on a General Session Summons & Complaint.
  - d. This procedure applies only to Denver District Court Probation clients and NOT to Colorado Department of Corrections (D.O.C.) parolees. Both agencies operate community-based corrections facilities in Denver.
- (26) Arrest of Denver Police Officers, Denver Sheriffs, or any other Law Enforcement Officers
- a. Whenever it becomes likely that probable cause exists to arrest or to file any charges on a Denver Police Officer, Denver Sheriff, or any other Law Enforcement Officer within the City and County of Denver, the Internal Affairs Bureau will be notified immediately to assess whether this bureau will handle the filing and/or charging of the officer or sheriff.
  - b. Whenever a Denver Police Officer or Denver Sheriff is criminally charged or arrested in another jurisdiction, the Internal Affairs Bureau shall be notified as soon as possible, if not by the jurisdiction involved, by the officer or sheriff themselves.

#### 104.02 Female Suspects and Prisoners

- (1) Females shall not be touched by male officers except when necessary to take them into custody and to discover and seize weapons.
- (2) When females are transported, the dispatcher will be notified of the vehicle unit number, starting mileage and destination. Upon arrival, the officer will give his ending mileage.
- (3) Females shall not be interviewed alone by a male officer at Headquarters or district stations unless there is visibility into the room through glass or an open door, or a room where video monitoring equipment is present and in operation.
- (4) Females shall not be transported in the scout car with male prisoners unless they are husband and wife, or when the scout car has the accommodations for separation.

#### 104.03 General Session Summons and Complaint, DPD 287

- (1) The General Session Summons and Complaint form is used whenever an adult suspect is charged with a violation of the Denver Revised Municipal Code (D.R.M.C) or Colorado Revised Statutes (C.R.S.), EXCEPT TRAFFIC. The completed form shall accompany the prisoner to the Detention Facility or be processed by the Courts in the case of an order in.
- (2) The General Session Summons and Complaint is a legal document, consisting of an original and three copies. The top sheet is the original of the complaint and the actual court docket. The first copy is the Defendant's Copy, the second copy is the Police Department's Copy, and the third copy is the City Attorney's Copy.
- (3) Front side of form:
  - a. All writing on this form must be done with a black ball point pen using sufficient pressure to ensure that all handwritten information on all copies of the document is legible. The cardboard flap of the book must first be placed under the last copy of each set of the form to ensure a hard writing surface. All handwritten information is to be printed in block letters except for the officer's signature.



- b. If the officer is unable to obtain the correct name, address, place of employment, or date of birth, he will leave the space provided blank and the sheriff will complete. If the suspect refuses to provide a name, the officer will write "John Doe" or "Jane Doe", (whichever applies) on the top of the GSS&C in the blank space immediately to the right of the words "GENERAL SESSION SUMMONS AND COMPLAINT".
- c. To charge a defendant with an offense not listed on the face of the Summons and Complaint, the arresting officer will print the appropriate section number and a brief description of the violation in the space marked "other violations".
- d. Arresting officers, when jailing or ordering defendants into court on the General Session Summons and Complaint, will make the appearance date to schedule a court date fourteen (14) days later, if such fourteenth day is a court day. If the fourteenth day is not a court day, the return date shall be on the next court date following the fourteenth day. Officers must be careful to avoid making the return date on Saturday, Sunday, or a holiday. (The General Session Summons and complaint states defendants may call the county Court or appear in person to schedule a court date.)
- e. In the case of a warrantless arrest, when the suspect is jailed, the bottom half of the form "Statement of Probable Cause", must be completed. If additional space is needed, use Statement of Probable Cause, cont., DPD 287A. See OMS 104.08. For a definition of probable cause, see OMS 104.50(4)b.

(4) Reverse side of form:

- a. The reverse side of the original copy of the complaint is the court "docket" and is not to be used by officers.
- b. After filling out the face of the original complaint, a carbon must be inserted between the Police Department's Copy and the City Attorney's Copy so that when the back of the City Attorney's Copy is written upon, this information will also appear on the back of the Police Department Copy.
- c. The back of the Police Department's and the City Attorney's copies must contain all the pertinent information concerning the description of the prisoner and clothing, and the details of the arrest, which should begin with the date, time, and location of the arrest. If the prisoner was jailed and this information is included in the "Statement of Probable Cause" on the face of the form, it need not be repeated in the Officer's Notes.
  - 1. If more than one person was charged by officers in a single event, this information should be recorded on the "co-defendant" line. This will enable the courts to "cross-reference" the cases.
  - 2. Any injuries to the prisoner must be documented; if there are no injuries, enter "none".
  - 3. Officers' notes should include any voluntary statements made by a prisoner concerning infectious diseases. A notation should also be made when a subject has blood or bodily fluids present on his person or clothing.
  - 4. List information concerning autos, vehicle license plates, and operator licenses when required.
  - 5. If the prisoner is not booked, but is sent to Denver Health Medical Center with a hold order, the following procedure shall apply:
    - a. All patients who are on a Denver Police Department hold for arrest who are or who indicate they may become combative will be handcuffed and transported with a Denver Police officer accompanying the patient in the ambulance, en route to the hospital. All other patient/prisoners on a Denver Police Department hold will be handcuffed and transported via ambulance with a Denver Police officer following directly behind the transporting ambulance. The prisoner/patient will remain the responsibility of the Denver Police Department officer until custody is transferred to the Denver Sheriff's Department at the Denver Health Medical Center (D.H.M.C.).
    - b. Searching of the patient/prisoner prior to transport will be the responsibility of the Denver Police officer who effected arrest unless it would interfere with the necessary medical treatment. In the event that a search cannot be accomplished, a Denver Police officer will accompany the patient/prisoner in the ambulance unless the following exception applies: Whenever a patient/prisoner in critical condition is transported from the field without a Denver Police officer escort, officers will respond to D.H.M.C. to cause custody transfer to the Denver Sheriff's Department. Also see OMS 109.02(2) Sick and Injured Report, DPD 150.

- c. Names, addresses, and telephone numbers of witnesses, accomplices, and complainants should be listed, and designated whether a witness or an accomplice, so if the prisoner pleads not guilty, the court may summon a witness to court for testimony. Officers shall inquire as to whether the witnesses and complainants wish their addresses to remain confidential. If the complainant or witness so indicates, officers shall check the "Address Confidential" box found on the bottom of the page. The City Attorney's office will then withhold this information during discovery proceedings.
- d. After making all necessary entries on the General Session Summons and Complaint form, the officer completing the form shall determine which officer involved in the arrest is most qualified, because of personal knowledge of the facts of the case, to be the best witness for the prosecution. The name and serial number of this officer shall then be placed on the top line on the front of the General Summons and Complaint form. This officer shall be the only police witness to receive a court appearance notice.
- e. Endorse all officers who are needed for the successful prosecution of the case. Only testimony of a competent witness is admissible. Unless an officer has personal or direct knowledge of the facts of a case, he is not a competent witness in that case.

(5) Service and Distribution of Summons and Complaint

- a. When the General Session Summons and Complaint form is completed, and it has indicated the date, time, and by whom it was served, the Defendant's copy shall be given to the defendant.
- b. If the defendant is jailed, the remaining copies shall be delivered to the Detention Center where they will be processed.
- c. In cases where it would not be practical to serve the Summons (Defendant's Copy) to the prisoner, for example, when the prisoner has refused to provide a name, leave the "date served" blank and send the complete form to the Detention Center. When the identity of the prisoner has been determined by the Police Identification Section, a Technician from the Police Identification Section will be sent to the Detention Center to serve the prisoner with the defendant's copy of the GSS&C. If the Police Identification Section is unable to determine the identity of the prisoner, court personnel will determine an appropriate name at arraignment and be responsible for service of the defendant's copy.
- d. If the defendant is being ordered-in to court, the remaining copies of the GSS&C will be sent to the Records Section for distribution.

#### 104.04 Investigation and Hold Arrests

- (1) When a prisoner is arrested for investigation or on a "hold" for a certain bureau, an agency or institution, the officer will use the Police Department copy only. In the lower left-hand corner of this copy in the space marked "other violations" the words "investigation of" and/or "hold for" will be noted along with the nature or type of investigation or hold and the agency for which the hold is placed.
- (2) Officers shall not book a prisoner for "investigation" of any offense without first notifying the appropriate investigative unit.
  - a. For those arrests occurring between 1530 hours and 0730 hours, the arresting officer will contact his/her immediate supervisor who will approve all paperwork and route it to the appropriate investigative unit.
  - b. The arresting officer will complete a written statement detailing his/her actions and observations of the arrest.
- (3) "Hold Orders" shall not be placed against persons who attempt suicide, or against witnesses or victims of assaults, nor shall these persons be transported in a scout car.
  - a. "Hold Orders" shall not be placed against persons sent to Denver Health Medical Center unless they are charged with a violation of the law, investigation of an offense, or "Hold for Mental Health."
  - b. All "Hold Orders" placed by officers on prisoners at the County Jail shall be made in writing and signed by the officer placing the "Hold."
  - c. "Hold Orders" shall be removed or withdrawn in writing and signed by the officer withdrawing such "Hold."
  - d. The County Jail will notify officers when prisoners with "Holds" become eligible for release. Upon such notification, the officer or someone acting in their behalf will arrest the prisoner upon their release at the County Jail.

- (4) Every person arrested and jailed on an investigation charge must be advised of their rights and made eligible for bond at the next scheduled court session following the arrest. The arresting officer will complete either a Felony Processing Form, DPD 275, or a Misdemeanor Processing Form, DPD 314. Officers will not place any dollar amounts for bonds on Felony or Misdemeanor Processing forms unless it is noted on the arrest warrant. The appropriate processing form will accompany the prisoner to the Detention Facility.
- (5) Each investigator of the Department will be responsible for the charges against prisoners in the Detention Facility which are their responsibility to investigate. It shall be the duty of the investigating officers to make sure such cases are processed with no unnecessary delay. Arresting officers may check with both the Investigative Unit and the Detention Facility for information on the status of the case.

#### **104.05 Changing Charges**

- (1) Only the arresting officers or detectives assigned to a case may change charges. Identification Section personnel will add a charge when there is an active pickup in their files. Identification Section personnel will not change the original charge.
- (2) Officers will use a Change of Charge Form, DPD 43, when dropping, adding or changing charges against prisoners under their investigation.
  - a. The investigating officer will indicate on DPD 43 either the charges filed or release the "investigation" charge and the prisoner from custody.
  - b. The investigating officer shall deliver, either in person or by fax, the Change of Charge Form to the Identification Section. Personnel assigned to the Identification Section will cause the Change of Charge Form to be scanned into the prisoner's Arrest-Booking Record and the appropriate add or drop charges will be entered within the Record Management System. Identification Section personnel will then ensure that a copy of the Change of Charge Form is delivered to the appropriate Detention Facility of the Denver Sheriff's Department in a timely manner.
- (3) The warden in charge of the Detention Facility or an authorized representative shall be responsible for the prompt release of a prisoner after all police holds have been cleared. In addition, they shall be responsible for clearing charge(s) from their prisoners' records. They will hold the prisoner if additional charges are pending or release them if there are none.
- (4) Whenever a Change of Charge form is submitted and charges are changed, the following information must appear on DPD 43:
  - a. In addition to Hold for Capias, Warrant, County Court Warrant, General Session Summons and Complaint, etc., the specific charge and the designation of felony or misdemeanor shall be recorded.
  - b. Warrant and/or docket number if known.
  - c. The name of the Court issuing the Capias, Warrants, etc., such as County Court, District Court, Superior Court, or Juvenile Court.
  - d. It is not necessary to specify the statute section number.
- (5) Adding Charges: If additional, unrelated charges are placed against a prisoner already in custody, the investigating officer shall complete Statement of Probable Cause, cont., DPD 287A, outlining the probable cause for the additional charge. This form and a copy of the Change of Charge, DPD 43, must be included with the paperwork delivered to the Detention Center. The other copy of the Change of Charge must be delivered to personnel assigned to the Identification Section, either in person or by fax.

#### **104.06 DELETED 04/2013**

#### **104.07 City Ordinance Violations Committed Out of the Officer's Presence or by a Suspect No Longer at the Scene**

- (1) The decision to charge or not charge a defendant with a violation of City Ordinance shall be made by the officer at the scene after available evidence has been gathered and evaluated. See OMS 104.50 regarding Domestic Violence Incidents.

- (2) When an officer has probable cause to believe a City Ordinance violation has occurred and the suspect is gone, or when an officer sees an ordinance violation but is unable to capture the suspect, the officer shall make every reasonable effort to determine a suspect's correct identity and/or obtain positive identification before requesting the issuance of an arrest warrant. Information from such sources as witnesses, crime computers, and Identification Section files should be used. Merely locating a name in a computer database that is the same or similar to a suspect's name does not, by itself, provide probable cause to believe that the person in the database is the same person as the suspect. Other corroborating information must also be present to establish probable cause. If a positive identification cannot be made based on the reliable information available, a General Offense (GO) report, DPD 250, should be completed, in lieu of requesting an arrest warrant, to allow detectives to determine the suspect's correct identity. See OMS 104.50(5) for the standards of determining probable cause in Domestic Violence cases.
- a. If the suspect's identify can be determined the officer will complete a GSS&C/Warrant, DPD 236, if the suspect is an adult, or a JS&C/Warrant, DPD 386, for a juvenile suspect, swear to and affirm its contents in the presence of a notary.
  - b. The GSS&C/Warrant, or the JS&C/Warrant, and all related paperwork (Wanted/Missing Person, Affidavit continuation, Domestic Violence Case Summary, Statements, etc.) will be placed in the Routing Envelope, DPD 236A, and forwarded to the Identification Section.
  - c. If an adult suspect is located before the warrant has been forwarded to the Identification Section, the suspect may be ordered in or jailed with the original GSS&C/Warrant form. The initiating officer must note on the GSS&C portion of the form (next to the service information) that the suspect has been 'jailed' or 'ordered in'. The officer must also add the court date and service information and serve the defendant.
    1. If the suspect is to be jailed, the Denver Sheriff Department procedures require that affidavit portion of the form be notarized before they will take custody.
    2. If the suspect is to be ordered in, the GSS&C Warrant Form and related documents should be placed in the Document Pack for Municipal Cases, DPD Form 504 and forwarded to the Records Section. In this case, DO NOT USE THE ROUTING ENVELOPE.
  - d. If a juvenile suspect, or a relative over the age of eighteen, is located before the paperwork is processed, the officer should mark the box "Summons & Complaint", obtain a court date and time from the clearance channel and serve the paperwork. The method of service must be indicated. See OMS 402.07(5)c.
  - e. The Identification Section is responsible for the transportation of GSS&C/Warrants and JS&C/Warrants to and from the Courts. County Court judges shall review and issue these warrants.
  - f. Information on issued warrants will be entered on the CCIC crime computer system.
  - g. The Identification Section will store the signed warrants and related documents.
  - h. Apprehension of suspect and service of warrant:
    1. When an adult suspect is apprehended, and after verification of the warrant
      - a. Those wanted on order-ins must be brought to the Identification Section to be served
      - b. Those who are to be jailed may be transported to the Identification Section for processing or to the closest police facility for FAX warrant verification. See OMS 104.09(3)c.
    2. When a juvenile suspect is apprehended, he/she must be brought to ID for service
  - i. If officers contact a suspect believed to be wanted on a recently requested warrant, but the warrant has not yet been entered on the computer, the NCIC operator should be contacted to verify the existence of the warrant. Depending upon the information received from NCIC, there are three possible courses of action to be followed:
    1. If officers are advised that a judge has signed the warrant and it is awaiting computer entry, the suspect shall be arrested, transported to the Identification Section, and processed using the documents forwarded by the initiating officer.

2. No arrest shall be made pursuant to either a GSS&C/Warrant or a JS&C/Warrant which has been forwarded by the initiating officer but which has not yet been signed by a judge. EXCEPT, an officer may, under narrowly defined circumstances, make an arrest on an unsigned warrant if:  
The named suspect presents an IMMEDIATE DANGER to some person if not arrested AND, The arresting officer can confirm that the completed GSS&C/Warrant or JS&C/Warrant form is being held by Police Department Personnel (Identification Section, District Station, etc.). The paperwork must be retrieved by the arresting officer.  
NOTE: This exception to standard procedure should be used with advised caution and only in cases involving domestic violence or other situations where violence could result.
3. Officers shall not make arrests on GSS&C/Warrants or JS&C/Warrants during that short time period in which the warrants are in the court's possession, awaiting signature by a judge. If the suspect commits a second offense, he/she is, of course, subject to arrest on those charges.
- j. If not executed, all GSS&C/Warrants and JS&C/Warrants will be purged after one year. The DPD 110 will then be returned to the initiating officer.
- (3) If evidence is unavailable to show that a City Ordinance violation has occurred, the officer shall tactfully but firmly explain to the citizen the limits of police involvement allowed by the law.
  - a. If a citizen requesting police action does not accept the officer's decision, the officer will summon a sergeant to the scene to evaluate the situation.
  - b. The officer will note on the Daily Activity Log, DPD 120, the name of the sergeant responding to the scene, relevant data about the call and the supervisor's decision.
  - c. A citizen who continues to demand police action after the sergeant has deemed none to be in order shall be directed to the District Station to discuss the matter with the shift commander.
  - d. In no instance is the citizen to be referred to the City Attorney's Office, the County Court, or to the Information Desk at Headquarters.

#### **104.08 Warrantless Arrests**

- (1) Any time a person is arrested and jailed without a warrant, or placed in the Gilliam Youth Services Center, a statement of probable cause for the arrest must be submitted to the court.
- (2) When jailing an adult, complete the "Statement of Probable Cause" which constitutes the bottom half of the General Session Summons and Complaint prior to delivering the prisoner to the Detention Center. If additional space is needed, use Statement of Probable Cause, cont., DPD 287A.
- (3) Juvenile Arrests - Complete the Statement of Probable Cause found on the reverse side of the Juvenile Case Summary. Two (2) copies of the Juvenile Case Summary must accompany the juvenile to the Gilliam Youth Services Center. If additional space is needed, use Statement of Probable Cause, cont., DPD 287A.
- (4) Change of Charge - If additional, unrelated charges are placed against a prisoner already in custody, a Statement of Probable Cause, cont., DPD 287A, must be completed, outlining the probable cause for the additional charge. This form must be included with the paperwork delivered to the Detention Center.
- (5) Traffic Arrests - Any person arrested on a traffic charge without a warrant will be transported to the Traffic Investigations Unit for processing.

#### **104.09 Central Want and Warrant Files (Persons and Property) (Revised 04/2013)**

- (1) A central want and warrant file will be maintained in the Identification Section. Information from this file can be obtained only by persons known to be criminal justice personnel.
- (2) The central Wanted Persons and Warrant File functions in this manner:
  - a. A copy of the pickup and a photograph of the wanted person are sent to the Bulletin Editor. Cancellations will be noted on DPD 252/110.
  - b. File checks can be made by name only on pickups without DPD numbers.
  - c. All wanted notices from the Denver Police Department and Denver Courts will be filed in the Wanted File. All such notices will include the signature of the person responsible for the notice and not just the name of the requesting agency.

- d. No Denver Police Department charges will be placed against a prisoner being held in the Detention Facility for any federal law enforcement agency or on a writ of habeas corpus, even though a valid warrant is on file. Instead, the detective or agency initiating the warrant will be notified that the person is being held for a federal law enforcement agency or on a Writ of Habeas Corpus. Identification Section personnel will not initiate a cancellation but will retain the warrant on file until it is canceled by the originating detective or agency.

(3) Processing Persons Wanted on Warrants

- a. No person shall be jailed on any warrant until the warrant is verified by Identification Section personnel.
- b. If the subject has good photo identification, or is known to the officer, the prisoner will be transported to the District Station or Headquarters, whichever is closer.
  - 1. If the subject does not have good photo identification, or is not known to the officer, he/she will be transported directly to the Identification Section for warrant verification.
  - 2. If the person is wanted on a General Session Summons & Complaint/Warrant (a GW case number), and is to be ordered in rather than jailed, he/she must be transported to the Identification Section to be served.
  - 3. If the person is wanted on a JS&C/Warrant, he/she must be transported to the Identification Section to be served.
  - 4. If a person is wanted by this department on a probable cause warrant supported by a Criminal Summons & Complaint, the officer must transport the prisoner to the Identification Section to be served and then jailed.
- c. Processing at a District Station via FAX
  - 1. The arresting officer will FAX a completed FAX Warrant Verification form, DPD 465, to the Identification Section.
  - 2. When Identification Section personnel have verified the warrant, they will FAX a copy of the computer printout and verification stamp to the officer at the District Station. Unless a plain paper FAX is used, the officer will make a photocopy of the FAX printout to be attached to the Warrant Arrest Report, DPD 288.
  - 3. The prisoner may be transported to the Detention Center by Scout Car.
  - 4. When DPD 465 is received by the Identification Section, the warrant will be canceled from CCIC or a "locate" sent to the originating agency. The paperwork (warrant, P.A., teletype, etc.) will be forwarded to the Detention Center when the subject arrives at the jail.
  - 5. If a person is wanted on a GSS&C/Warrant, DPD 236, Identification Section personnel will FAX copies of the front and back of the defendant's copy to the officer, who will serve the prisoner.
  - 6. Any individual in custody wanted on four or more warrants must be transported to the Identification Section for processing.
- d. Identification Section Processing
  - 1. The arresting officer will be given a copy of the computer printout showing the bond amount and the signature of the verifying Identification Section officer.
  - 2. This paperwork and the Warrant Arrest Report, DPD 288, must be given to the Detention Facility elevator operator when the prisoner is placed in his custody.
- e. If warrant and bond verification cannot be determined within the time limits prescribed by NCIC/CCIC rules, and the warrant is the only reason for jailing the party, the party may be released at the officer's discretion. However, if there are additional charges, the party may be jailed on those charges.

(4) Officers having probable cause to stop and question persons about property in their possession are encouraged to ascertain whether the property has been reported stolen.

- a. If a computer inquiry indicates the property has been reported stolen, the item(s) are to be confiscated and placed in the Property Management Bureau as evidence.
- b. **PRIOR TO JAILING ANY SUSPECT, OFFICERS WILL NOTIFY A MEMBER OF THE APPROPRIATE DISTRICT INVESTIGATIVE UNIT.**
  - 1. During the dedicated staffing hours of the appropriate District Investigative Unit, detectives are available to assist the arresting officers.
  - 2. At other times, the detective or sergeant assigned to the District Investigative Unit can be contacted through the Denver 911 dispatcher.

- c. Officers should consider all available information such as the nature of the offense in the original report, how long ago the report was made, the statements and demeanor of the suspect, the circumstances of the arrest, the type of item and even its value. Possession of a reportedly stolen item should not be the only criterion upon which the decision to jail is based.
    - 1. The date the item was reported stolen is important. If the item is wanted in connection with a case REPORTED TO THE DENVER POLICE DEPARTMENT less than ten days prior to the apprehension of the suspect, a stronger case for jailing the person is made. In those instances where the item was reported to the DPD more than ten (10) days before the arrest, issue a Request to Appear to the suspect to see the assigned detective for the next business day.
    - 2. In those instances where an item has been reported wanted by any law enforcement agency other than the Denver Police Department, officers shall contact the specific outside law enforcement agency for direction. If a representative from the outside law enforcement agency is unavailable, seize the reported stolen items and send the related reports (i.e. Property Invoice, officer statement, suspect information, etc.) to the assigned investigator from the outside law enforcement agency.
  - d. When officers have decided to jail the suspect, the charge will be consistent with that listed on the original report, such as "Investigation Burglary, Case # 123456789". There is no statute to substantiate the charge of "Investigation Illegal Possession of Stolen Property."
  - e. All paper work related to the arrest and/or order-in such as statements, computer printouts, or copies of the General Session Summons and Complaint should be forwarded without delay to the assigned detective.
- (5) Denver County Court Warrant Arrests
- a. Denver County Court Warrants include Failure to Appear bench warrants, Failure to Comply or Contempt of Court Warrants. These warrants are entered onto CCIC and will have a bond amount or list the number of days to be served in jail.
  - b. When an officer receives notification that a subject is wanted on a Denver County Court Warrant, they shall proceed as outlined in 104.09 (3)
- (6) Changing Charges:
- a. Option 1: Deliver in person both copies of the Change of Charge Form, DPD 43, to the Identification Bureau along with any new documents (i.e. Felony PA, PC Statement, etc.) supporting the amended charge(s). Personnel from the Denver Sheriff's Department are responsible for collection of these documents and have scheduled pick-up times to collect the reports.
  - b. Option 2: Fax a copy of the Change of Charge Form DPD 43, to the Identification Bureau along with any new documents (i.e. Felony PA, PC Statement, etc.) supporting the amended charge(s) AND hand deliver the original charging documents to the Records Section of the Detention Center. Personnel assigned to the DPD Identification Bureau will update the prisoner's record and cause the supporting Change of Charge documents to be scanned into the Versadex system under the specific case. Once complete, the DPD Identification Bureau staff will send copies to the Detention Center.
- (7) If an investigator is notified by another jurisdiction that the subject of his/her warrant has been arrested, he/she shall notify the Fugitive Unit immediately. Fugitive Unit personnel will place holds and arrange to have the subject returned to our jurisdiction.

#### 104.10 Arrest Warrants

- (1) Definitions
- a. AT LARGE Arrest Warrants: Issued by the District Attorney's Office after acceptance for filing of a criminal case with the court. The investigating officer will sign the affidavit at the District Attorney's Office. To obtain an At-Large Warrant, the District Attorney must make a showing that the alleged suspect has fled the State of Colorado, and that the District Attorney is willing to extradite the alleged suspect from the location of arrest. At Large warrants are valid for extradition nationwide.

- b. **PROBABLE CAUSE Arrest Warrants:** An investigative warrant, valid for extradition only in the State of Colorado, used when the filing of criminal charges is pending. The investigating officer who completes an Affidavit and Application for Arrest Warrant, DPD 69, and swears to the information in front of a judge obtains the warrant. Investigators shall use Probable Cause Warrants to arrest individuals suspected of committing State misdemeanors and felonies and in furtherance of an investigation(s).
- c. **GENERAL SESSION SUMMONS & COMPLAINT/WARRANT, DPD 236:** Used for violations of the Denver Revised Municipal Code (D.R.M.C) of the City & County of Denver when the suspect is known and is no longer at the scene of the offense. See OMS 104.07.
- d. **JUVENILE SUMMONS & COMPLAINT/WARRANT, DPD 386:** Used for those violations of the Denver Revised Municipal Code (D.R.M.C) of the City and County of Denver which meet the District Attorney's filing guidelines, when the juvenile suspect is known and is no longer at the scene of the offense. See OMS 104.07 and 402.07.

(2) Warrants Issued by Other City Agencies

- a. A County Court clerk will place warrants issued for failure to appear on General Session charges.
- b. The County Court will handle bench warrants for failure to appear on County Court State Misdemeanor charges.
- c. The Denver Sheriff's Department will handle all Alias Capias warrants issued by the District Court.

(3) Obtaining At-Large and Probable Cause Arrest Warrants

- a. The investigating officer must complete an affidavit that specifies facts sufficient to support the occurrence of an offense and probable cause to support that a particular person committed the offense (Affidavit and Application for Arrest Warrant, DPD 69). The investigating officer shall present the affidavit to a County or District Court Judge for review. If the Judge concurs with the probable cause detailed in the affidavit, the Court shall issue an arrest warrant commanding any peace officer to arrest the person named in the warrant (see C.R.S. 16-3-108).
  - 1. Investigating officers shall obtain Probable Cause Warrants when seeking the arrest of any individual suspected of committing a State felony or County misdemeanor in the City and County of Denver. The investigating officer shall then follow the procedures outlined in OMS 104.10 (4).
  - 2. When the investigating officer obtains Probable Cause Warrants for State felonies, the investigating officer shall discuss the matter of extradition with the District Attorney if the investigation shows the suspect fled the State of Colorado.
  - 3. In instances where the District Attorney will extradite the suspect from another state, the investigating officers shall follow the procedures outlined in OMS 104.10 (3) b.
  - 4. In instances where there is insufficient information or evidence for the District Attorney to make a decision about extradition, the investigating officer shall follow the computer entry procedures outlined in OMS 104.10 (4).
- b. When the investigating officer obtains a Probable Cause Warrant for individuals suspected of committing a State felony and the investigation or information supports that the suspect is no longer in the State of Colorado, the assigned investigating officer shall:
  - 1. Present the case to the District Attorney to determine if filing criminal charges is applicable. If the District Attorney accepts the case for filing, the assigned investigating officer shall request an At-Large Warrant for the arrest of the suspect. The District Attorney will complete the At-Large filing documents and have the assigned investigating officer sign the affidavit. The assigned investigating officer shall submit the completed At-Large Warrant to the NCIC/CCIC operator in accordance with OMS 104.10 (4)
  - 2. If the District Attorney refuses the case for filing of criminal charges and the issuance of an At-Large Warrant, knowing that the suspect is out of the State of Colorado, the assigned investigating officer shall obtain a Probable Cause Warrant in accordance with OMS 104.10 (3) a and the recommendation of the District Attorney. The assigned investigating officer shall include a copy of District Attorney Form DA-122, DA Case Filing Form indicating "Obtain PC Warrant" with the investigative case file.
    - a. District Attorney Form DA-122, DA Case Filing Form is work product of the District Attorney and not available for discovery. As this document is not discoverable, no member of the Denver Police Department shall produce the document to the public as part of an open records request, or to any defense attorney as part of a discovery request.



- b. When a jurisdiction outside the State of Colorado arrests an individual wanted on an At-Large or Probable Cause Warrant, the NCIC/CCIC operator shall immediately notify a supervisor assigned to the unit responsible for obtaining the warrant.
    - 1. For suspects arrested on At-Large Warrants, the assigned investigating officer shall notify the Fugitive Unit to begin the extradition process. The investigating officer shall make written notification through their chain-of-command when requesting travel to the jurisdiction of arrest to interview the arrested suspect.
    - 2. When the out of state jurisdiction holds a suspect on a Probable Cause Warrant only, the supervisor assigned to the unit responsible for obtaining the arrest warrant shall immediately assign an investigator to investigate. The assigned investigating officer shall contact the District Attorney and discuss the information or evidence necessary to obtain an At-Large Warrant for the suspect. If travel is necessary to further the investigation, the investigating officer shall make written notification through their chain-of-command to arrange travel to the jurisdiction of arrest.
      - a. If the District Attorney approves the At-Large filing after discussions with the assigned investigating officer, or after travel to obtain further information, the investigating officer shall notify the jurisdiction of arrest and inform them that an At-Large Warrant is forthcoming. The investigating officer shall then follow the procedures outlined in OMS 104.10 (3) b. 1.
      - b. If the District Attorney refuses the At-Large filing, and unless advised by the District Attorney that probable cause no longer exists, the investigating officer shall keep the Probable Cause Warrant active and notify the arresting jurisdiction that extradition will only occur within the borders of the State of Colorado. The investigating officer shall discuss with the District Attorney what evidence or information is necessary to obtain an At-Large Warrant. The investigating officer shall note the discussion in the supplemental report for the case file.
- (4) After obtaining an At Large or Probable Cause arrest warrant, the assigned investigating officer will:
- a. Forward the following paperwork to the Identification Section for computer entry. This will include:
    - 1. A completed Wanted/Missing Person, DPD 252/110. Before sending this form to the Identification Section, the assigned investigating officer will run a computer check on the named subject, obtaining the last known address, and DPD number if known.
    - 2. One (1) copy of the warrant
    - 3. The appropriate felony or misdemeanor processing form
  - b. Staple one (1) copy of the warrant to General Offense (GO) report, DPD 250, and Supplementary Report.
  - c. When officers make application to any court (e.g. Search Warrants, Arrest Warrants, Rule 41.1, and associated documents such as Search Warrant Envelopes, Sealed Search Warrant Envelopes, Return and Inventory, etc.), officers shall place the Denver Police Department General Offense (GO) number on those documents.
    - 1. If a location for the GO number does not exist on the document, officers shall hand write or type: "Denver Police Department GO#" and note the GO number for the investigation.
- (5) General Provisions for Fugitive Warrant Procedures
- a. Of primary concern in all criminal investigations is the apprehension of suspect(s) named in arrest warrants as soon as possible following the issuance of the arrest warrant. This section shall outline the procedures used to affect the arrest of persons wanted for a criminal offense and the procedures used to document the methods used by the personnel affecting the arrest.
  - b. General Procedures Prior to an Attempt Pick-up
    - 1. Ensure the arrest warrant is active by conducting a test clearance of the wanted subject.
    - 2. Perform an entity check through the Versaterm System seeking information that would render a pick-up unnecessary (e.g. prior unsuccessful pick-up attempt(s), subject moved, bad address, etc.)
    - 3. Prior to attempting an arrest pick-up, officers shall contact Denver 911 and request any information pertaining to the location of the attempt pick-up.

4. Considering 16-3-106, C.R.S., officers shall contact the appropriate jurisdiction when attempting an arrest outside the jurisdictional boundaries of the City and County of Denver. Unless in fresh pursuit of a suspect, an officer not only risks losing potentially valuable evidence, but is also in violation of the law when he or she travels outside the City and County of Denver to arrest a wanted person without the assistance of law enforcement from the appropriate jurisdiction. Absent fresh pursuit, when making an arrest outside of the jurisdictional boundaries of the City and County of Denver, an officer requires both probable cause, and the physical presence and assistance of the outside jurisdiction, to make the arrest.
5. Upon completion of the attempted pick-up, officers shall notify Denver 911 and provide the dispatcher with appropriate call disposition (e.g. success/unsuccessful, suspect no longer resides at the address, bad address, suspect family resides at address, suspect no longer lives there, etc)
6. All officers attempting a pick-up shall complete an entry on the Versadex Street Check system noting the pick-up outcome. Officers shall forward all Information related to any intelligence regarding the subject, the location, or additional information that may assist future arrest attempts, directly to the assigned detective.
7. The assigned detective shall include all information related to the arrest or arrest attempts in their respective investigative case file prior to filing the case with the District Attorney.

c. Felony Warrants

**All warrants will be submitted to OSI/NCIC/CCIC/Webmug immediately upon obtaining the warrant. This applies to all procedures below.**

1. All violent felony warrants where the assigned detective does not have the means to expeditiously secure the suspect (e.g. imminent voluntary surrender); the assigned detective shall advise their immediate supervisor and coordinate apprehension efforts through the Fugitive Unit.
2. In most cases, the Fugitive Unit will be assigned as the primary investigative unit for fugitive apprehension. Exceptions would be arrests warrants that can be coordinated and executed immediately by those investigators having knowledge of the whereabouts of the individual being sought. However, the Fugitive Unit shall still be notified of the apprehension attempt and disposition.
3. At the same time the arrest warrant is delivered to the Identification Bureau for entry onto NCIC/CCIC, the assigned detective shall hand carry a copy of the arrest warrant to the Fugitive Unit along with work-up packet information (e.g. criminal history, suspect photograph, etc.).
4. During normal business hours, a copy of the arrest warrant must be placed in the warrant box located at the Fugitive Unit Reception Desk.
5. After normal business hours, a copy of the arrest warrant shall be placed in the lock box that is mounted outside the door of the Fugitive Unit. This box is labeled "Fugitive Warrants". When the assigned detective obtains a felony warrant during non-duty hours, and it is in the best interest for the safety of the community to have the fugitive immediately located and arrested, the assigned detective will contact their supervisor who will cause the Fugitive Unit to be notified as stated in c.1. above for the purpose of an immediate apprehension operation.

d. Misdemeanor Warrants

1. In cases where the assigned detective obtains a misdemeanor warrant, the assigned detective shall initiate all reasonable efforts to apprehend the subject prior to the end of the assigned detectives' shift.
2. In those cases where the misdemeanor warrant reaches a more serious level (i.e. domestic abuse cases where victim remains in imminent danger, sexually or biased motivated crimes, victim is a public official, part of pattern offense, etc.), the assigned detective shall advise their immediate supervisor and coordinate apprehension efforts through the Fugitive Unit as outlined above in the Felony Warrant section.
3. When initial arrest attempts prove unsuccessful, and the nature of the offense does not necessitate an immediate response, the assigned detective shall complete a Street Check as outlined in OMS 104.10(5) b. 6.

- e. In any instance where a subject's arrest or warrant cancellation occurs with respect to a Denver Police Department warrant, the Identification Bureau personnel shall notify the appropriate investigative bureau personnel.
  1. Upon the arrest of a wanted subject, or when the cancellation of a warrant occurs, the Identification Bureau personnel shall forward a copy of DPD Form 252/110 – Wanted/Missing Person, to the responsible investigative unit and the assigned detective.
  2. The assigned detective shall document the arrest or cancellation information in the appropriate case file supplemental report.

#### 104.11 Searches and Seizures

- (1) Amendment IV of the Bill of Rights in the Constitution of the United States is as follows:  
Searches and Seizures: The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall be issued, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.
- (2) In any search and seizure pursuant to a search warrant, the Constitution prescribes the following requirements: (a) the premises to be searched (b) particularly described, and (c) the affiant swear or affirm that they have probable cause to believe the specific property is on the premises and give the reasons for this belief. For definitional purposes, a search warrant is an order in writing; in the name of the state, signed by an authorized judicial officer, directing a peace officer to search for, and seize, the property listed on the premises named. **Refer to OMS 104.54 for the policy and procedures for obtaining immediate entry warrants.**
  - a. All search warrants and affidavits for search warrants must be read and approved by the affiant's supervisor prior to presentation to a prosecutor or judge. The reviewing supervisor shall print their name, badge number, date and sign their name at the end of the affidavit to indicate their review. (See 104.11(8)a. for emergency situations.)
- (3) Search warrants - issuance - grounds
  - a. A search warrant authorized by this section may be issued by any judge of a court of record.
  - b. A search warrant may be issued under this section to search for and seize any property:
    1. Which is stolen or embezzled; or
    2. Which is designed or intended for use as a means of committing a criminal offense;
    3. Which is or has been used as a means of committing a criminal offense in this state or in another state; or
    4. The possession of which is illegal; or
    5. Which would be material evidence in a subsequent criminal prosecution in this state or in another state; or
    6. The seizure of which is expressly required, authorized, or permitted by any statute of this state; or
    7. Which is kept, stored, maintained, transported, sold, dispensed, or possessed in violation of a statute of this state, under the circumstances involving a serious threat to public safety or order, or to public health. C.R.S. §16-2-201
- (4) Search warrants – application  
When officers make application to any court (e.g. Search Warrants, Arrest Warrants, Rule 41.1, and associated documents such as Search Warrant Envelopes, Sealed Search Warrant Envelopes, Return and Inventory, etc.), officers shall place the Denver Police Department General Offense (GO) number on those documents.
  - a. If an existing location for the GO number does not exist on the document, officers shall hand write or type: "Denver Police Department GO#" and note the GO number for the investigation.
  - b. A search warrant shall be issued only on affidavit sworn to or affirmed before the judge and relating facts sufficient to:
    1. Identify or describe, as nearly as may be, the premises, person, place, or thing to be searched;
    2. Identify or describe, as nearly as may be, the property to be searched for, seized, or inspected;

3. Establish the grounds for issuance of the warrant, or probable cause to believe that such grounds exist; and
  4. Establish probable cause to believe that the property to be searched for, seized, or inspected is located at, in, or upon the premises, person, place, or thing to be searched.
- c. The affidavit required by this section may include sworn testimony reduced to writing and signed under oath by the witness giving the testimony before issuance of the warrant. A copy of the affidavit and a copy of the transcript of testimony taken in support of the request for a search warrant shall be attached to the search warrant filed with the court.
- d. Procedures governing application for and issuance of search warrants consistent with this section may be established by rule of the Supreme Court. C.R.S. §16-3-303

## (5) Search warrants - contents

- a. If the judge is satisfied that grounds for the application exist, or that there is probable cause to believe that such grounds exist, they shall issue a search warrant, which shall:
  1. Identify or describe, as nearly as may be, the premises, person, place, or thing to be searched.
  2. Identify or describe, as nearly as may be, the property to be searched for, seized, or inspected;
  3. State the grounds or probable cause for its issuance; and
  4. State the names of the persons whose affidavits or testimony have been taken in support thereof.
- b. The search warrant may also contain such other and further orders as the judge deems necessary to comply with the provisions of a statute, charter, or ordinance, or to provide for the custody or delivery to the proper officer of any property seized under the warrant, or otherwise to accomplish the purposes of the warrant.
- c. Unless the court otherwise directs, every search warrant authorizes the officer executing the same:
- d. To execute and serve the warrant at any time; and
  1. To use and employ such force as is reasonably necessary in the performance of the duties commanded by the warrant. C.R.S. §16-3-304

## (6) Search warrants - direction - execution and return

- a. Except as otherwise provided in this section, a search warrant shall be directed to any officer authorized by law to execute it in the county wherein the property is located.
- b. A search warrant issued by a judge of a municipal court shall be directed to any officer authorized by law to execute it in the municipality wherein the property is located.
- c. Any judge issuing a search warrant, on the grounds stated in C.R.S. §16-3-301, for the search of a person or for the search of any motor vehicle, aircraft, or other object which is mobile or capable of being transported may make an order authorizing a peace officer to be named in the warrant to execute the same, and the person named in such order may execute the warrant anywhere in the state. All sheriffs, coroners, police officers, and officers of the Colorado State Patrol, when required, in their respective counties, shall aid and assist in the execution of such warrant. The order authorized by this subsection (c) may also authorize execution of the warrant by any officer authorized by law to execute it in the county wherein the property is located.
- d. When any officer, having a warrant for the search of a person or for the search of any motor vehicle, aircraft, or other object which is mobile or capable of being transported is in pursuit thereof and the person, motor vehicle, aircraft, or other object crosses or enters into another county, such officer is authorized to execute the warrant in the other county.
- e. It is the duty of all peace officers into whose hands any search warrant comes to execute the same, in their respective counties or municipalities, and make due return thereof. Procedures consistent with this section for the execution and return of search warrants may be provided by rule of the Supreme Court.
- f. A search warrant shall be executed within fourteen days after its date. C.R.S. §16-3-305(6) unless it is an immediate entry search warrant, then the provisions of the *Narcotics Investigations and Immediate Entry Search Warrant Procedures (OMS 104.54)* shall apply.
- g. The senior Denver Police officer present when a search warrant is executed on any city property, or at property involving any city official or city employee, shall immediately notify his/her supervisor, who shall forthwith notify the Commander of the involved Bureau.

- h. When Denver Police Officers execute a search warrant outside the City and County of Denver, the Denver Police Officer(s) executing the search warrant shall contact the respective law enforcement agency of that county or municipality where the search warrant execution will occur.
  - 1. Prior to the execution of the search warrant, the Denver Police Officer(s) shall request the presence of the respective law enforcement agency, of that county or municipality, at the location of execution.
  - 2. When impractical; when no officer from the respective law enforcement agency of that county or municipality is available, the Denver Police Officer(s) shall obtain specific authorization from a Denver Police Department command officer prior to the execution of the search warrant.
  - 3. When notification of the respective law enforcement agency of the county or municipality where the search warrant is to be executed will impact the integrity of the investigation, the Denver Police Officer(s) shall obtain specific authorization from a Denver Police Department command officer prior to the execution of the search warrant.
  - 4. Exceptions to this directive include those outlined in Colorado Revised Statutes 16-3-305 (3) and (4).
    - a. 16-3-305 (3) allows execution of a search warrant for objects that are mobile or capable of being transported in the county where the property is located.
    - b. 16-3-305 (4) allows execution of a search warrant for objects that are mobile or capable of being transported in fresh pursuit situations, even in other counties.
  - 5. Exceptions notwithstanding, Denver Police Officers shall notify the respective law enforcement agency of the county or municipality, where the search warrant shall be executed, of their intent to execute a search warrant in that county of municipality unless such notification will impact the integrity of the investigation.

(7) Probable Cause

- a. The investigator must present facts and information of the specific case sufficient to satisfy the issuing judge that grounds for the application for the warrant exist.
- b. Probable cause to support the issuance of a search warrant must exist at the time the warrant is sought.
- c. The affiant must state the reasons for the belief that contraband is in a particular building, avoiding conclusions, and the judge must find that there is probable cause for this belief.
- d. cause exists, if the facts and circumstances known to the warrant a prudent person in believing that the offense has been committed.
- e. When application is made for a search warrant, all investigators shall be required to keep detailed notes showing grounds for issuance and probable cause.
- f. The officer may rely upon information received through an informant, rather than upon direct observations, to show probable cause.
  - 1. The informant's statement or information must be reasonable, corroborated by other matters within the officer's knowledge.
  - 2. When information is received from a reliable informer, the affidavit should state that the informant is a person whose information in the past has proven to be reliable. Also, state the area in which they have given the information and the number of times they have done so. The former reliability of the informant is reasonable corroboration on the part of the officer.
  - 3. If the informant is a new informant and not one with whom the officer has dealt with in the past, the mere fact that they inform is not sufficient probable cause. The information must be corroborated by some independent investigation or knowledge on the part of the officer.
  - 4. When a new informant supplies information, the officer must corroborate this information and state these facts in the affidavit.

(8) Affidavit for Search Warrant – DPD 370

- a. The affiant's supervisor and the District Attorney's Office must review and approve, in person or by telephone, all affidavits for search warrants before presentation to a judge. If an emergency arises which precludes District Attorney review, the Affiant must obtain the approval of a sergeant. ]
- b. Affidavit for Search Warrant is a single copy form. If the space provided on DPD 370 is insufficient to document the grounds for issuance of a warrant, DPD 370C-1, Affidavit, Continued, may be used.

- c. After preparing the original copy, the Affiant will make a photocopy of the form. The Affiant will present both the original and the photocopy to the judge for signature.
- d. Prepare additional photocopies of the affidavit as needed. The Affiant shall ensure the primary investigator assigned the original investigation of the offense receives a copy of the Search Warrant Affidavit, DPD 370, the Search Warrant, DPD 371, and the Return and Inventory, DPD 373, at the conclusion of the search warrant execution.
- e. Occasionally, information related to a particular investigation is vital in nature. In such critical and sensitive cases, the officer can request to seal the search warrant and affidavit. When requesting a Sealed Search Warrant and Affidavit, the Affiant will include a paragraph detailing the need for sealing the warrant and affidavit in the body of the affidavit. The District Attorney and Judge must concur with the reasons for sealing the warrant.

(9) Search Warrant – DPD 371

- a. The Search Warrant is a single copy form. After preparing the original copy, the Affiant will make a photocopy of the Search Warrant. The Affiant will present both the original and the photocopy to the judge for signature. The Affiant will provide the judge with a regular size envelope.
- b. The judge, after signing the Affidavit and Search Warrant, shall place one copy of the Affidavit, DPD 370, and the Search Warrant, DPD 371, in the envelope provided by the Affiant. The judge shall seal the envelope and place his/her initials or signature across the sealed flap. The judge will then give the envelope and the other signed copies of the Affidavit and Search Warrant to the Affiant for execution. When obtaining a sealed warrant and affidavit, the Affiant will provide the judge with an envelope for a Sealed Search Warrant and Affidavit, DPD 692. The judge and the Affiant will sign and complete the face of the envelope. The Affiant will place the sealed warrant and affidavit into the envelope. The judge shall seal the envelope and place his/her initials or signature across the sealed flap. The Affiant will keep the envelope for return to the Court with the completed Return and Inventory, DPD 373, as outlined in (10)c1 below.
- c. With the exception of the procedure for sealed warrants outlined in (9)b, the Affiant shall forward the sealed envelope containing the original of the Affidavit and Warrant to the County Court Administrative Office, Room #108, City and County Building.
- d. The Affiant shall make additional photocopies of the search warrant as needed. Leave one photocopy of the search warrant with the person, premises, vehicle, or business searched. **Never** leave a copy of the affidavit.
- e. The Affiant shall make prompt return on all search warrants, whether or not there was a seizure of property. If property seizure occurs, the Affiant/executing officer will make a written inventory of the property. When there is no property seizure, the Affiant/executing officer will make a notation to that effect on the Return and Inventory.
- f. Rule 41 of the Colorado Rules of Criminal Procedure provides that the execution of all search warrants must occur within fourteen (14) days of its issuance.

(10) Return and Inventory – DPD 373

- a. The Return and Inventory form is a two-part form.
  1. The Affiant will send the original to the County Court Administrative Office, Room #108, City and County Building, after making additional photocopies for the Property Management Bureau and for any case filings.
  2. The Affiant/executing officer will provide the second copy to the person from whom, or from whose premises or vehicle the property seizure occurred, along with a copy of the search warrant.
- b. The Affiant/executing officer will accurately describe the property seized on the Return and Inventory form, DPD 373.
- c. After the execution of the search warrant, the Affiant will send the original of the Return and Inventory, together with copies of the Affidavit and the Search Warrant, in a sealed envelope and send them to the County Court Administrative Office, Room #108, City and County Building.

1. After the execution of a sealed search warrant, the Affiant will place the original of the Return and Inventory, together with copies of the Affidavit and the Search Warrant, in a second Sealed Search Warrant and Affidavit, DPD 692. The Affiant will present the second envelope to the judge issuing the original search warrant. The judge and the Affiant will sign and complete the face of the envelope. The Affiant will place the sealed warrant, affidavit, and return and inventory into the envelope. The judge shall seal the envelope and place his/her initials or signature across the sealed flap. The Affiant will place both sealed envelopes, DPD 692, together and send them to the County Court Administrative Office, Room #108, City and County Building.
  - d. When placing seized items in the Property Management Bureau, the Affiant/executing officer will complete only the top part of the Property Invoice and Receipt, DPD 122, and attach a photocopy of the Return and Inventory.
- (11) Waiver to Search – DPD 372
- a. The validity of a consent to search, whether it is made orally or in writing, will be based on the elements outlined in C.R.S. §16-3-310.
  - b. In oral or written consents to search, the credibility of the parties to the consent may become an issue in court during the trial, or on any motion for suppression of evidence. All officers should make a particular effort to have more than one witness, either another officer or citizen, present at the time of the oral or written consent to search, the signing of the waiver, or at the time of the actual search.
  - c. Any articles seized shall be itemized on the bottom portion of the Consent to Search, DPD 372. One copy of the Consent to Search Form will be provided to the person granting consent to search. All items confiscated during the search shall be booked into the Property Management Bureau.
- (12) Summary of Searches and Seizures
- a. secure a search warrant unless there is an emergency which calls for immediate action.
  - b. If you do not have time to secure a search warrant, and feel that it is necessary to search a person or a place immediately, note the following carefully:
  - c. To Search a Person - If you have a warrant of arrest or grounds to make an arrest without warrant, you may:
    1. Search the person at the time of the arrest
    2. Seize articles which they attempt to conceal
    3. Seize articles which they have on their person.
  - d. If you have a warrant of arrest or grounds to make arrest without warrant, you must not:
    1. Search the person before arresting them
    2. Search first and then arrest the suspect because of what the search reveals
  - e. If you do not have a warrant of arrest and no probable cause to arrest without a warrant, you may not conduct a search of a person without their consent.
  - f. To Search Premises. If you have a warrant of arrest or grounds to make an arrest without a warrant, you may:
    1. Make a reasonable search of the area where the person is arrested, provided the search is made at the time of the arrest and provided the search is confined to the immediate vicinity under their control, which means within their reach, lunge or grasp.
    2. Seize any object which the suspect attempts to conceal.
    3. Seize other articles suggestive of other criminal activities uncovered in your search, even though they do not relate to the offense for which the suspect is being arrested.
    4. Make a search of the area if the suspect gives consent and has proprietary rights to do so.
  - g. If you have a warrant of arrest or grounds to make an arrest without a warrant, you must not:
    1. Rummage about on the premises, looking for whatever may be turned up, regardless of its connection with the offense for which the arrest is made.
    2. Attempt to search premises belonging to the suspect, or to which they have a right of possession or control other than the immediate vicinity where they are arrested.

- h. If you do not have a warrant for arrest or grounds to make an arrest, and if an arrest is not made, you may search the premises if you have probable cause that supports exigent or emergent (threat to life or limb) circumstances.
- i. If you do not have a warrant for arrest and do not have grounds to make an arrest, and if an arrest is not made, you must not:
  - 1. Make such a search if you have an opportunity to secure a search warrant before making the search, even though probable cause exists.
  - 2. Make such a search if you have only a suspicion that the felonious activity is present.
- j. If you have secured a search warrant, you should be sure that:
  - 1. The search is made only at the times provided for in the warrant.
  - 2. Only the premises described in the warrant are searched.
  - 3. The search is conducted in strict compliance with the warrant.
  - 4. Only the articles described in the warrant are seized, unless contraband items are discovered and that an inventory of the articles seized is prepared at the location of the search and signed by the officers executing the warrant and witnessed, and a copy left with the owner or left at the place of the search.

#### 104.12 Warrantless Searches of Automobiles

- (1) When an officer makes a full custody arrest, or the person is taken into custody for investigation, and there is a valid basis for impounding the car, the officer shall follow the procedure for impounding vehicles in this OMS 206.04(4). Any fruits of a crime or contraband found in this inventory search is admissible as evidence. The vehicle may be towed to police headquarters, or a district station to be inventoried, and must be inventoried as soon as possible.
- (2) Whenever possible, an officer shall open a locked trunk or glove compartment by means of a key rather than by force. If keys are not available, instructions shall be obtained from a supervisor as to the method to be used in opening the locked trunk or glove compartment.
- (3) Immediately after arresting or stopping a motorist, officers are authorized to conduct a warrantless search of the vehicle only when:
  - a. The arrestee is unsecured and within reaching distance of the passenger compartment at the time of the arrest; or
  - b. is reasonable to believe that evidence relevant to the crime for which the person was arrested might be found in the vehicle; unless
  - c. One of the other exceptions to the Fourth Amendment's warrant requirement is applicable
- (4) If the officer cannot search the vehicle immediately after the arrest, and feels that there is evidence in the vehicle, or has information that a vehicle contains evidence, they should obtain a warrant. An arrest of a party for driving without a license is not a valid basis for impounding a vehicle.
- (5) If the driver, when asked, willingly opens the trunk, or allows the vehicle to be searched, any evidence found is lawful. The validity of a consent to search, whether it is made orally or in writing, will be based on the elements outlined in C.R.S. §16-3-310

#### 104.13 Plain View Doctrine

- (1) In order to seize property as evidence in plain view you must fulfill the following three conditions.
  - a. The officer must be legally in a place from which the object could be plainly viewed.
  - b. The object's incriminating character must be immediately apparent.
  - c. The officer must have a lawful right of access to the object itself.

#### 104.14 Assisting Peace Officer

- (1) A peace officer making an arrest may command the assistance of any person who is in the vicinity.
- (2) A person commanded to assist a peace officer has the same authority to arrest as the officer who commands this assistance.
- (3) A person commanded to assist a peace officer in making an arrest shall not be civilly or criminally liable for any reasonable conduct in aid of the officer or for any acts expressly directed by the officer.



**REV. 4-13**

- (4) Private citizens, acting in good faith, shall be immune from any civil liability for reporting to any police officer or law enforcement authority the commission or suspected commission of any crime or for giving other information to aid in the prevention of any crime. C.R.S. □§16-3-202 (2012).

**104.15 Right to Communicate with Attorney and Family**

- (1) Persons who are arrested shall have the right to communicate with an attorney of their choice and a member of their family by making a reasonable number of telephone calls or by communicating in any other reasonable manner. Such communication shall be permitted at the earliest possible time after arrival at the police station, sheriff's office, detention center, or other like confinement facility to which such person is first taken after arrest.
- (2) If the accused is transferred to a new place of custody, their right to communicate with an attorney and a member of their family is renewed.
- (3) public defender, upon his request and with due regard for reasonable law enforcement administrative procedures, shall be permitted to determine whether or not any person in custody has been taken without unnecessary delay before the nearest available county or district judge. C.R.S. □§16-3-402 (2012)

**104.16 Duty of Officers to Admit Attorney**

- (1) All peace officers or persons having in custody any person committed, imprisoned, or arrested for any alleged cause shall forthwith admit any attorney-at-law in this state, upon the demand of the prisoner or of a friend, relative, spouse, or attorney of the prisoner, to see and consult the person so imprisoned, alone and in private, at the jail or other place of custody, if such person so imprisoned expressly consents to see or to consult with the attorney.
- (2) Any peace officer or person violating the duty imposed by this section or section 16-3-403 shall forfeit and pay not less than one hundred dollars nor more than one thousand dollars to the person imprisoned or to his attorney for the benefit of the person imprisoned, to be recovered in any court of competent jurisdiction. C.R.S. □§16-3-404 (2012)

**104.17 Treatment While In Custody**

- (1) No unlawful means of any kind shall be used to obtain a statement, admission, or confession from any person in custody.
- (2) Persons arrested or in custody shall be treated humanely and provided with adequate food, shelter, and, if required, medical treatment. C.R.S. □§16-3-401

**104.18 Processing Pickups or Cancellations for Wanted Persons and/or Property**

- (1) Officers shall use Wanted/Missing Person, DPD 252/110, and NCIC/DCIC Information, DPD 252/110, when placing pickups on a person or vehicle.
  - a. No "pickup" may be placed on a person without a warrant, unless that person is reported missing or runaway.
  - b. Officers completing the forms will route them directly to the Identification Section.
  - c. When the wanted notice has been entered on the computers, the DPD 252/110 will be returned to the issuing officer or agency. This form will be retained until the party is arrested, located or the case disposed of, or the vehicle is located or no longer wanted.
- (2) To enter, modify or cancel an item/property with a serial number, engraving, owner applied number or unique description in NCIC/DCIC, an electronic 252B (Stolen/Recovered Guns/Articles/Securities), shall be used. The electronic 252B is within the V-Mail module of the department's Record Management System (Versadex).
  - a. In Versadex, go to V-Mail module and select the NEW option.
  - b. Select Mail Template and choose the appropriate category – Articles, Bicycles, Guns or Security.
  - c. Fill in template with identifying information.
  - d. Send the form to the HPAWN Handle and mark a copy for your records
  - e. Personnel in the Records Bureau will receive and process the request by entering the data on NCIC/DCIC.

If an officer does not have access to the electronic version of the 252B form, a paper version of this form can be completed and sent via Inter-Departmental mail to the Records Bureau – attention Pawn Shop Records.

- (3) Officers calling in to place a pickup or cancellation on a juvenile or missing person will call the bureau concerned during its hours of operation.
- (4) When submitting pickups to the Identification Section on DPD 252/110, or to the Records Bureau on DPD 252B, include any known numbers which are unique to the person, item or vehicle, i.e., DPD number, FBI number, Social Security number, driver's license number, military serial number, vehicle identification number, or serial number.
- (5) When personnel from outside jurisdictions call by telephone and want pickups made of subjects who are thought to be in our jurisdiction, the demanding state or local county shall be informed that the telephone call must be immediately confirmed by telegram, LETS message or a letter with a certified copy of their warrant. A specific individual must be named who is placing the pickup and not merely the agency. Calls should be made to the Fugitive Unit during normal business hours and the Detective Bureau during non-business hours (nights or on weekends).
- (6) Responsibility for Initiating Cancellations
  - a. The arresting officer is responsible for canceling the pickup on a subject brought to the Identification Section prior to being jailed or being served an order in. If the party is ordered in, this should be indicated on DPD 252/110 when the pickup is canceled.
  - b. When a warrant is canceled by the FAX procedure described in OMS 104.09(3), Identification Section personnel will cancel the DPD 252/110 and sign the original warrant per the arresting officer.
  - c. The Missing and Exploited Persons Unit will be responsible for initiating the cancellation upon the location or apprehension of the missing person or runaway.
  - d. The initiating officer is responsible for canceling a pickup in cases when the suspect is not arrested or is no longer wanted, or the vehicle/property is recovered or no longer wanted.
  - e. Cancellations shall be made immediately upon determining that the person, property, or vehicle is no longer wanted.
- (7) Cancellation of Pickups
  - a. A pickup can be canceled and removed from the computers only after an officer cancels the DPD 252/110.
  - b. If a wanted party is located without being arrested, the case is disposed of, or the vehicle is located or no longer wanted, the issuing officer must respond to the Identification Section and cancel the DPD 252/110 in order that the information may be cleared from the computers.
  - c. When a wanted item is placed in the Property Management Bureau or located in a pawnshop, personnel in the Records Bureau will notify the assigned detectives. The detective initiating the pickup on property items is responsible for canceling it when the items are recovered or no longer wanted.
  - d. Upon identifying a person arrested as being the subject of a wanted notice, the arresting officer will cancel the pickup and the Identification Section personnel will make notification to the issuing officer.
  - e. The person completing the cancellation will write his/her name, serial number and agency requesting the cancellation on the line designated "Canceled By".
- (8) The Identification Bureau will maintain a purge of the Central Want and Warrant File. Old or outdated pickups will be returned to the issuing officer for updating. A stamp marked "Cancel or Still Wanted" will be used for this purpose. The issuing officer will return the pickup to the Identification Section after indicating that the pickup is to be canceled or retained.
- (9) It is the responsibility of the Identification Bureau to notify the appropriate investigative bureau when a suspect listed on a warrant is cancelled or the suspect is arrested. This will be done by forwarding a copy of the DPD 252/110 cancellation form to the issuing detective's investigative assignment.

#### 104.19 Writ of Habeas Corpus

- (1) Generally, Writs of Habeas Corpus are issued by the court to obtain the presence in court of a person - as a witness or a defendant - when the person is incarcerated somewhere other than Denver, or in Denver with a non-Denver hold. The writ is normally issued on motion of the District Attorney.

## **REV. 3-06**

- (2) Writs of Habeas Corpus are executed by the sheriff's office.

### **104.20 Use of DPD 366, Statement**

- (1) When investigation arrests and other arrests are made that could result in a case being filed in court, the arresting officer shall complete a Statement, DPD 366.
- (2) All remarks or responses to interrogation made by the suspect shall be recorded in complete detail.
- (3) Remarks to individual officers shall be the subject of separate reports.
- (4) Besides the above information, the arresting officer shall detail all phases of the arrest that could be related as evidence during a trial.
- (5) The Statement form shall be completed accurately and typed or printed legibly.

### **104.21 Use of DPD 368, List of Witnesses**

When investigation arrests and other arrests are made that could result in a case being filed, the arresting officers, or the detective filing the case, shall complete List of Witnesses, DPD 368.

### **104.22 Use of the Advisement, DPD 369**

- (1) When investigation arrests or any other arrests are made, the arresting officer shall advise the arrested persons of their rights as stated on the Advisement, DPD 369, and shall, in their own handwriting, complete the Advisement, DPD 369. Whenever arrests are made and any amount of interrogation is conducted, the Advisement, DPD 369, shall be used.
- (2) The advisement of rights must be made prior to any questioning of the arrested person.
- (3) If the arrested person refuses to sign, the arresting officer shall write the word "refused" in the signature of suspect space.
- (4) It is desirable, but not absolutely essential that the advisement be witnessed.
- (5) The completed form shall be immediately supplied to the responsible investigative unit.
- (6) When a Spanish-speaking suspect has been taken into custody and the suspect does not either speak or understand English, the advisement and questions shall be read verbatim in Spanish. The Spanish version should be read by an officer who is fluent in Spanish.

### **104.23 General Session Order-Ins to Court**

- (1) When an arrest is made for a City Ordinance violation other than traffic and the situation does not merit jailing the violator, the officer may order the violator directly into court to answer to the charges. This will be done by completing the General Session Summons and Complaint and checking the box labeled "Order In" along with the appropriate charges. See OMS 104.03 for complete instructions for preparing the General Session Summons and Complaint.
- (2) All the facts necessary to prove the charges in court must be included on the back of the City Attorney and Police Department copies of the General Session Summons and Complaint. Often, defendants plead guilty to the charges at the arraignment and the Court uses the officer's notes to impose the appropriate sentencing.
- (3) The officer must positively identify the person arrested and include the complete residence and business addresses.
- (4) After serving the defendant's copy, all remaining copies of the General Session Summons and Complaint will be forwarded to the Records Section via inter-departmental mail.

### **104.24 Order-In to Investigative Units**

- (1) DPD 75, Request to Appear, is used for all order-ins to investigative units.
- (2) The order-in will specify the location and time of the order-in and the nature and location of the offense.
- (3) Order-ins shall be made for 9:30 a.m. the next working day unless otherwise specified by the assigned detective.

- (4) After the form is signed, one (1) copy of the Request to Appear will be served to the person ordered-in. The remaining copies and additional details of the offense are to be forwarded to the bureau or unit concerned with the offense.  
The paperwork must reach the proper investigative unit prior to the appearance of the person ordered in.
- (5) Juvenile Order-Ins - See OMS 402.02 and 407.01

#### 104.25 Using the Criminal Summons and Complaint for Misdemeanor Arrests

- (1) The Criminal Summons and Complaint, also known as the State Form or the CS&C, may be used by officers to initiate a criminal proceeding in which the defendant is charged with a misdemeanor violation of the Colorado Revised Statutes (C.R.S.). The CS&C is not used to cite City Ordinance violations or to initiate any felony proceedings.
- (2) The defendant may be ordered to appear in court to answer the charges.
  - a. Officers shall complete the reverse side of the CS&C marked "District Attorney's Copy" outlining the details of the arrest. Officers shall ensure that they obtain the defendant's right index fingerprint, which is to be affixed in the designated box in the upper right corner of the front page of the CS&C.
  - b. When the defendant is ordered in, officers shall serve the Defendant's Copy of the CS&C.
  - c. All remaining copies of the CS&C will be placed in an envelope addressed to Room 111, City and County Building. This envelope is to be put into the District Station or Bureau ticket box before the officer goes off duty that shift.
- (3) The defendant may be jailed on the charges detailed in the CS&C.
  - a. When the defendant is jailed, the officer shall serve the Defendant's copy of the CS&C. All remaining copies of the CS&C shall be given to the Deputy Sheriff at the time the prisoner is placed on the elevator at the Detention Facility.
  - b. If the defendant was arrested without a warrant a Statement of Probable Cause, cont., DPD 287A must be completed and attached to the CS&C when given to the Deputy Sheriff at the Detention Facility.
- (4) Officers shall make sure all copies are legible.

#### 104.26 Arrest of Postal Employees or Persons Operating Trains or Transit Buses

- (1) Officers shall not take into custody for a minor violation, a postal employee engaged in the collection or distribution of mail, or a person operating a train or transit bus. Instead, the offender shall be summoned to appear in County Court or ordered to report to a commanding officer for further investigation of the case.
- (2) Persons operating a train, transit bus, or postal vehicle when suspected or accused of a felony or serious misdemeanor, may be taken into custody, but the arresting officer shall accompany the prisoner to the depot, car barn, or post office in order that the prisoner may be relieved from duty before being incarcerated. When the physical or mental condition of the accused renders this procedure impractical, the prisoner shall be taken into custody as soon as a police guard can be provided for the vehicle they were operating. See OMS 204.10(2) and 205.01.

#### 104.27 Arrest for Taxi Violations

Persons shall not be jailed for failure to pay a cab fare, D.R.M.C. 55-24(b), when that is the only charge against them. Instead, a General Session Summons and Complaint Order-In shall be issued and signed by both the officer and the cab driver. Where other violations are involved, the person may be jailed if deemed necessary.

#### 104.28 Arrests and Procedure on Federal Property and Relations with other Agencies

- (1) Members of the Denver Police Department do not have any legal authority to investigate or prosecute crimes on or in any dedicated federal property. In Denver this includes:
  - a. United States Mint
  - b. New Customs House
  - c. Byron White Court House (18th & Stout)
  - d. Fort Logan National Cemetery

- e. The Veteran's Administration Hospital at 1055 Clermont Street upon request of officials in charge of these buildings, we will assist in any manner possible
- (2) Members of the department do have legal authority to enforce state laws and municipal ordinances on non-dedicated federal property, which includes the new Federal Building (19th-20th, Champa to Stout), Federal Reserve Bank, Post Office Terminal Annex, and the additions to the U.S. Mint, and the Veteran's Affairs Administration located at 820 Clermont Street. Enforcement will be upon request and signed complaint of the federal employee in charge.
- (3) Denver Police have full policing authority for the Veterans Administration properties at 820 Clermont Street.
  - a. In the event the Denver Police Department has warrants to be executed on a VA controlled premise, the Denver Police Department will notify the VA Police prior to or upon entering Veterans Administration Hospital property if circumstances permit.
  - b. In the event it is necessary to search for missing patients who by virtue of their physical or mental condition are dangerous to themselves or others, the Denver Police Department will assist the VA in attempting to locate and return the at-risk patient.
- (4) The federal property in the three-block complex, 18th to 20th, Stout to Champa Streets, and 19th to 20th, California to Stout Streets, starts 16 feet from the curb line in all blocks, except 19th to 20th on Champa Street where the federal property begins 15 feet from the curb line on Champa Street.
- (5) The Denver Military Police have been assigned by the Department of Defense, the responsibility for armed forces police services in Denver. The purpose for this area responsibility assignment is so that we will have only one, rather than five military type police agencies to contact for support and assistance when dealing with all military offenders.
- (6) When the Denver Police Department arrests or apprehends any member of the active armed forces for a felony, AWOL, or any other serious charge, the military police are required to render a military report of the investigation of the incident to the appropriate service commander of the offender and return them to military control when released by our jurisdiction.
  - a. When personnel of the Major Crimes, Investigative Support or Special Operations Divisions arrest or apprehend any active member of the Armed Forces for a serious offense, it shall be mandatory that the Denver Military Police Station be notified as soon as possible.
- (7) Cooperation - Other Public Agencies - Officers shall cooperate with all law enforcement agencies, other city departments, and public service organizations, and shall give aid and information to such organization, consistent with departmental orders.

**104.29 Arrests for Weapons Related Charges**

- (1) When a person is arrested for carrying a KNIFE as a concealed weapon, which is defined in D.R.M.C. 38-117(a), or for carrying a KNIFE which is prohibited in D.R.M.C. 38-119:
  - a. Charge the person directly with the violation of the appropriate Denver Revised Municipal Code (D.R.M.C) violation and then jail, or order the subject into court. Evidence should be handled according to the procedures in OMS 106.03
- (2) When an adult or juvenile is arrested for carrying a FIREARM or for carrying a DANGEROUS WEAPON or ILLEGAL WEAPON as defined in C.R.S. §18-12-102, and has been convicted of a felony and no other offense will be charged, the officer will notify the Gang Bureau. In the absence of a Gang Bureau officer or detective, the on-call Gang Bureau detective may be contacted for the purpose of determining charges to be placed. See OMS 104.01(24) and 109.02(2).
  - a. The person's record will be checked to determine if the criteria are met for violation of C.R.S. §18-12-108, Possession of Weapons by Previous Offenders. If the person is in violation of the State and/or Federal Statute, the officer will:
    - 1. Make a General Occurrence (GO) report, titled "Possession of a Weapon by a Previous Offender" and jail for investigation of the same.
    - 2. Route all reports to the Gang Bureau with a "Notify" to the Robbery Unit.
    - 3. The Gang Bureau supervisor will determine if federal charges apply and if so, will then forward the case to the Bureau of Alcohol, Tobacco, Firearms and Explosives for review.
    - 4. If determined that a federal weapons violation has not occurred and no other federal or state charges apply, the Gang Bureau supervisor will ensure that appropriate city charges be placed against the defendant.

- b. If the elements fit the criteria for violation of Possession of Weapons by Previous Offender, C.R.S. §18-12-108, Possessing a Dangerous or Illegal Weapon, C.R.S. § 18-12-102 or Possession of a Defaced Firearm, C.R.S. § 18-12-103 and other charges exist, to include but not limited to; homicide, aggravated robbery, aggravated assault, sexual assault, Possession of a Controlled Substance, burglary and auto theft, the officer will:
1. Contact the on duty or on-call supervisor of the appropriate investigative unit.
  2. The affected investigative unit supervisor will ensure that the appropriate weapons charge is filed in conjunction with the primary offense. A copy of the case should be forwarded to the Gang Bureau for consultation with a U.S. Attorney's Office representative for the determination of any applicable federal charges.
  3. Cases that will be filed by the affected investigative unit will follow standard investigative protocol outlined in OMS 302.00.
- (3) When an adult is arrested for Possessing a Dangerous or Illegal Weapon as outlined in C.R.S. § 18-12-102, the officer will:
- a. Make a General Occurrence (GO) Report, titled in Versadex as WEAPON – POSS ILLEGAL/DANGEROUS if the weapon involved is classified as a "**dangerous weapon**". C.R.S. § 18-12-102(1), defines "dangerous weapon" to be a firearm silencer, machine gun, short shotgun, short rifle, or ballistic knife.
    1. Route all reports to the Gang Bureau.
  - b. Make a General Occurrence (GO) Report, titled in Versadex as WEAPON – POSS ILLEGAL/DANGEROUS if the weapon involved is classified as an "**illegal weapon**". C.R.S. § 18-12-102(2), defines "illegal weapon" to be a blackjack, gas gun, metallic knuckles, gravity knife, or switchblade knife.
    1. Route all reports to the respective District Investigative Unit.
- (4) If an individual is arrested for Unlawfully Carrying a Concealed Weapon as defined by C.R.S. §18-12-105 and has no previous felony convictions, domestic violence restraining orders, or state domestic violence convictions, then the officer shall jail the suspect and complete a CS&C, probable cause statement and written statement. The probable cause statement and written statement should be attached to the District Attorney's copy. These reports will be given to the sheriff with the CS&C.
- (5) If the person arrested is a juvenile and the juvenile is in possession of a "firearm" or "dangerous weapon" as defined by C.R.S. § 18-12-108.5 and C.R.S. § 18-12-102(1) respectively, and no other offenses are present, the officer will:
- a. Notify a Gang Bureau supervisor or in their absence, the on-duty or on-call Gang Bureau detective.
  - b. The weapon possessed by the juvenile must fit the below criteria
    1. Firearm as defined by C.R.S. §18-1-901(3)(h), means any handgun, automatic, revolver, pistol, rifle, shotgun or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges.
    2. Handgun as defined by C.R.S. §18-12-101(1)(e.5), means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed twelve inches.
    3. Dangerous Weapon as defined by C.R.S. § 18-12-102(1), means a firearm silencer, machine gun, short shotgun, short rifle, or ballistic knife.
  - c. Weapons that do not fit this criterion, however, fit the definition of a deadly weapon as defined by C.R.S. §18-1-901(3) (e) may be charged in connection with offenses requiring a deadly weapon. These offenses include but are not limited to; possession of a weapon on school grounds.
    1. If the case involves a firearm, contact a Gang Bureau supervisor, or in their absence, the on-call Gang Bureau detective for the purpose of determining the offense to be charged.
  - d. If a juvenile is arrested for possession of an Illegal Weapon, or other state charges and the weapon violation is an additional charge, the case will be handled by the appropriate Investigative Division, Bureau or Unit.
  - e. A General Occurrence (GO) report, will not be completed where the only charge is possession of any weapon defined as a deadly weapon, e.g. B-B gun, which does not fit the definition of a handgun or firearm set forth in C.R.S. §18-12-101(1)(e.5) or C.R.S. §18-1-901(3)(h).

- f. If state charges do not exist, the juvenile may be cited for Denver Revised Municipal Code (D.R.M.C) violations.
- (6) When a firearm is placed into the Property Management Bureau, the Commander of the Property Management Bureau will ensure that a copy of the invoice is given to Bureau of Alcohol, Tobacco, Firearms and Explosives so that a gun trace can be conducted. No firearm will be released through the Property Management Bureau until a gun trace is completed and criminal background check run on the person requesting the firearm to ensure they are not prohibited by state or federal law to possess a firearm.

**104.30 Processing Persons with a Mental Illness**

(1) Definition of terms

a. Person with a mental illness

- 1. As defined by C.R.S. § 27-65-102, a Person with a mental illness is a person with one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. Developmental disability is insufficient to either justify or exclude a finding of mental illness within the provisions of this article.

b. Gravely disabled person

- 1. A condition in which a person, as a result of mental illness:

- a. Is in danger of serious physical harm due to his or her inability or failure to provide himself or herself with the essential human needs of food, clothing, shelter, and medical care; or
- b. Lacks judgment in the management of his or her resources and in the conduct of his or her social relations to the extent that his or her health or safety is significantly endangered and lacks the capacity to understand that this is so.

Is diagnosed by a professional person as suffering from: Schizophrenia; a major affective disorder; a delusional disorder; or another mental disorder with psychotic features; and Has been certified, pursuant to this article, for treatment of the disorder or has been admitted as an inpatient to a treatment facility for treatment of the disorder at least twice during the last thirty-six months with a period of at least thirty days between certifications or admissions; and

Is exhibiting a deteriorating course leading toward danger to self or others or toward the conditions described in paragraph (1. a.) of this subsection with symptoms and behavior that are substantially similar to those that preceded and were associated with his or her hospital admissions or certifications for treatment; and Is not receiving treatment that is essential for his or her health or safety. C.R.S. § 27-65-102 (9) (a)

- 2. A person of any age may be "gravely disabled", but such term shall not include a person who has a developmental disability by reason of the person's developmental disability alone.

a. Peace Officer - any peace officer as defined by C.R.S. §16-2.5-101

b. Respondent

- 1. A person either alleged in a petition filed pursuant to C.R.S. §27-65-102 to have a mental illness or be gravely disabled or
- 2. A person certified pursuant to the provisions of C.R.S. §27-65-102

c. Professional Person

- 1. A person licensed to practice medicine in this state or
- 2. A psychologist certified to practice in this state or
- 3. A registered professional nurse with extensive education and experience in the field of mental health nursing or
- 4. A licensed marriage and family therapist
- 5. A licensed professional counselor
- 6. A person licensed as a clinical social worker.

(2) Procedure for processing persons with suspected mental illness

a. Officer initiated action – No Criminal Charges or Warrants for Respondent:

- 1. The DPD Emergency Mental Illness Report, DPD 340, along with a Record of Sick and Injured Persons Report, DPD 150 shall be completed using the definitions outlined above.

2. The distribution of the form is:
  - a. The ORIGINAL copy of DPD Form 340 and the CANARY colored copy of DPD Form 150 are to be left with the evaluation and treatment facility and made a part of the respondent's evaluation and treatment record. In most instances, the treatment facility will be at Denver Health Medical Center.
  - b. CANARY COPY of DPD Form 340 and the PINK copy of DPD Form 150 are to be delivered to the Missing and Exploited Persons Unit.
  - c. The PINK COPY of DPD Form 340 is to be given to the respondent being detained for evaluation and/or treatment.
3. The respondent will be transported to Denver Health Medical Center by the officer(s) effecting custody. A Street Check with the category of CIT Event selected will be completed detailing the circumstances of contact with the respondent.
- b. Officer initiated action – Criminal Charges or Warrants for Respondent:
  1. The Arrestee Mental Health Status/ Suicidal/ Homicidal Tendency Report, DPD 707 shall be completed along with a Street Check entry with the category of CIT Event selected detailing the circumstances of contact and arrest of the respondent.
  2. The distribution of the form is:
    - a. The WHITE copy is provided to the Denver Sheriff's Deputy
    - b. The CANARY copy shall be delivered to the C.I.T. Administrator
    - c. The Pink copy shall accompany the arrestee's charging documents for inclusion in the court file
- c. Officer(s) receiving a call to assist a professional person (as defined above) will proceed as follows:
  1. Officers shall assist any professional person requesting aid in effecting custody of a respondent if: The professional person presents to the officer positive identification, including identification bearing the person's professional license number. The officer must be satisfied with the authenticity of this identification.
  2. No less than two officers shall be dispatched to a call of this nature.
  3. The professional person shall meet the officers at or near the respondent's location and provide an Emergency Illness Report, Form M-1. This form is similar in content but varies in some respects from our department's Emergency Mental Illness Report, DPD 340.
  4. Officers shall check to see that the Emergency Illness Report includes the professional person's signature, professional license number, location and a phone number where the professional person can be reached in an emergency. Officers shall also require that the Report contain a note (printed on the form or handwritten) stating that the officers are assisting only, not making the evaluation.
  5. Officers shall take those reasonable measures necessary to take the respondent into protective custody, however if a forced entry into a dwelling is required, and if time permits, a supervisor shall be consulted.
  6. The professional person shall be required to make positive identification of the respondent.
  7. Officers shall take those measures necessary to protect themselves, the professional person and the respondent. This shall include a weapons search as well as the application of physical restraints when needed.
  8. Transporting the respondent
    - a. The professional person is responsible for arranging transportation for the respondent. If the professional person transports the respondent him/herself, officers may follow them to the treatment facility.
    - b. The respondent will not be transported in a police car unless there are city/state charges, warrants or other police holds. If the respondent is transported in a police car, he/she will be handcuffed and secured with the safety belt.
    - c. An officer may accompany the respondent if he/she is transported by ambulance.
    - d. Officers will not respond to a mental health facility for the sole purpose of transporting a respondent to a treatment facility. The professional person must make his/her own arrangements for transportation. See (8.b.), above.



9. A Record of Sick and Injured Persons Report, DPD 150, shall be completed. A copy of this report and a copy of the Emergency Illness Report (Form M-1) shall be provided without delay to the Missing and Exploited Persons Unit. A Street Check with the category of CIT Event selected will be completed detailing the circumstances of contact with the respondent.
- d. The Deputy Sheriff at Denver Health Medical Center
  1. The deputy on duty in the Emergency Room is designated a special police officer with the power of arrest and is under the primary control of the Chief of Police.
  2. The deputy will supervise the respondent/suspect until hospital admittance is completed.

**104.31 Escapes and Hospital Security**

- (1) Escapes or attempts to escape from County Jail or Detention Facility.
  - a. When a prisoner escapes or attempts to escape from either the Detention Facility or the County Jail, a General Offense (GO) report, DPD 250, will be made by district uniformed officers. A General Offense (GO) report, DPD 250, will not be made on Community Corrections clients who fail to return or walk away from a work release program.
  - b. The bureau responsible for filing the additional charges, entering information on NCIC/DCIC and handling any other paperwork required will be the bureau which prepared the original case filing.
    1. A copy of the General Offense (GO) report, DPD 250, must be sent by the bureau responsible to the receiving office of the detention facility involved to be included in the prisoners file.
  - c. Prisoners from other agencies housed in the Denver County Jail who escape or attempt to escape will be investigated by a Denver Police detective assigned to the District responsible for that particular geographic area (currently District Five). Federal prisoners will normally be handled by Federal Authorities.
- (2) Escapes by prisoners in hospitals
  - a. The charge of "Escape" will be placed against prisoners only when it can be established by direct evidence that a reasonable effort was made to detain the prisoner.
  - b. The charge of "Escape" will be placed against prisoners only in violent or unusual circumstances or where serious charges were filed originally against such prisoners.
  - c. Prisoners charged with ordinance violations who walk away from Denver Health Medical Center or other hospitals and it appears that no effort was made to detain them will be listed as "Wanted" only on the original charges. The charge of "Escape" will not be added.
  - d. In cases where "Escape" is added to the original charges, persons who can give direct testimony will be listed as witnesses and summoned to court when the prisoner is apprehended.
- (3) Security at Denver Health Medical Center and other participating hospitals
  - a. Officers arresting injured persons for serious charges, where escape could result in danger to other persons or property, or result in the loss of an important case, will follow these procedures:
    1. The prisoner will be accompanied to the hospital by at least one of the arresting officers.
    2. The officer will remain with the prisoner until treatment is complete or until the services of a Denver Sheriff's Deputy can be obtained.
    3. Upon the arrival of paramedics at the scene, they shall make the determination whether the individual has immediate need for services of an operating room facility. If Denver Health Medical Center is on an operating room divert status, the paramedics will advise the police of the situation and will transport such patients via Denver Health Medical Center ambulance to the nearest participating hospital. The officer will advise the police dispatcher of the divert and will request a Sergeant to respond. A Sergeant will respond to the participating hospital and make a determination as to whether or not security of the prisoner is necessary. If continued security is deemed necessary the Sergeant will have the police dispatcher contact a supervisor at the Denver Detention Facility in order for a Denver Sheriff's deputy to respond and relieve the Denver Police Officer at the participating hospital.
    4. If the prisoner is left in the custody of the Sheriff's deputy (or at a hospital without guard) a hold order will be placed and a Sick and Injured Report and General Session Summons and Complaint made out and taken to the Detention Facility elevator operator. See OMS 109.02 DPD 150.

- (4) Escapes from transporting officers
- a. When a prisoner escapes from a transporting officer, the officer shall immediately notify the dispatcher and request whatever assistance is needed to recapture the prisoner.
  - b. If the escape occurs in another jurisdiction, Denver 911 will notify the involved agency.
  - c. If the prisoner is not recaptured, the officer is responsible for initiating any necessary reports.
    1. If the escaped prisoner was arrested for a municipal ordinance violation, the officer shall complete a GSS&C/Warrant, charging the prisoner with any other appropriate ordinance violations. See OMS 104.07.
    2. If the prisoner was being held on a felony or state misdemeanor charge, a General Occurrence Incident Report shall be completed detailing the circumstances surrounding the escape. No pickup shall be placed by the reporting officer.

#### 104.32 Civil Stand-By for the Recovery of Personal Property

- (1) On Public and Private Property
- a. The recovery of a citizen's personal property in the possession of another is a civil matter between the two parties. The only legal authority of the police is to prevent a breach of the peace or to take action on other criminal activity.
  - b. When Officers are requested by a citizen to assist in recovering personal property, the officers should escort the citizen to the location and stand-by while the citizen makes their request. If the person in possession of the property refuses to release it, officers should escort the citizen complainant away from the property and advise them that they may initiate further civil action on their own.
  - c. If the person in possession of the property agrees to its release, the officers should stand-by for a reasonable time while a reasonable amount of property is removed. The officers must remain neutral in these situations and are not to actively participate in the recovery.
  - d. Under no circumstances can property be removed without the presence and permission of the person having authority and control over the location where the property is being stored.

#### 104.33 Misdemeanor Criminal Mischief and Graffiti Related Arrests

- (1) For misdemeanor criminal mischief arrests where the damage is less than \$1,000.00 the following shall apply:
- a. Charge an adult suspect directly with the appropriate Denver Revised Municipal Code violation (38-61 for Damaging, Defacing or Destruction of Public Property or 38-71 for Damaging, Defacing or Destruction of Private Property).
  - b. If the adult suspect does not possess valid identification or his/her identity cannot be verified, jailing of that individual on a General Sessions Summons and Complaint, DPD Form 287 is appropriate.
  - c. Juveniles identified as suspects for a graffiti-based criminal mischief offense require the completion of a General Occurrence Report in accordance to OMS 402.07 (3) c. 8, regardless of the estimated damage value. The determination to jail or issue the juvenile a Request to appear shall be made in conjunction with the Graffiti Unit investigators and taking into consideration factors such as, but not limited to, the estimated damage amount, suspect's prior graffiti involvement and documented gang or tagging crew affiliation. Graffiti Unit personnel are available for consultation during normal business hours or can be reached after hours through rrequest made to the dispatcher.
- (2) Possession of Graffiti Related Materials:
- a. Types of graffiti related material include, but are not limited to broad tipped marker pens, glass etching tools and can of spray paint.
  - b. Juveniles contacted and found to be in possession of graffiti related material shall be issued a Juvenile Summons & Complaint/Warrant, DPD Form 386, with the charge of Possession of Graffiti Materials by Minors Prohibited, D.R.M.C. 34-66. A copy of the Juvenile Summons shall be furnished to the Graffiti Unit.
  - c. Adults contacted and found to be in possession of graffiti related material shall be issued a General Summons and Complaint, DPD Form 287, with the charge of Possession of Graffiti Materials Prohibited, D.R.M.C. 38-102. A copy of the summons shall be furnished to the Graffiti Unit.

## REV. 4-13

- (3) All graffiti related cases, excluding adults directly charged with the appropriate Denver Revised Municipal Code violation of Damaging, Defacing or Destruction of Public or Private Property, require a General Occurrence (GO) Report be completed, whether or not a suspect is arrested. The report shall be titled Criminal Mischief (Graffiti).
  - a. All victims reporting graffiti shall be provided with graffiti removal resources offered through Denver 311.
- (4) When a suspect is arrested for a graffiti or tagging related offense and the established damage is over \$1,000, they shall be charged with Criminal Mischief, C.R.S. §18-4-501, which is a Class 4 Felony. The other state charge that can be applicable is Defacing Property, C.R.S. §18-4-509, which is a Class 2 Misdemeanor.
- (5) The following is required for both felony and misdemeanor charges:
  - a. General Occurrence (GO) report
  - b. Felony / Misdemeanor P.A.
  - c. Probable Cause Statement
  - d. All witness statements including the Officer Statement
  - e. Photograph suspect to document clothing and condition of their hands
  - f. Photographs of defaced property
  - g. Collect and photograph all the recovered evidence, to include the recovery of the suspect's clothing that may have paint/marker present
  - h. A General Sessions Summons and Complaint or a Juvenile Summons and Complaint may be used to charge an individual with Possession of Graffiti Material.

### 104.34 Evictions

- (1) Denver Sheriff Deputies or other court officers who are charged with executing evictions shall do so in accordance to C.R.S. §18-4-509, Writ of Restitution after Judgment and their internal department policies.
- (2) Denver Police Department has no original responsibility in eviction cases since such cases are civil matters; however, the function of an officer dispatched to a location of eviction is to prevent a breach of the peace or to take action on other criminal activity.
- (3) In the event officers are called to assist at the scene of an eviction, being executed by a court officer, the following procedure shall be in order:
  - a. Evictions will be processed during daylight hours only
  - b. Information regarding household goods placed on public property and evicted families without housing facilities shall be relayed by the responding police officers to their district commanding or supervisory officer
  - c. Household goods on public property:
    1. The supervisory officer shall advise the district car to give additional observation to the household goods.
    2. After seventy-two (72) hours, if there is a complaint about the household goods left on public property, Neighborhood Inspection Services shall be notified.
  - d. Evicted families without housing facilities:
    1. When small children are members of the evicted family and are in need of shelter, the court officer shall coordinate placement with Denver Human Services.

### 104.35 Enforcement of Protection Orders (Revised 10/2014)

- (1) Issuance and enforcement of protection orders is of paramount importance because protection orders promote safety, reduce violence, and prevent serious harm or death. Therefore a police officer shall use every reasonable means to enforce a protection order. It is important to remember if a violation of a protection order meets the definition of domestic violence, the defendant must be arrested and all appropriate paperwork must be filed. See OMS 104.50.
  - a. There are three (3) types of protection orders that can be issued by the courts:
    1. **Civil** (C.R.S. §14-10-108 and C.R.S. §13-14-104.5)
    2. **Criminal** (C.R.S. §18-1-1001)
    3. **Emergency order** (C.R.S. §13-14-103)

- b. When to file a violation of a protection order at a Municipal level:
  1. If the protection order was issued out of a civil case (it will have a letter designation of either "W", "C" or "DR") and no other elements of the crime rise to the level of a state charge the case should be filed with the City Attorney's Office. **Note:** Remember a police officer may only enforce the provision regarding prohibited contact, threatening, beating, striking, or assaulting the victim; or loitering, entering or remaining on/near the premise.
  2. If the protection order was issued out of a municipal case and no other elements of the crime rise to the level of state charge the case should be filed with the City Attorneys Office. Please note all city criminal cases will have a GS, GD or GC in the original criminal case number.
- c. When to file a violation of a protection order at the State level:
  1. If the protection order was issued out of a state criminal case, the violation of protection order should be filed with the District Attorney's Office. **Note:** All state criminal cases will have a letter designation of either "M" (Misdemeanor), "F" (Felony) or CR (District Court) from the original case number.
  2. If any other elements of the crime rise to the level of a state charge, regardless of where the protection order was issued, state charges should be filed. This would include cases involving serious bodily injury (SBI), multiple violations of protection orders, or stalking.
  3. All domestic violence crimes committed by a juvenile defendant shall be filed with the District Attorney.
  4. Complete a General Occurrence Report to document these outlined protection order violations.

(2) Foreign protection orders - C.R.S. §13-14-110

- a. Definition: Any protection or restraining order, injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary or final orders, other than child support or custody orders, issued by a civil or criminal court of another state, an Indian tribe, or a U.S. territory or commonwealth.
- b. Enforcement:
  1. Officers "shall presume the validity of, and enforce" foreign protection orders provided to the officer
  2. the protected party does not have a copy of the Foreign Protection Order on his/her person, the officer should determine if the Foreign Protection Order exists on the Central Registry on NCIC, and if so, "shall enforce the order."
  3. If the Foreign Protection Order cannot be confirmed, the officer "may rely upon the statement of any person protected by a Foreign Protection Order that it remains in effect. A Peace Officer who is acting in good faith when enforcing a Foreign Protection Order shall not be civilly or criminally liable pursuant to section 18-6-803.5 (5), C.R.S."

(3) If the order involved is a Domestic Violence Abuse Protection Order or Elder Abuse Protection Order issued under C.R.S. §13-14-104.5 and the respondent has not been personally served with a protection order, an officer responding to a call for assistance shall serve a copy of the protection order on the respondent named in the protection order, shall write the time, date, manner of service on the protected person's copy of the order and shall sign the statement. C.R.S. §13-14-107(3)

- a. If a temporary protection order was properly served on the defendant and the court makes the temporary protection order into a permanent protection order without making any changes to the protection order, service of the permanent protection order on the defendant is not required and the officer may enforce the permanent protection order. However, if the court modifies the protection order in any way, except in emergency situations, the modified protection order must be served on the defendant prior to enforcement. In some cases, the court seal may not show up on a copy of the restraining order due to the nature of the seal and the photocopy process. As long as the copy bears a judge's signature, the order should be considered valid and enforceable.

(4) If the protected party does not have a copy of the protection order on his/her person, the officer should check the CBI/NCIC registry, or attempt to contact the issuing courtroom. If the protection order cannot be confirmed, the officer shall complete a General Occurrence (GO) Report, with an offense code titled "Letter to Detectives" and routed to the Domestic Violence Investigations Unit for further investigation. The reporting party should be ordered-in to the Domestic Violence Unit for the following day at 0930 hours.

## REV. 4-13

- (5) If an officer encounters a situation where an arrest for violation of a restraining order cannot be made because any one or more of the mandatory requirements have not been met:
  - a. The officer's supervisor must be called to the scene for verification or assistance.
  - b. The officer shall note on his log sheet the name of the supervisor who covered the call and the specific requirement(s) not met.
  - c. If there are additional questions, supervisors can contact the on-call Domestic Violence Investigations Unit supervisor through Denver 911.
- (6) If the restrained party is a juvenile, upon arrest the juvenile shall be transported to Juvenile Intake for processing. All juvenile domestic violence cases shall be filed under state charge(s). A General Occurrence (GO) report shall be completed and routed to the Domestic Violence Investigations Unit for further investigation.

### 104.36 Auto Theft and Theft from Motor Vehicle Investigations

- (1) Departmental Responsibilities
  - a. Data concerning auto thefts are processed by personnel assigned to Records Bureau.
  - b. The Records Bureau will verify reports of stolen cars, make all necessary NCIC/CCIC entries, keep records, notify owners of recovered vehicles and enter the data for stolen and recovered vehicles
  - c. Detectives assigned to their respective District Investigative Unit are responsible for investigations relating to the theft of/or from motor vehicles, with the exception of vehicle crimes at DIA. Detectives assigned to DIA will handle these cases.
  - d. The Vehicle Impound Facility of the Denver Sheriff's Department is responsible for custodial functions relating to the storage and release of impounded vehicles. However, all investigative matters and/or problems relating to stolen vehicles and the release of a stolen vehicle shall be handled by the assigned detective.
- (2) Reporting Auto Thefts
  - a. When making a stolen car report, an officer shall be dispatched to contact the complainant personally.
  - b. At the time an officer is sent to make a stolen car report, the dispatcher shall air the following information.
    1. Year, make, model, color, license plate, and any distinguishing features
    2. Location, time, and date of steal
    3. Any suspect information or pertinent facts that might lead officers to the recovery of the vehicle and arrest of the suspects.
  - c. In order to obtain the required information for a case filing, it is necessary to indicate on the report the year, make and model, exact license number and vehicle identification number, as shown on the registration certificate and/or title. Reports shall be complete and should include a description of any accessories, special equipment and valuable contents.
  - d. Officers should question complainants carefully to eliminate family squabbles over possession, misparks, pranks, or other circumstances to ensure the validity of a criminal episode.
  - e. The responding officer shall contact Records Bureau personnel immediately and provide all necessary data (i.e. license plate, VIN, year, make, model, etc.) for timely entry onto the NCIC/CCIC systems.
  - f. After taking the report, the officer shall search the immediate neighborhood for the vehicle reported stolen.
  - g. Officers shall not complete and file a General Occurrence (GO) report under the following circumstances, but instead advise their immediate supervisor and make note of the circumstances in their Daily Activity Log Sheet.
    1. When the investigation indicates the absence of the vehicle is the result of a family squabble over possession, a mispark, a prank, or that the vehicle is possibly in the possession of another member of the family or business associate.
    2. the mental condition or emotional stability of the complainant is such that their statements are questionable, (i.e. when it is suspected that the complainant may be intoxicated).
    3. Any other circumstances that lead the officer to believe that it is not a true case of auto theft.

- h. An auto stolen in the commission of another crime, such as burglary or robbery, shall be included as an additional offense during the criminal episode. When the reporting officer telephones the Records Bureau to supply the data of the stolen motor vehicle, they shall advise Records Bureau personnel that the stolen vehicle was taken as part of another criminal offense and request that a "Hold for Prints" be placed on the stolen vehicle (i.e., "taken in a burglary, hold for prints").
- i. Reports for "Record Only"
  - 1. A General Occurrence (GO) report, for Theft of Motor Vehicle will be in circumstances when the victim's vehicle was stolen and subsequently recovered by the owner or when a Denver officer or another police agency before an official report was made by the victim.
  - 2. The recovery and vehicle information will be supplied to the Records Bureau.

(3) Recovery of Stolen Vehicles

- a. When an officer locates a stolen vehicle, he/she shall advise the dispatcher of the exact location and condition of the wanted vehicle.
- b. The officer will then contact Records Bureau personnel who will attempt to contact the owner.
  - 1. If the owner cannot be contacted, the vehicle will be impounded. See OMS 206.04(3)e.
  - 2. If the owner is contacted, Auto Theft Records will advise the owner they can respond to the location in order to personally recover their vehicle. If the owner is unable to respond in a timely manner, typically thirty (30) minutes, the vehicle shall be impounded for safe-keeping.
- c. The Records Bureau personnel will advise the officer if the owner is enroute and the time of contact.
- d. If the owner of the vehicle, or his/her representative, has not arrived within 30 minutes, the officer may impound the vehicle. Before ordering a tow, the officer should consider the following:
  - 1. The distance the owner has to travel.
  - 2. The time of day, weather and road conditions.
  - 3. The calls for service pending in the officer's area or district.
  - 4. The presence of a large amount of personal property in the vehicle which must be taken to the Property Management Bureau and inventoried.
- e. Officers will complete an Impounded/Recovered Vehicle Report, DPD 224, on all stolen vehicles released to a vehicle's owner or representative, at the scene of recovery.
  - 1. When a stolen vehicle is recovered in any of the Denver International Airport parking lots, the officer will also sign a Receipt for Stolen Vehicle form, provided by the airport authorities, acknowledging the removal of a particular vehicle.
    - a. If the owner responds to pick up the vehicle, the officer will sign the receipt form and complete DPD 224.
    - b. The original of the receipt will be given to the parking lot attendant. The remaining three (3) copies will be turned in to the Airport Security Officer for proper distribution.
  - 2. In all cases, the completed Impounded/Recovered Vehicle Report, DPD 224, will be forwarded via inter-departmental mail to the Records Bureau for scanning into the case file.
- f. In situations when a previously reported stolen vehicle is recovered and parts or articles are identified by the owner as having been taken while the car was stolen, the responding officer will complete a Supplemental Add Report by means of the Mobile Report Entry (MRE). Officers shall not make a new "Theft From Motor Vehicle" or "Criminal Mischief" report. Instead, the same case number from the original motor vehicle theft report generated through the Computer Aided Dispatch system will be used.
- g. When a Denver steal, with occupants, is recovered by another agency, Records Bureau personnel will contact the other agency via teletype, verifying the steal.
- h. Recovery of "Outside" steals
  - 1. When an "outside" steal with occupants is recovered in Denver, the responding officer will complete the General Occurrence (GO) report:
    - a. The case number will be generated by the Computer Aided Dispatch system
    - b. The location of the offense will be the location of recovery
  - 2. When an abandoned "outside" steal is located, it will be impounded and the officer will complete a street check, selecting 'Outside Steal' from the menu options. The officer will place a hold on the vehicle for the outside jurisdiction.

- a. If the owner is readily available, the vehicle can be released at the scene. The officer will complete a street check as well as the impound/recovered vehicle form.
    - b. The officer will notify auto theft records to remove the hit from NCIC.
  - i. Crime Lab personnel will respond to collect evidence in Motor Vehicle Theft and/or Theft from Motor Vehicle cases where it is probable that identifiable suspect evidence (i.e. latent print, DNA) can be recovered. See OMS 106.07(8)
- (4) Repossession of Automobiles
- a. Of primary importance is that the repossession of a car is a civil matter and the only legal authority of the police is to prevent a breach of the peace or to take action against persons who have committed such a violation.
  - b. In order to prevent a breach of the peace, if the person attempting to repossess has no court order, officers should advise such person to get a court order. If the reposessor has a court order, officers should advise the registered owner that it probably would be best to let the car be taken and then initiate legal action if they think they have been treated wrongfully. Officers should also advise the registered owner in the event a court order has been obtained that, if they refuse to let the car be taken they may be liable for a contempt of court charge. If this person still refuses to let the car be taken, officers should advise the reposessor not to take the car but to start contempt proceedings. "Court Order" referred to is a Writ of Replevin.
  - c. Under no circumstances can property be removed from a structure (house, garage, etc.) for the purpose of repossession without the registered owner's permission or a Writ of Replevin which is carried out by the Sheriff's Department.
  - d. If the registered owner of an automobile which has been repossessed has any questions concerning the legality of such repossession, they should be advised to consult their attorney or present the matter to the Legal Aid Society.
- (5) Concealment and/or Removal of Mortgaged Vehicles - C.R.S. §18-5-504
- a. Patrol officers will not make a report but will direct the complainant to respond to the appropriate District Investigative Unit during normal business hours to speak with a detective.
  - b. A detective will interview the complainant. At the end of the interview, the detective will:
    - 1. Request a copy of the mortgage agreement
    - 2. Request a resume of what efforts the complainant has made to recover the vehicle
    - 3. Examine the agreement for specific conditions regarding the location of storage, maintenance, etc., of the vehicle in question
    - 4. Attempt to determine if the actions taken to remove or conceal the vehicle are in violation of C.R.S. §18-5-504
- (6) Theft of Rental Property (Motor Vehicle) - C.R.S. §18-4-402
- a. The Colorado Revised Statutes (C.R.S.) require seventy-two (72) hours to elapse beyond the time rented property is to be returned as an element of the crime "Theft of Rental Property"
  - b. If the required time period has elapsed, and a car dealer or individual has made every reasonable effort to regain possession of a vehicle which has been loaned out for demonstration or other purpose, or whenever a rented car has not been returned as agreed by the parties concerned, the person reporting shall respond to the appropriate District Investigative Unit to speak with a detective. If the car rental agency is located at Denver International Airport, the reporting person will have the option to make the report in person to the detectives assigned to DIA.
  - c. If an auto is leased, rented or loaned, and there has been any overt act or omission which would indicate the lessee does not intend to return the vehicle, such as knowledge that the vehicle has or is being altered, sold, or moved out of state, the complainant may make a Theft of Rental Property report without the required 72 hours elapsing
  - d. In all cases of Theft of Rental Property (Motor Vehicle), the complainant will be instructed to:
    - 1. Respond to the appropriate District Investigative Unit during normal business hours to speak with a detective. If the reporting rental agency is located at Denver International Airport, they have the option to make a report in person to the detectives assigned to DIA. The assigned detective shall contact Records Bureau personnel immediately and provide all necessary data (i.e. license plate, VIN, year, make, model, etc.) for timely entry of the stolen motor vehicle onto the NCIC/CCIC systems.

2. Provide a copy of the rental agreement and documentation showing why he/she believes the car will not be returned.
  - e. The assigned detective will review the documents, determine the validity of the claim and, if valid, will make a Theft of Rental Property report. The case will be presented to a Deputy District Attorney, who will determine if the case is acceptable for filing.
- (7) Equity Skimming of a Vehicle - C.R.S. §18-5-803
- a. Equity Skimming is defined as a person obtaining control over the vehicle of another and then selling or leasing the vehicle to a third party without written authorization from the secured creditor, lessor or lien holder, in effect "sub-letting" a vehicle.
  - b. Uniform officers will not make a General Occurrence (GO) report, DPD 250, but will direct the complainant to respond to the appropriate District Investigative Unit during normal business hours to speak with a detective.
  - c. The assigned detective will interview the complainant, determine if the case meets the statutory requirements and make any necessary reports.
- (8) VIN Inspections
- a. Regular VIN Inspection
    1. All vehicles with out-of-state ownership documents must have the VIN numbers inspected by any duly constituted peace officer of a Colorado law enforcement agency, licensed automobile dealer, or any of the Air Care Colorado Emissions Inspection Station before the vehicle is titled in Colorado.
    2. Regular VIN Inspections are a free service to citizens and can be done by any Denver Police Officer, as time allows, during his/her normal tour of duty. The inspection will be done only on vehicles that have been previously titled in another state and on the form provided by the Division Motor Vehicles Title Section of the Colorado Department of Revenue.
  - b. Certified VIN Inspections
    1. Vehicles with bonded titled, homemade vehicles, rebuilt vehicles, salvage titles and other such vehicles as stipulated by the Colorado Revised Statutes (C.R.S.), require the VIN inspections to be completed ONLY by Certified VIN Inspectors.
    2. Those citizens requesting Certified VIN Inspections will be referred to the Colorado State Patrol webpage for the list of Certified Colorado VIN Inspection locations.

#### 104.37 Deleted 04/2013

#### 104.38 Animal Related Incidents (Revised 08/2014)

The Denver Police Department understands that all animals, especially the domesticated animal population of its citizens, have a right to life and recognizes the complexity of the human-animal relationship; in order to address incidents that arise from human-animal interaction within the context of applicable statutes, municipal codes and regulations, officers are reminded to utilize reasonable discretion when encountering animal related incidents.

When reasonable, officers will make every attempt to allow the owner to bring their animal under control and/or remove their animal from the immediate area before taking enforcement action. Officers will take into account their own safety, the safety of others in the area and the feasibility of allowing the owner to act considering the totality of the circumstances; this includes the presence of an animal control officer and/or any other exigencies that prevent such a response.

Officers will need to make their initial assessment of the animal related incident in order to formulate the appropriate response based on the behavioral traits of the animal and the environment as often the size and/or breed of the animal are inappropriate indicators. Officers should be mindful that domesticated animals are accustomed to human interaction and that it is common for a domesticated animal to run towards, jump and/or make an audible sound in order to greet a human. Officers need to differentiate between common behaviors associated with domesticated animals and those behaviors that put the officer and/or other persons in imminent danger.

Common canine behaviors:

- Canines that are frightened often are low to the ground, have their tail tucked between their legs and the ears may be flat against the head.



- Canines that are barking/lunging and that are restrained by a barrier (e.g., fence, chain, rope) are often the highest risk to bite due to the canine feeling frustration at not being able to access the human and/or feeling territorial over the space. The best strategy is to maintain a safe distance. An unrestrained canine that communicates in the same way is conveying a warning, not necessarily intent to bite – however, if the warning is not heeded, the canine may be likely to bite.
- Canines are stimulated by quick movement and will chase any rapidly moving object. Thus, running from a canine stimulates chasing behavior and may escalate to grabbing and biting. Often, this is not aggression, but rather a game for the canine.
- Canines that are snarling (tensing their lips to expose their teeth) and growling are conveying the clearest and strongest of warnings. A growling canine should not be approached.

When officers have sufficient advanced notice that a potentially dangerous domesticated animal may be encountered, such as in the serving of a search warrant, officers will develop a reasonable contingency plan for dealing with the animal without the use of deadly force. When the officer reasonably believes, based on the facts and circumstances, that the animal on which the force is used poses an immediate threat of injury to the officer or another individual, he/she will apply the use of force continuum and use the minimum amount of force necessary to bring the animal under control.

Nothing in this policy shall prohibit any officer from resorting to deadly force to control a vicious or dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impracticable. However, serious damage to community trust can result when an officer's assessment of "imminent danger" is challenged by witnesses, the animal's owner or a video recording of the event. Officers can mitigate liability and harm to themselves, fellow officers, bystanders and community perception by attempting to diffuse potentially harmful situations without the use of lethal force.

Non-lethal options:

- Batons, flashlights and/or clipboards can all be used to block or redirect an attack. In addition, these items can be used in lieu of a bite stick.
- Fire extinguishers produce noise, cold and an expanding cloud – a combination that frightens canines.
- Oleoresin capsicum (OC) spray is highly effective and can be sprayed from a great distance.
- An ERD/TASER must be deployed differently than with humans. The canine's body mass is parallel to the ground, therefore to properly use the device, it must be held sideways so that the probes fire horizontally and in line with the canine's body. The ERD/TASER should be used sparingly as it can cause serious death or injury to the animal.

(1) Injuries caused by animals

- a. Officers will render first aid and call for EMS, if necessary. If the injury involves an animal bite, the person will be advised to seek medical attention.
- b. If the bite was sustained from a domesticated animal, officers will attempt to locate the owner and advise them that all animal bites must be reported to the Denver Animal Shelter within twelve (12) hours so that the animal can be impounded for rabies observation. Victims and/or legal guardians will be advised of the same.
- c. Victims that have sustained an animal bite from a wildlife animal (e.g., skunks, raccoons) will be advised to report the incident to the State Health Department.

(2) Dead animals: Officers will report the location of any carcass or remains of dead animals to the dispatcher.

- a. If there is evidence of criminal activity, the officer will complete a GO report, photograph the animal and collect any relevant evidence. The officer will request the removal of the animal through Denver 911.

(3) Injured animals

- a. Officers encountering any injured domesticated animal will make all reasonable attempts to contact the owner or responsible party.
- b. If the owner cannot be located, the officer will advise Denver 911 of the location and request assistance from the Denver Animal Shelter.

- c. Officers will use discretion when rendering aid to an injured animal. Animals that have sustained an injury are often fearful of further attack and/or injury and may become aggressive if not approached with caution. Officers will consider the totality of the situation, to include the nature of the injury, whether the animal is an immediate danger to the community, the current behavioral state the animal is exhibiting and whether the officer is even adept to deal with the type of injury when making this decision. Officers will be mindful of the perception of the public when utilizing their discretion.
- (4) Cruelty to animals: Personnel assigned to the Denver Animal Shelter investigate cases of cruelty to animals, neglect, abandonment or poisoning.
- (5) Killing of Animals: Officers may kill any vicious or dangerous animal that is an immediate danger to life, or which requires a humane ending to its suffering from serious injuries. If the animal in question has bitten someone, the officer will try and keep the animal's head intact as the examination of the brain can determine if the animal was rabid. See OMS 105.05 (3) c.
  - a. When an officer discharges a firearm in order to kill an animal they will maintain their firearm in its condition at the conclusion of the event, making no changes to the firearm, except to make it safe.
  - b. Empty magazines, speed loaders, spent shell casings etc, will remain where deposited, and will be documented and collected during crime scene processing.
  - c. The involved officer will maintain custody of their firearm and the responding homicide detective, under the advisement of their sergeant, will decide if the firearm is to be relinquished.
  - d. If the firearm is not relinquished, the responding homicide detective will ensure the weapon is documented prior to the involved officer being released from the scene.
  - e. If the firearm is to be relinquished see, OMS 105.04(4)d.
- (6) Wild animals: The Colorado Department of Wildlife will be contacted to have representatives respond to the scene to control and capture such animals.
- (7) Loose livestock
  - a. Vehicular traffic should be slowed or stopped to allow any roaming or grazing livestock to be herded off the roadway.
  - b. Assistance in herding, transporting and corralling is available from the Brand Inspection Division of the Colorado Department of Agriculture and/or the Denver Police Mounted Patrol Unit. On-call representatives are available through Denver 911.
- (8) Nuisance Complaints
  - a. In order to file a nuisance complaint, the complainant must appear in person at the Denver Animal Shelter or call Denver 311 for further information. The complainant must know the name and address of the animal's owner and be able to identify the owner as well as have a sufficient factual basis for the filing of the complaint. The written complaint must state the specific location, date and time of the alleged offense.
  - b. Police officers are authorized to issue a US&C when he/she personally observes violations of Sections 8-46 (Barking Dogs), 8-47 (Disposition of Excrement), and 8-48 (Damaging Property) of the D.R.M.C.
  - c. Complaints concerning property damage caused by wildlife will be referred to the Colorado Department of Wildlife.
- (9) Police assistance at animal related calls
  - a. All calls for service requiring the animal control officers shall be dispatched by the Denver Health Medical Center dispatchers at Denver 911.
  - b. Denver Police officers will respond to the following:
    - 1. cases of dog bites or vicious dog complaints; when the dog is a present threat to life or additional injury.
    - 2. When persons resist the lawful duties of the animal control officer, a Denver Police officer will take the necessary action to assist in identifying the owner, issuing a summons, impounding an animal and/or any other necessary action.
    - 3. In cases of serious injury, when other assistance is not available, the police department will respond to the scene.

## (10) Service Animals

- a. The Americans with Disabilities Act of 1990 (ADA) defines service animals as any dog that is individually trained to work or perform tasks for people with disabilities. Service animals are working animals and provide aid to individuals with a wide array of disabilities. These include, but are not limited to, physical, sensory, psychiatric, intellectual or other mental disabilities. Trained behaviors in crime deterrence, comfort, companionship, emotional support or other similar tasks do not qualify as service animals under the ADA.
  1. The task a service dog performs must be directly related to the disability. For example, the dog may assist a visually impaired individual with movement, provide physical support to those with mobility concerns, alert an individual to the presence of allergens, retrieve certain required items and/or help an individual with psychiatric and neurological disabilities (such as PTSD).
  2. There is no requirement concerning the amount, type of training or certification process that an animal must undergo before being labeled as a service animal. In addition, no special collar, tag or labeling is required.
  3. Service animals are not pets and in order to not interfere with the important tasks they perform, officers should not talk to, pet or otherwise initiate contact with the animal.
- b. When it is readily apparent the animal in question is there to provide aid to a disabled individual (for example, when a person with a vision impairment has a seeing eye dog), officers are not allowed to ask questions in order to verify the status of the animal.
- c. When it is not obvious what service the animal provides, the ADA allows an officer to ask the following limited two questions:
  1. Is the dog a service animal required because of a disability?
  2. What work or task has the dog been trained to perform?

If the individual responds by indicating that the animal is required because of a disability and has been trained to perform at least on task to assist the individual, the animal meets the definition of a service animal and no further questions should be asked. Officers may not ask about the nature of the person's disability, require medical documentation, require documentation concerning the training of the animal or ask the owner to have the dog demonstrate the task it has been trained to perform.
- d. Service animals in public buildings and/or facilities
  1. Service animals are permitted anywhere the public is allowed.
  2. Under the ADA, service animals must be harnessed, leashed or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. Under such circumstances, the individual must maintain control of the animal through voice, signal or other effective controls.
  3. Service animals may be excluded from areas of police facilities that are not open to the public, such as the inside of a patrol vehicle or the district station holding cells.
  4. A person with a disability cannot be asked to remove a service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it, including when an animal exhibits vicious behavior and poses a threat to the safety of others; or (2) the dog is not housebroken. Barking alone is not a threat nor does a direct threat exist if the owner takes prompt, effective action to control the animal. When there is a legitimate reason to ask that a service animal be removed the person with the disability must be offered the opportunity to obtain the goods or services without the animal's presence.
- e. When an officer takes an individual with a service animal into custody, the officer will explain that the service animal will not be allowed into a detention facility; however, the officer will make every effort to turn the service animal over to a caretaker designated by the owner/handler. If no caretaker is available, the animal will be turned over to Denver Animal Control. Denver Animal Control can be requested through dispatch and will respond 24 hours a day to all calls for placement of service animals. The officer must tell the responding animal control officer that the animal in question is a service animal, so that an administrative hold can be placed. The officer will note the disposition of all service animals when the owner/handler is arrested on the Daily Activity Log, DPD 120.
- f. Service animals may be of any type or breed. Disabled individuals who possess a pit bull trained as a service animal may not be arrested or prosecuted for violating any Denver Revised Code prohibiting pit bulls.

**104.39 Contacting Employees at Place of Employment**

- (1) All officers are instructed that under ordinary and normal circumstances they are to make a first contact at a private business or in any governmental agency with the manager or assistant manager of the employee they want to interview.
- (2) The purpose of contacting the manager or assistant manager first rather than the employee is to expedite the contact of the employee to create as little disruption of work activities as possible and to save our officers' time.
- (3) This procedure does not apply if there exists the possibility that the contact of the manager may in some way allow the escape of an employee who is to be arrested.

**104.40 Colorado Victim Rights Statute**

- (1) The Colorado Victim Rights Statute C.R.S. §24-4.1-302.5 requires that police officers provide certain information to victims of specified criminal acts. A summary of the specified crimes is as follows:
  - a. Any crime of violence reported as a violation of state statute (murder, kidnapping, robbery, assault, sexual assault, harassment by stalking, ethnic intimidation etc.);
  - b. Any domestic violence related crime including city ordinance violations (simple assault, disturbance, threats, etc.);
  - c. Any state statute crime of violence or theft C.R.S. §18-4-401(1) committed by the suspect in the presence of a victim who is an "at-risk" person. By legal definition C.R.S. §18-6.5-102, this includes persons age 60 or older or those who are disabled due to mental illness/impairment or who are unable to: walk, see, hear, speak or breathe without mechanical assistance. See OMS 104.49(1);
  - d. Careless driving that results in the death of another or failure to stop at the scene of an accident where the accident results in the death of another.
- (2) In order to assist these crime victims and to comply with the Victim Rights Statute, officers and investigating detectives shall, at a minimum, advise these crime victims of the following information:
  - a. The telephone number for the Denver Police Department Victim Assistance Unit (720-913-6035)
  - b. When an adult suspect has been arrested, the victim shall be given the Victim Information and Notification Everyday (VINE) Hotline telephone number **(1-888-263-8463)**. By calling this number and entering the suspect's name or booking number, the victim can arrange to be immediately notified when the suspect is released from custody.
  - c. The Victim Assistance Unit brochure titled, "Your Rights as a Victim of Crime", which contains the foregoing information, shall be given to the described victims
- (3) Detectives assigned to investigate these described cases shall ensure that a copy of the General Occurrence (GO) report, and/or case documents showing a phone number or location where the victim(s) can be contacted is immediately forwarded to the Victim Assistance Unit **(fax 720-913-7502)**. The Victim Assistance Unit will contact the victims and provide the needed information and assistance.

**104.41 Theft of Meals - Gasoline**

- (1) When a suspect is arrested
  - a. The suspect shall be charged with Shoplifting, Section 38-51.5. Do not charge a suspect with "investigation" unless the offense is a felony
  - b. The suspect may be jailed or walked through the Identification Section or, in minor offenses with positive identification, ordered in to Court at the discretion of the arresting officer.
  - c. If the suspect is jailed, the block "Jail, Bond Not Required" shall be checked in most instances. When a bond is not required, the suspect will be released after being fingerprinted and photographed. When the suspect is without adequate positive identification, is a transient or is a Denver resident who presents to the officer the impression they will not appear in Court as ordered, bond is appropriate
  - d. The court appearance date shall be set at a minimum of fourteen days from the date of the offense, excluding weekends and holidays.
  - e. Fill in complete details of offense and all other pertinent information such as witnesses' names and addresses where applicable, on the reverse side of the General Session Summons and Complaint. A person familiar with the value of the items taken must be endorsed as one of the witnesses

## REV. 8-10

- (2) Felony cases (more than \$1,000.00): When the retail value of items taken is more than \$1,000.00, the case shall be handled as any other felony, processing the suspect following the guidelines in OMS 104.01(24) and proper disposition of property.
- (3) If the offense involves a check or financial transaction device, the procedures in OMS 303.08 and 303.12 shall be followed.

### **104.42 Utilization of Arrest Teams at the Scene of Non-Violent Demonstrations Where Unlawful Acts are Committed**

The below procedure is a general processing guide and can be modified as determined by the Incident Commander:

- (1) Upon arrival at the scene of a demonstration, the officer in charge shall endeavor to identify the leader or leaders and, if possible communicate with the mass of demonstrators through their leadership. The demonstration leader, or the group, shall be advised of the laws pertaining to the free movement of pedestrian and/or vehicular traffic while demonstrating and/or any other statute that may be violated during their presence. In the event of mass arrests for non-minor events, the officer in charge at the scene may utilize all or parts of the procedures described in OMS 104.42 and 104.43.
- (2) All uniform officers reporting to the scene of a demonstration shall be structured in squads under the supervision of a sergeant. The squad size shall be determined by the officer in charge, in accordance with the individual situation. Each sergeant shall be responsible for instructing their officers in the techniques of employing arrest teams, designating the arresting officers, and actively directing the activities of the team members.
- (3) Arrest teams shall consist of the following personnel:
  - a. One sergeant, who shall be in direct charge of an arrest team
  - b. Arresting officers
  - c. Supporting officers

### **104.43 Mass Arrests**

- (1) In the event that mass arrests for non-violent minor offenses appear imminent, the officer in charge at the scene shall approach the demonstration leadership and explain the violation being committed. See OMS 108.03.
- (2) The officer in charge shall direct that all violations be corrected immediately. If they are, no further police action shall be taken.
- (3) The officer in charge shall determine the number of persons likely to be arrested and the number of transporting vehicles necessary to accommodate these numbers.
- (4) If the leaders do not comply with the directives, the officer in charge shall publicly announce to the crowd through a voice amplification system, the following announcement and dispersal order: "I am (name and rank) of the Denver Police Department. I hereby inform all persons assembled that you are in violation of (City ordinance or State statute violated in general terms). In the name of the people of the City and County of Denver, I command all of you here assembled, to disperse. Failure to do so shall subject each of you here to arrest and prosecution."
- (5) The officer in charge shall wait a reasonable length of time for compliance. If the crowd does not disperse, repeat the aforementioned order. Both of these announcements, along with any statements by the demonstration leadership, may be tape recorded as evidence, if such is possible.
- (6) A commanding officer from the Major Crime Division shall be in charge of mass arrests processing and will determine the number of Mass Arrests Processing Teams, hereinafter referred to as MAP Teams.
- (7) Each MAP Team consists of five to six officers and a supervisor equipped with a mobile trailer containing equipment and documentation including the following:
  - a. Digital camera equipment and saved data cards
  - b. Lap top computer, printer, SD card reader, router, and wiring
  - c. Large storage (Raid) hard drive
  - d. Large data cards, General Sessions Summons and Complaints, and property documentation
  - e. Generator
  - f. Privacy screens and portable awning

- (8) MAP Teams will generally deploy behind any field force or response team and be within walking distance of arresting officers.
- a. Sufficient DPD or DSD personnel shall guard the MAP Teams along with any appropriate bus or van used for prisoner transport.
- (9) Once deployed and set up has occurred; the following procedures will be followed by arresting officers and MAP Team personnel:
- a. Whenever possible, dual loop flex cuffs will be utilized for arrests which feature an embossed unique identification number along with six detachable labels featuring the same unique number. The number will be used to track the prisoner and the labels shall be attached to accompanying documentation. After the flex cuffs are cut by DSD personnel, one half of the cuffs will remain on the suspect for identification and tracking.
  - b. Arresting officers will search prisoners and place property into DSD property bags with the exception of billfolds or currency. One of the flex cuff labels will be affixed to the property bag or the number handwritten onto it. Property bags will be transported with the prisoner to the location of detention by DSD. Standard size backpacks will also be transported with prisoners by DSD. Oversize property will be placed in the Property Management Bureau.
  - c. If possible, arresting officers in pairs will arrest suspects with one officer generally maintaining control of the suspect and the other documenting the event.
  - d. The arresting officer without control of the suspect will be given a clipboard and begin documentation including GSS&C, DPD 287, Property Envelope, and Property Invoice & Receipt, DPD 122. The GSS&C narrative should be completed with sufficient notes regarding the arrest that the document could stand on its own when reviewed for arraignment. The cuff number shall be handwritten on the GSS&C to insure it is present on all NCR copies. This officer will also provide suspect and arrest information to MAP officers to be placed onto the large data board.
  - e. The large data board will list information about the arrest including suspect information, violation, along with an affirmation read by the arresting officer similar to a General Sessions citation.
  - f. Once the data board is completed, **both** officers and the suspect will be photographed with the data board also in the photo.
  - g. The officer in control of the suspect will then give a video interview to MAP personnel including all information documented on the data board. In addition to "LOVID," the officer will also give a personal account of the arrest including their observations. Information such as who gave the order to disperse and time of order should be documented in the interview. MAP personnel will ask any follow-up questions necessary. Uncooperative suspects will be removed and only the officer will be featured in the video.
  - h. The MAP team member operating the digital camera will attach one of the flex cuff labels to the SD card and then give the SD card to MAP members operating the lap-top computer. One SD card will be utilized per suspect and will be later booked into the Property Management Bureau individually.
  - i. The MAP team officer operating the computer will place the card in the reader, download the files into the hard drive and print two copies of the photograph. One copy of the photo will be given to the arresting officer and the other will be placed into the property bag with the General Sessions.
  - j. The SD card itself will be placed into a plastic bag/property envelope. The property envelope will be stapled to the completed property invoice; each of which shall receive a flex cuff label.
  - k. MAP team members will assist arresting officers in completing documentation including GSS&C, Property Invoice & Receipt, and Property Envelope.
  - l. The completed GSS&C, photograph, property bag, personal property including standard size backpacks, and bags will be received with the suspect by Denver Sheriff Department personnel for transport.
  - m. Property envelopes, Property Invoices & Receipts, large personal property, and additional evidence will be transported by Property Management Bureau personnel.
  - n. Once a DSD bus is full and ready for departure, data for each transported suspect will be downloaded by DSD personnel onto a USB drive to be transported with the prisoners. Photos and video interviews can then be made available for arraignment at the location of detention.
  - o. MAP team members shall keep an arrest log that will include each arrestee's name, DOB, home city/state, and charge. Arrest logs shall be forwarded to the Command Post
- (10) Felony and misdemeanor packets will be available for completion by arresting officers. Officers making felony or state misdemeanor arrests will be taken out of service when available.
- (11) Juveniles will be charged on a JV summons, if appropriate and kept separate (sight and sound) from adults. Juveniles will be transported to DPD Headquarters by Juvenile Intake personnel.

## REV. 8-10

- (12) Property with no monetary value such as signs, literature, or other items carried by an arrestee not considered personal property, will be considered trash and discarded. Public Works resources are available if needed. Mobile processing stations will discard trash after arrests are processed. A photo of the items grouped together will be taken prior to their disposal.
- (13) Pamphlets from the Office of the Independent Monitor will be provided to arrested parties making claims of inappropriate conduct by police officers. The pamphlet will be placed into the suspect's property bag. Both Spanish and English versions of the pamphlet will be available. The form is self addressed with prepaid postage and explains to the suspect how to file a complaint with the OIM and IAB. If an arrestee is claiming an officer used unnecessary force and has any visible injuries or requests medical attention, the arresting officer's supervisor will be required to respond to insure no further investigation is required at the scene.
- (14) At the completion of an event, MAP personnel shall save all data by date and location onto a large-capacity hard drive called a Raid Drive which is to be placed into the Property Management Bureau. The arrest log will be forwarded to the command post.

### 104.44 Identification Procedures

- (1) The Denver Police Department recognizes the importance of obtaining complete descriptions of offenders linked to unlawful acts and is committed to providing accurate information and verifying suspect identity when seeking warrants for the arrest of subjects involved in criminal incidents. A critical aspect to subject identification is ensuring that reasonable efforts occur to verify the correct identity of a suspect.  

Accurate documentation is a key factor when writing a warrant and preparing a criminal filing for the court. With this in mind, officers and investigators shall use the following procedures, under the proper circumstances, when identifying possible suspects involved in a crime under investigation.
- (2) General information: Eyewitnesses play a critical role in our criminal justice system. They are often essential to identifying, charging, and ultimately convicting perpetrators of crime and in some cases may provide the sole piece of evidence against those individuals. For these reasons, the value of accurate and reliable eyewitness evidence cannot be overstated.
- (3) Definitions: There are three types of identification procedures conducted by law enforcement officers. These procedures are designed to obtain witness and victim identification of suspects involved in criminal activity. These identification types are as follows:
  - a. Show-up: This is a one-on-one identification procedure most often used immediately after a criminal event, where the suspect is caught at, or a short distance from, the crime scene. Similar to the show-up is officers/investigators showing a single photograph when the victim or witness knows the perpetrator. In this circumstance, officer/investigators must ensure that the witness/victim has articulable knowledge of the subject prior to showing the single photograph.
  - b. Photographic line-up: This is an identification procedure where a series of photographs are placed into an array for the purpose of showing a witness.
  - c. Physical line-up: This is an identification procedure where several individuals, including the subject, are staged for the purpose of viewing by a witness.
- (4) Show-up procedures: When circumstances require the prompt display of a single suspect to a witness, challenges to the inherent suggestiveness of the encounter can be minimized through the use of procedural safeguards. Show-up style identification procedures are often challenged and every effort must be made to avoid unnecessary suggestiveness. When conducting a show-up, the investigator/officer will:
  - a. Determine and document, prior to the show-up, a description of the perpetrator.
  - b. Transport the witness to the location of the detained subject to limit the legal impact of the subject's detention. There are legal restrictions as well as scene contamination issues regarding the return of suspect(s) to the scene.
  - c. Separate all witnesses to avoid information contamination.
  - d. Caution witnesses that the subject MAY OR MAY NOT be the suspect involved.
  - e. Assure witnesses that an investigation will continue regardless of their ability to make or not make an identification.

- f. Allow only one witness at a time to view the subject when multiple witnesses exist.
  - 1. Should a witness make an identification other identification means should be employed for the remaining witnesses. This is a safeguard method should the show-up procedure be attacked in court.
- g. Document in statement form the information provided by the witness(es) regardless of whether they do or do not make an identification. In addition, document the time and location of the show-up and take photographs of the subject to preserve the description of the suspect at the time of the show-up.
- h. All documents secured in this procedure will be forwarded to the investigative unit responsible for any subsequent investigation of the crime committed.
- i. Investigators occasionally show a single photograph to confirm identity in specific situations. These include, but are not limited to:
  - 1. Verifying the identity of a spouse or boyfriend/girlfriend in a domestic violence case
  - 2. Confirming the identity of a suspect known to the witness or victim
  - 3. Confirming the identity of a known associate to a witness
  - 4. Verifying the knowledge of a subject to a victim in DNA/CODIS identification situations

(5) Photographic line-up procedures: It is the policy of the Denver Police Department that when conducting a photographic line-up, the sequential photographic line-up procedure will be used. The sequential decision procedure is meant to reduce the tendency of the witness to compare one photo with another photo (i.e., make relative judgments).

The idea is for the witness to make a final decision on each photo before moving on to the next photo by comparing each photo with his/her memory of the perpetrator. When constructing and showing a sequential line up, the following procedure will be used:

- a. Constructing the Photographic Line-up:
  - 1. Include only one target subject in each photographic line-up packet.
  - 2. The investigator/officer will use reasonable efforts to obtain the most recent existing photo of the target suspect prior to showing the photographic line-up to the witness/victim. Occasionally, the investigator/officer may experience circumstances that do not allow for the showing of a recent photograph. Such circumstances include, but are not limited to:
    - a. The subject shaved or has grown facial or head hair since the occurrence of the incident.
    - b. The current photograph shows the subject wearing glasses or a cap/hat not described by the witness/victim at the time of the incident.
    - c. The subject show facial anomalies such as tattoos, jewelry, or injury in the most recent photograph that was not present at the time of the incident.
    - d. The subject aged since the incident and a photograph taken near the time of the incident would prove more appropriate (e.g. cold case investigations).
  - 3. Should multiple photographs of the subject exist, select the one that best fits the witness's description of the subject.
  - 4. Select filler photographs that generally fit the witness's description of the subject, and that are consistent with the subject photograph.
  - 5. Include a minimum of five filler photographs in addition to the subject photograph, but no more than ten total photographs.
  - 6. The same filler photographs will not be used for additional subject line-ups constructed in the same case investigation.
  - 7. Each photograph will be placed on its own blank sheet of paper. The subject's position in the line-up should be rotated randomly. Investigators/officers should be aware that they are not routinely placing subjects in a consistent position with each line-up folder produced.
  - 8. Ensure that the subject does not stand out unduly and that the photographic line-up is not overly suggestive. This will include, as best as practical, choosing photographs that do not contain unique identifiers such as numbers, markings, or other unique characteristics that the filler photographs do not have.
  - 9. Document the identity of all persons inserted into the photographic packet.
  - 10. Produce an "original" and a "working copy" of the photographic array. The "original" will be placed into the Property Management Bureau under the evidence number for the investigation. The "working copy" will be maintained with the case file.



- b. Conducting the Photographic Identification Procedure:
  - 1. The photographic identification procedure should be conducted in a manner that promotes the reliability, fairness, and objectivity of the witness's identification. This process will be conducted in a manner conducive to obtaining accurate identification or non-identification decisions on the part of the witness.
  - 2. The photographic array will be shown to the witness in a "blind" format. With this type of procedure, the case investigator/officer simply has someone who is not familiar with the case, or with the identity of the lineup members, and does not know the position of the target subject in the lineup, conduct the lineup procedure. Such a procedure helps ensure not only that the case investigator/officer does not unintentionally influence the witness but also that there can be no arguments later that the witness's selection or statements at the lineup was influenced by the case investigator/officer.
    - a. The Blind Line-up may not be utilized in the following situations:
      - 1. The officer/investigator articulates a compelling need to avoid such a procedure, or the case investigation will be jeopardized by such a procedure, or
      - 2. The officer/investigator obtains the approval of a command officer to not use the Blind Line-up.
      - 3. In no instance will a line-up be shown in a format other than a Blind Line-up where the charges sought will be felony charges.
  - 3. Prior to viewing the photographic line-up, the investigator/officer will read the line-up Admonition/Identification, DPD 170, to the witness viewing the line-up. At the conclusion of reading that form, the witness will sign the form to indicate that they understand the document. This signed form will be included in the case file.
  - 4. In addition to the admonition, provide the witness with the following information:
    - a. Individual photographs will be viewed one at a time. The photographs viewed by the witness will be considered original photographs. Witnesses shall not be permitted to write or mark on these original photographs.
    - b. The photos are placed into the array in random order.
    - c. You will only view each photograph in this array one time. Please take as much time as needed in making a decision about each photo before moving on to the next one.
    - d. All photos will be shown, even if an identification is made.
    - e. If you can make an identification, please indicate your selection to the investigator/officer
  - 5. Should the witness make or not make identification, officers/investigators will document the following:
    - a. Identification information of all subject and filler photographs, and sources of all photos used
    - b. Names of all persons present at the photographic lineup
    - c. Date and time of the identification procedure
    - d. Document, in writing, statements as to the witnesses' ability to make or not make an identification
    - e. When the witness/victim makes identification, the investigator/officer will ask the person viewing the photographic line-up to sign a copy of the photograph indicating that the photograph selected is of the subject involved in the crime under investigation. Should the person viewing the photograph refuse to sign, the officer/investigator shall document that fact in their statement or report.
    - f. Identification statements can be made on the Admonition/Identification, DPD 170, or Statement form, DPD 366, should more space be required
  - 6. Make a copy of the photographic line up packet that the witness viewed irrespective to their making an identification. Include the signed photograph with this copy if the witness makes an identification. Place a copy of the signed admonition form with the copied packet. Place this copied packet with the case file. Place the originally signed admonition for each witness viewing the line-up into the case file.

7. Other than shuffling photographs to show a line-up to other witnesses, officers/investigators shall make no changes or additions to the original photographic line-up packet. Officers/investigators will show each witness in a given criminal investigation the same original photographic line-up packet. When showing the same photographic line-up packet to additional witnesses in the same case investigation, the officer/investigator shall randomly rotate the photograph positions to avoid charges of suggestibility.

- (6) Physical Line-up Procedures: The target subject of a physical line-up may appear in one of two ways;
- a. Voluntarily
  - b. Response to a Court order for non-testimonial evidence: (Rule 41.1 or Rule 16, C.R.S.)
- (7) When a subject is compelled to stand in a physical line-up procedure, and is represented by an attorney, that attorney will be contacted prior to conducting the physical line-up procedure. The attorney will be offered the opportunity to be present for the procedure prior to the procedure being conducted.
- (8) Admonition/Identification, DPD 170, shall be submitted for each line-up conducted by any police officer. The advisement portion of the form is to be completed prior to placing the target subject in the physical line-up. Use a separate form for each witness.
- (9) It is preferable that five persons, in addition to the target subject, be placed in the physical line-up. In the event we are unable to locate five similar individuals after a reasonable effort, four additional persons may be used, but in any event, no fewer than four. The position of the target subject shall be rotated so that they will not always appear in the center, or same location. The physical line-up procedure is the only one permitting fewer than five fillers.
- (10) It is preferable that as few police officers as possible be used in the physical line-up. Generally, inmates of the Detention Center should be used, but if circumstances warrant, similar type individuals may be used regardless of their occupation. Our objective is to present as fair a physical line-up as is reasonably possible.
- (11) Each subject will be attired in a similar fashion so that there is no undue claim of suggestibility. Dressing each of the subjects in jail clothing is a preferred method to ensure this requirement.
- (12) All witnesses viewing the physical line-up should be physically separated by an appreciable distance so that no conversation can take place among them. Additionally, all officers shall be similarly situated away from the witnesses. Witnesses must be instructed prior to the proceedings not to comment verbally or make any specific movements which might tend to influence anyone else present, until after the physical line-up is completed.
- (13) All photographs of the physical line-up procedure shall be taken by Crime Lab or Forensic Imaging Unit personnel. Photographs shall be captured in color. At least two photographs shall be taken and will show the following:
- a. The target subject and all other individuals lined up with him or her as viewed by the witnesses.
  - b. The witnesses' positions in the audience to include the attorney representing the target subject (if present).
- (14) The Physical Line-up participants will be shown to the witness(es) one at a time. The participants will turn 360 degrees around so that all sides can be viewed. The witness(es) will be given time to view each participant prior to them leaving the room and the next participant entering. Should the participants be required to make a statement, particular movement, or wear a specific item of clothing (e.g., a bandanna, hat, etc), each participant will make the same statement, wear the same clothing item, or make the same specific movement.
- (15) After the witnesses have viewed the individuals in the physical line-up they will be required to complete the Admonition/Identification, DPD 170. The attorney representing the target subject shall be allowed to be present when the witness(es) renders the results of their observations to the officers conducting the physical line-up, and shall be permitted to review the front portion of the card. At this point, the physical line-up will be presumed to have been concluded.
- (16) At all times during the Physical Lineup procedure, the status of the attorney representing the target subject (if any) shall be that of an observer only.

#### 104.45 Persons Held for Colorado State Parole

Procedure for jailing persons held in custody by a Colorado State Parole Officer:

- (1) Denver Police officers are authorized to transport to and incarcerate in the Detention Center, any person being held in the custody of a State Parole Officer.

## REV. 10-14

- (2) The parole officer will complete two forms, Denver Sheriff's Department Form 38 and State of Colorado Form PD 3-9, and turn them over to the Denver Police officer with the prisoner.
- (3) Police officers shall then deliver the prisoner and the two completed forms directly to the Detention Center.

### 104.46 Night Club Occupancy Regulations - Enforcement

- (1) Any officer, who receives a call concerning overcrowding, or finds possible violations relating to occupancy, shall advise the Denver Fire dispatcher at 720-913-2400. Fire Dispatch will then determine the appropriate Fire Department response according to the time of day and geographic location. The officer will also advise Denver 911 police dispatch of their activity and location.
- (2) The initial officer will also send a letter to the Vice and Narcotics Control Section stating the name and location of the establishment, the date and time of the incident, name, address and date of birth of the manager, owner or party responsible for the establishment at the time of the incident; as well as the name, address and date of birth of the doorman, bartender and any employees involved in the operation of the establishment at the time of the incident.  
This letter should contain any and all perceived violations he or she observed; the name of the Fire Department investigating officer and what action was taken. The Vice and Narcotics Control Section will follow-up with Excise and License and take any further police action deemed appropriate.
- (3) Officers should not issue summons in any case for occupancy violations unless requested to do so by Fire Department or Building Department Inspectors.
- (4) Officers shall not advise business operators to install dead bolt locks on exit doors for security.

### 104.47 Arrest of Bail Bond Fugitives

- (1) Officers shall not assist bail bond personnel in apprehending a bond principal UNLESS:
  - a. A valid warrant issued by the court has been processed, an official pick-up placed in the Identification Section and entered into the CCIC computer system. See OMS 104.09(3), or
  - b. The computer printout containing information about an existing warrant in a jurisdiction other than the City and County of Denver has been verified by Identification Section personnel and this action noted on the printout. See OMS 104.01(20), or
  - c. Circumstances surrounding the activity amount to probable cause for an arrest
- (2) Officers shall not assist bond personnel in the arrest of a bond principal simply because there is a belief that the bond principal may leave the jurisdiction of the Denver court before satisfying the conditions of the bond.
- (3) The rules involving search and seizure are the same when assisting bail bond personnel as in any other arrest situation. Officers shall not extend any special "stand-by" privilege to bail bond personnel that would not be extended to any other citizens.
- (4) Officers shall notify a supervisor on any call where officers are unable to assist the bond personnel due to lack of a warrant or probable cause.
- (5) supervisor must respond to the scene if there is any information that bail bond personnel are acting outside the scope of their authority or violating the law.

### 104.48 Protective Custody

- (1) "When a person is intoxicated or incapacitated by alcohol and clearly dangerous to the health and safety of himself, herself or others, he or she shall be taken into protective custody by law enforcement authorities or an emergency service patrol, acting with probable cause, and placed in an approved treatment facility ... A taking into protective custody under this section is not an arrest, and no entry or other record shall be made to indicate that the person has been arrested or charged with a crime..."  
C.R.S. §27-81-111
  - a. No person detained or taken into protective custody for commitment to a detoxification facility shall, at any time, be listed on any police document of official action as having been arrested nor shall the fact of such detention or protective custody be released to anyone outside the Denver Police Department.
  - b. In order to take an individual into protective custody under this section, an officer must have probable cause to believe that the person is sufficiently intoxicated as to be a danger to himself, herself or others, given the totality of the circumstances.

- (2) "A law enforcement officer or emergency service patrol officer, in detaining the person, is taking him or her into protective custody. In so doing, the detaining officers may protect himself or herself by reasonable methods, but shall make every reasonable effort to protect the detainee's health and safety." C.R.S. §27-81-111
- (3) When an officer takes a person who is intoxicated or incapacitated into protective custody, the officer shall:
- a. Request the Detox van via the dispatcher on the officer's primary channel. The officer will then switch to the service channel and give the subject's name and date of birth, and the location from which the subject was transported, to the service channel operator. The van will then transport the person to the appropriate facility.
  - b. Should the officer decide to transport the subject in his/her police vehicle, the officer shall advise the dispatcher of the transport on the primary channel, then switch to the service channel and give the subject's name and date of birth, and the location from which the subject was transported, to the service channel dispatcher.
  - c. If the intoxicated person is injured or otherwise in need of medical attention, the officer shall call for an ambulance rather than the van. Additionally, persons in wheelchairs cannot be transported in the van and must be transported by ambulance to the appropriate facility.
  - d. Complete a street check, ensuring that the individual's specific behaviors are documented in order to verify that probable cause did in fact exist.
- (4) Any officer acting in good faith who believes that a person is mentally ill or mentally deficient (this would include an aged person who is perhaps senile and confused) and that person is apt to injure or endanger himself or others if allowed to remain at liberty, may take such person into custody.
- a. Suspected mentally ill persons will be processed as directed in OMS 104.30.
  - b. Aged, senile, disoriented persons who are walk-aways from nursing homes or other shelters may be returned to these shelters if possible. If not, the officer should take the person to Denver Health Medical Center, NOT TO JAIL. A Sick and Injured Report, DPD 150 will be completed by the officer. One copy is to be left at the Admissions Desk and the other is to be forwarded to the Missing Persons Unit.

#### 104.49 Elderly/Disabled Persons/Persons with Disabilities

- (1) Definitions
- a. Disabled condition - the condition of being unconscious, semiconscious, incoherent or otherwise incapacitated to communicate. C.R.S. §25-20-102
  - b. person - a person in a disabled condition. C.R.S. § 25-20-102
  - c. Elderly - a person who is sixty years of age or older. C.R.S. §16-1-104
  - d. Person with a disability - any person who: C.R.S. §18-6.5-102
    1. Is impaired because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision of both eyes to such a degree as to constitute virtual blindness; or
    2. Is unable to walk, see, hear, or speak; or
    3. Is unable to breath without mechanical assistance; or
    4. Is developmentally disabled as defined in C.R.S. §27-10.5-102; or
    5. Is mentally ill as the term is defined in C.R.S. §27-10-102; or
    6. Is mentally impaired as defined in C.R.S. §24-34-301; or
    7. Is blind as defined in C.R.S. §26-2-103; or
    8. Is receiving care and treatment for a developmental disability under C.R.S. §27-10.5
- (2) The age or disability of the victim or witness shall not be a factor in determining whether to file a General Occurrence (GO) Report or proceed with an investigation.

- (3) Incidents involving elderly persons
  - a. When a primary caregiver is arrested or unavailable, the officer shall attempt to locate temporary attendant care, such as a friend or relative. If such care is not available, the officer shall notify Denver 911 to contact a Victim Assistance Team Member (V.A.T.). The officer shall remain at the scene pending arrival of V.A.T. The V.A.T. member will arrange for emergency attendant care following the Denver Interagency protocol for crime victims who are older or who have a disability.
  - b. If an officer believes that an elderly or disabled person is not receiving adequate care, either through neglect or failure to provide services, the officer shall document his observations and concerns on Inter-Department Correspondence, DPD 200, and forward a copy via inter-departmental mail to the Denver Department of Social Services, Adult Services.
- (4) Disabled persons who are ill or being arrested
  - a. Officers often encounter individuals who are unconscious, semiconscious, incoherent, or otherwise incapacitated and unable to communicate. Diabetes, epilepsy, cardiac conditions, allergies, and other physical illnesses can cause temporary blackouts, periods of semi-consciousness or unconsciousness.
  - b. An officer shall make a reasonable search for an identifying device (bracelet, necklace, metal tag, or similar item), which contains emergency medical information. This information may also be found on a Colorado driver's license. Whenever feasible, this effort shall be made before the person is charged with a crime or taken to a place of detention.
  - c. If there is reason to believe that a disabled person is suffering from an illness causing the condition, the officer shall promptly notify the person's physician, if practicable.
  - d. If an officer is unable to ascertain the physician's identity or to communicate with him, the officer shall have the disabled person immediately transported to Denver Health Medical Center. See OMS 102.09.
- (5) Persons with disabilities
  - a. The Americans with Disabilities Act (ADA) requires that the Denver Police Department make it possible for persons with disabilities to participate in or benefit from services, programs, and activities. They should not be treated differently, just because of their disabilities.
  - b. Hearing Impaired Persons
    - 1. The Denver Police Department must have available auxiliary aids and services for persons who are hearing impaired. Auxiliary aids and services include qualified interpreters, computer aided note taking, written materials, and note pad and pen. The Department must give a hearing impaired individual the opportunity to request the auxiliary aid or service of his or her choice and will give primary consideration to the expressed choice of the individual, unless it can be demonstrated that another effective means of communication exists or that use of the means chosen would result in undue financial and administrative burdens.
    - 2. Hearing impaired victims, witnesses, or suspects
      - a. If an officer is able to communicate effectively by writing questions on a note pad and having the victim, witness, or suspect write his or her responses, then the officer may proceed with the interview in that manner. Anytime written communication is not effective, a qualified interpreter must be provided.
      - b. Interrogation of a hearing impaired suspect: If an officer cannot effectively inform a hearing impaired suspect of the Miranda warnings without the use of an interpreter, the officer must secure the services of a qualified interpreter. In these instances, officers must also obtain the services of a qualified interpreter prior to any interrogation whenever an interpreter is needed for effective communication.
    - 3. When used in a criminal investigation, all identifying information on the interpreter must be included in the officer's report. All written questions and responses must be treated as evidence and handled accordingly.
    - 4. Interpreters for the hearing impaired are available on a 24-hour basis and may be requested through the Denver 911.

#### **104.50 Domestic Violence**

- (1) Domestic violence crimes are like any other crimes. However, there are unique procedures that officers must follow in domestic violence cases.

- (2) The policy of the Denver Police Department is to view all domestic violence complaints as instances of alleged criminal conduct. Arrest, charging, and taking custody of the suspect(s) involved shall be deemed the most appropriate law enforcement response when officers determine that probable cause exists in domestic violence situations.
- (3) DOMESTIC VIOLENCE means “an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship”. “Domestic Violence” also includes any other crime against a person, against property, or any municipal ordinance violation against a person or against property, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship. C.R.S. 18-6-800.3(1)
- a. “Intimate relationship” means relationships between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time. C.R.S. §18-6-800.3(2)
  - b. “Unmarried couples” means persons who are, or have in the past, been involved in an ongoing intimate relationship. This definition includes same sex couples. Officers shall consider two people to be an “unmarried couple” if one or more of the following is true:
    1. They have dated more than once
    2. They have had sex
    3. They refer to each other as “boyfriend,” “girlfriend,” partner, or refer to each other with terms of endearment indicating a developing relationship
  - c. Other cases requiring a mandatory arrest and which shall be investigated by the Domestic Violence Unit will also include:
    1. Cases involving Harassment by Stalking (defined by C.R.S. §18-9-111), where the suspect appears to be pursuing a relationship with the victim
    2. Cases in which at-risk persons (defined in C.R.S. §18-6.5-102) are victimized by their primary caregivers
- (4) Domestic violence does not include violence between family members who are not in an intimate relationship (i.e. cousins, parent-child, siblings, etc.). This does NOT mean the perpetrator should not be arrested. These cases should be taken seriously. OMS 104.01 (10)
- (5) The standards for determining probable cause in domestic violence cases are the same as in other criminal actions.
- a. To the extent possible and to the extent allowed by current law, domestic violence perpetrated by a juvenile should be treated as seriously as the same act committed by an adult.
  - b. Probable cause cannot be based upon considerations such as the potential financial consequences of an arrest (for the suspect or victim), verbal assurances that the violence will cease, or speculation that a complainant may not appear in court to testify. Officers may not consider the profession, community standing, status, etc. of the suspect in determining probable cause
  - c. When weighing the issues of probable cause officers must keep in mind Injuries, though present, may not be readily visible
    1. Victims of domestic violence may not show the “expected” emotional response. Some of the specific behaviors that may seem inconsistent to the officer include lack of appropriate emotional response, non-cooperation, laughter, minimization/denial, irrationality, anger, aggression, and/or hysteria.
    2. In some situations, the victim’s willingness to sign a complaint may be the sole basis for probable cause, absent contradictory evidence. However, it is not necessary for the victim to sign a complaint if the officer has probable cause to believe the offense occurred. A peace officer shall not be held civilly or criminally liable for acting pursuant to the domestic violence laws if the peace officer acts in good faith and without malice. C.R.S. §18-6-803.6(5). Officers will arrest the predominant physical aggressor:
    3. Arresting both parties is considered the least appropriate response.
    4. If a peace officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if a crime has been committed by one or more persons. In determining whether a crime has been committed by one or more persons, the officer shall consider the following:

5. Any prior complaints of domestic violence;
  6. The relative severity of the injuries inflicted on each person;
  7. The likelihood of future injury to each person; and
  8. The possibility that one of the persons acted in self-defense
  9. If an officer cannot determine who the predominant aggressor is, a supervisor shall respond to the scene to help in that determination. If a supervisor responds and determines both parties shall be arrested the supervisor will include the reasons for this decision in his/her statement.
- d. The following should NOT be considered alternatives to the mandatory arrest law (in other words, officers must also complete a domestic violence investigation in addition to the following):
1. DETOX
  2. The existence of arrest warrants for either party
  3. Mental Health Holds
  4. New charges resulting from non-domestic violence-related criminal activity
- (6) If an officer has questions regarding this or any other domestic violence-related issue, the officer may call their supervisor or the Domestic Violence Investigations Unit (720) 913-6071. If after hours, call a Denver 911 Supervisor at (720) 913-2012 and they will assist an officer with locating a detective.
- (7) When probable cause does exist, the officer shall arrest and charge the suspect(s) with the appropriate offense(s). Suspects may be charged through the City Attorney's Office for municipal ordinance violations or the District Attorney's Office for misdemeanors or felonies. More serious cases SHOULD ALWAYS be filed with the District Attorney's Office in State Court. The following criteria shall be used when determining what level to charge a case:
- a. Level of injury to victim, more serious injuries, such as the following, should be completed on a General Occurrence (GO) report, DPD 250:
    1. Stitches
    2. Fractures, broken bones, dislocations, or internal injury
    3. Severe bruising or burns
    4. Loss of teeth or broken teeth
    5. Loss of consciousness
    6. Strangulation or asphyxiation
    7. Hospitalization or transport for medical treatment.
    8. Use of a deadly weapon with the intent to cause fear and/or bodily injury.
  - b. Violation(s) of protection order (if an officer determines that an active protection order is in place, any new domestic violence charges should be included on a General Occurrence (GO) report, DPD 250.)
  - c. Level of threat to victim during present incident as well as future risk to victim.
  - d. behavior should always be charged on a General Occurrence (GO) report, DPD 250.
  - e. Victim pregnancy - (a General Occurrence (GO) report, DPD 250, shall be completed on all cases with pregnant victim).
  - f. Intimidation of a witness is a STATE crime.
  - g. Perpetrator's criminal history.
  - h. Child Abuse/Child Endangerment.
  - i. At-Risk status of victim.
- (8) All domestic violence investigations will be of the same quality regardless of the court level at which they are filed.
- (9) All cases to be charged and filed with either the **District Attorney's Office** or the **City Attorney's Office** must include the following:
- a. Written statements from the victim and key witnesses are always required.
  - b. Written statements from each individual responding or covering officers.
  - c. Still photographs (Digital or Crime Lab) will be taken of the victim, all visible injuries, property damage, and weapons used in an offense. The suspect will also be photographed (this is to document injury or lack of injury).

- d. Digital video and audio statements from the victim are required. This evidence may be used to identify injuries, identify the defendant, prove self-defense, identify property damage, etc.
- e. Digital video and audio statements from the children are required. (Officers may take the age of the child into consideration when taking a statement, but must document such use of discretion in their statement).
- f. If a defendant is not present, obtain any (current) existing photo of the defendant. Use the photo to obtain identification of the suspect by the victim. An officer will ask the victim to sign the photo indicating that the photo is of the suspect in the reported crime.
- g. A complete Neighborhood Survey. (Officers will take a statement if witnesses are located).
- h. A Domestic Violence Case Summary is to be completed regardless of the type of incident (property crime, protection order violation, City Attorney case, District Attorney case, Sexual Assault, etc.).
- i. All evidence associated with this case shall be photographed and collected.
- j. All evidence shall be placed in the Property Management Bureau. A copy of the invoice must be included in the packet and the property invoice number included on the GSS&C as well as the GD/GW number included on the property invoice.
- k. A statement of probable cause will include a description of the actions of the defendant, the elements of the charged offense, and the name and DOB of the victim.
- l. The investigating officer will include a detailed written statement specifying the actions of the suspect and the victim during and leading up to the charged offense and document the emotional condition of the victim and suspect and any spontaneous statements they make.
- m. When filing with the City Attorney's Office:
  1. Fill out either a General Session Summons & Complaint (GSS&C), when arresting the suspect outright or a General Session Summons & Complaint Warrant (GW-warrant), when issuing a municipal warrant.
  2. The officer must check the "domestic violence" box on the appropriate form (GSS&C or GW).
  3. When filing on a General Sessions Summons & Complaint Warrant (GW-warrant) place all the appropriate paperwork in the Document Pack for Municipal Cases, DPD 504. Then attach it to the GW-warrant before placing it in the GW-warrant routing envelope (do not send the packet to the domestic violence unit, but put it in the mail to the ID Bureau).
- n. When filing with the District Attorney's Office:
  1. When a warrant is to be issued for either a felony or misdemeanor, complete a General Occurrence (GO) report, DPD 250, and with the aforementioned paper work, OMS 104.50 (9), forward it to the Records Section.
  2. When making a misdemeanor or felony arrest complete a General Occurrence (GO) report, DPD 250, Felony or Misdemeanor PA, and Probable Cause Statement and with the aforementioned paper work, OMS 104.50(9), forward it to the Records Section.

(10) The following charges are ALWAYS filed with the District Attorney's Office. Due to their nature, they have specific requirements:

- a. **First Degree Assault** (CRS §18-3-202, a class 3 Felony) or **Second Degree Assault** (CRS 18-3-203, a class 4 Felony) –
  1. Is Serious Bodily Injury Present? If yes, obtain an SBI report from the attending physician (an officer may leave it with the doctor if they obtain his or her name and include that in their written statement).
  2. Collect *any* weapon used in the assault.
  3. Obtain a *HIPPA* compliant medical release from the victim.
  4. Attempt to ascertain any history of domestic violence (this can be documented on the Domestic Violence Case Summary, DPD 385).
- b. **Felony Criminal Mischief** (CRS §18-4-501, a class 4 Felony if the damage is between \$1,000.00 and \$20,000) -
  1. Obtain a verbal estimate of the damage from the victim and advise them to obtain a written estimate for the prosecutor.
  2. Take photos (digital or Crime Lab) of the damage.



- c. **Stalking** (CRS §18-9-111, a class 5 Felony for the first offense) –
  - 1. Collect all letters, email, journals, phone messages, audiotapes, or other evidence the victim may have, and place them into evidence.
  - 2. Obtain a copy of any existing protective order.
  - 3. Contact neighbors or co-workers as many of them may have relevant information regarding the suspect or behavior.
  - 4. Statement from victim to include information on credible threat and/or severe emotional distress (change in victim's life; counseling, sleeplessness, fear, etc...).
- d. **Second Degree Kidnapping** (CRS §18-3-302, a class 4 Felony) -
  - 1. Obtain a detailed statement from the victim (make sure to ask whether there was any sexual assault or sexual contact as this is common in kidnapping cases).
  - 2. Officers should **describe how** the victim was moved (an example would be the force or coercion a suspect used to force movement).
  - 3. Officers will describe the victim's demeanor.
  - 4. Officers should remember to describe the circumstances which may have made a kidnapping easier (i.e. high heels, clothing, holding a baby, etc) and also the circumstances of the location (was the victim in a busy street or secluded location, was the victim coerced by embarrassment in front of co-workers, etc).
- e. **Sexual Assault** (CRS §18-3-402) –
  - 1. All Sex Assault cases are to be handled according to OMS 301.23. The following information should be considered as additional steps and officer should consider in domestic violence sexual assault cases.
  - 2. Locate outcry witnesses.
  - 3. Ask the victim about prior domestic violence incidents.
  - 4. Obtain a *HIPPA* compliant release of medical records form from the victim (located on the back of the Domestic Violence Case Summary).
  - 5. Determine whether drugs or alcohol were any part of the incident.
  - 6. Ask the victim if the suspect has made any contact since the assault. If the answer is yes, document what the suspect said or did.

(11) Juvenile suspects

- a. Juveniles arrested for domestic violence, as defined in OMS 104.50(2), will be handled using state charges and a General Occurrence (GO) report, DPD 250.
- b. A Domestic Violence Case Summary is required.
- c. The juvenile suspect will be processed per Juvenile Intake procedures.

(12) Arrest Procedures for Domestic Violence Incidents

- a. It is NOT necessary for the victim to agree to press any charges. However, whenever an arrest is made, the victim must be listed as a witness in any notes the officer makes.
- b. When city ordinance violations are appropriate, the Domestic Violence Case Summary, DPD 385, shall be completed and attached to the City Attorney's Copy of the General Session Summons and Complaint. Relevant statements made by the parties involved should be included in the reports submitted. Officers should also describe the emotional state of the party making the statement.
- c. In cases where a General Occurrence (GO) report, DPD 250, is required, the officer shall complete the Domestic Violence Case Summary, an officer statement, and take statements from the victim and any witnesses on DPD 366. The statements are to be forwarded to the Domestic Violence Bureau, Major Crimes Division, via inter-departmental mail.
- d. All forms must be completely filled out with as much detail as possible, including:
  - 1. Complete addresses (apartment number, etc.) of victims and all witnesses.
  - 2. A second permanent address and telephone number of the victim (such as address of a close family member or friend) since many victims will relocate before the case comes to trial.
  - 3. If children are present, include their full names, addresses, and DOBs.
  - 4. Child Abuse charges to be added if:
    - a. Determined children are in the room when violence occurred.
    - b. Determined children are in danger of physical injury or harm due to the violence at hand.

- e. **On all Domestic Violence felony arrests**, the victim assistance on call person will be called out.
- (13) In calls for police assistance involving domestic violence, officers should advise the victim of assistance services available from both public and private agencies.
- (14) When a person involved in a domestic violence incident requests police assistance in removing a reasonable amount of personal property to another location, officers shall remain at the scene for a reasonable amount of time to make certain the property is removed without interference.
- (15) An officer is authorized to use every reasonable means to protect the alleged victim or victim's children to prevent further violence, including the provision of transportation to a shelter or other location within a reasonable distance for those domestic violence victims fearful of their safety. The Denver Police Cab Voucher Program may also be used for this purpose.
- (16) If the District Attorney declines to file state charges, but there is probable cause to believe that a municipal ordinance violation occurred, a General Session Summons & Complaint or General Session Summons & Complaint/Warrant will be completed by the detective. If the suspect is a juvenile, the detective will complete and serve a Juvenile Summons & Complaint/Warrant. Copies of the General Occurrence (GO) report, DPD 250, and any other reports will be attached to the City Attorney's copy of the appropriate form.
- (17) Domestic violence incidents with an officer or sheriff is the suspect.
- a. It is the policy of the Denver Police Department that criminal acts involving domestic violence shall be handled in the same manner as other alleged criminal acts believed to have been committed by a Denver Police Officer. When a Denver police officer, Denver Sheriff, or any other law enforcement officer is a suspect in a domestic violence incident occurring within the City and County of Denver, the officer will be processed and incarcerated in the same manner as any other citizen, using the following guidelines.
- b. Suspect officer/sheriff at the scene:
1. Upon determining there is probable cause to believe a crime has occurred and a Denver Police Officer, Denver Sheriff, or any other law enforcement officer is the alleged suspect, the officer/sheriff will be detained at the scene by the highest ranking officer present and the Internal Affairs Bureau notified.
  2. Upon the arrival of a command officer from the Internal Affairs Bureau, the suspect will be advised of his/her Miranda rights, arrested and charged appropriately by the Internal Affairs Bureau command officer.
  3. The suspect officer or sheriff will then be taken to the Detention Center and arraigned by a judge at the next available opportunity.
  4. The Internal Affairs Bureau command officer will offer the suspect officer or sheriff the assistance of the employee organizations, Psychological Services, and Peer Support.
  5. The suspect officer or sheriff's chain of command will be immediately notified of the incident.
  6. While at the scene, the investigating Internal Affairs Bureau commander shall offer the victim the services of the Denver Police Department Victim Assistance Unit and encourage the victim to use this resource. The commander shall make immediate telephone contact between the victim and the Victim Assistance Unit Director. If the victim should refuse to discuss the details of the incident. A copy of the General Occurrence (GO) report, DPD 250, or GSS&C completed for the incident should be forwarded to the Victim Assistance Unit Director by the next business day.
- c. Suspect officer or sheriff no longer at the scene:
1. A command officer from the Internal Affairs Bureau shall conduct and supervise the investigation. If probable cause is established, a GSS&C/Warrant or Probable Cause Warrant shall be obtained.
  2. Every reasonable effort will be made to locate the suspect officer/sheriff.
  3. When the officer/sheriff is located, a command officer from the Internal Affairs Bureau, or his designee, will immediately serve the officer/sheriff with the warrant and jail the officer/sheriff, with processing as indicated by the warrant.
  4. The officer's or sheriff's chain of command and Deputy Chief will then be notified by the Internal Affairs Bureau command officer.

5. While at the scene, the investigating Internal Affairs Bureau commander shall offer the victim the services of the Denver Police Department Victim Assistance Unit and encourage the victim to use this resource. The commander shall make immediate telephone contact between the victim and the Victim Assistance Unit Director.

If the victim should refuse to discuss the situation with the Victim Assistance Director, the commander will inform the Director of the details of the incident. A copy of the General Occurrence (GO) report, DPD 250, or GSS&C completed for the incident should be forwarded to the Victim Assistance Unit Director by the next business day.

- d. Any Denver Police Officer, who witnesses or has firsthand knowledge of a domestic violence incident involving another Denver Police Officer or Denver Sheriff, regardless of jurisdiction of occurrence, must report that incident. See Duties and Responsibilities of Personnel, OMS 3.05.
  1. The reporting officer shall notify his commanding officer through the chain of command. The reporting officer's or sheriff's commander, after being notified, shall immediately notify a command officer within the Internal Affairs Bureau.
  2. If off-duty, the reporting officer will notify Denver 911, which will notify the Internal Affairs Bureau.
  3. Officers who witness or have firsthand knowledge of a domestic violence incident involving a Denver Police officer or sheriff as the alleged suspect, and who fail to officially report this information, shall be subject to departmental discipline, regardless of the jurisdiction of occurrence of the alleged incident.
- e. The Internal Affairs Bureau will conduct any criminal investigations concerning Denver Police Officers, Denver Sheriffs, or any law enforcement officer alleged to be involved in domestic violence incidents within the City and County of Denver. The Major Crimes Division, at the request of the Internal Affairs Bureau, will provide appropriate assistance in the investigations.
  1. If probable cause exists to believe an incident of domestic violence involving a Denver Police Officer, Denver Sheriffs, or any law enforcement officer has occurred, a command officer from the Internal Affairs Bureau shall be notified immediately. If the incident has occurred within the past twenty-four hours within the City and County of Denver, the Internal Affairs Bureau commander shall respond to the scene or to the location of the victim.
  2. If an alleged incident of domestic violence involving a Denver Police Officer or Denver Sheriff occurs outside the City and County of Denver, the Internal Affairs Bureau will assist the outside investigating agency however possible. The Internal Affairs Bureau will also initiate an internal investigation regarding possible administrative charges associated with the alleged incident.
- f. Officers or sheriffs who are alleged suspects in domestic violence incidents may avail themselves of departmental resources such as the Peer Support Program, the Police Department Psychologist, or the Chaplain Program. These resources, or others with which an officer is familiar, are available outside the scope of any other departmental or criminal action.

(18) Officers Subject to a Domestic Violence Restraining Order:

- a. Any sworn member of the Denver Police Department who is the subject of a protection order arising out of a domestic violence situation is ordered to provide a copy of that order to the Internal Affairs Bureau within 24 hours of the receipt of the restraining order.
- b. This provision does not apply to the mutual protection orders automatically issued in the filing of routine divorce cases; it only applies to those orders issued due to incidents involving allegations relating to domestic violence.
- c. When an officer appears at the Internal Affairs Bureau with a protection order, an Internal Affairs Bureau supervisor will review the order to determine if it meets the criteria under the Federal Crime Bill. If the order satisfies the criteria, the officer will be served a document advising him/her of the crime bill restrictions.

(19) Physician Reporting of Domestic Violence:

- a. Denver 911 personnel shall dispatch a police officer to a report of domestic violence irrespective of the victim's willingness to report the incident, the jurisdiction in which the incident occurred, or the lack of information on the part of the physician or physician's staff placing the call.
- b. Officers responding to a physician's office to take a report of a domestic violence incident for which the Denver Police Department has jurisdiction, shall follow established procedures.

- c. If the available information is insufficient to determine the presence of a crime or the jurisdiction, a General Occurrence report, titled "Letter to Detectives" will be completed and forwarded to the Domestic Violence Bureau for investigation.
- d. Where Denver does not have jurisdiction, the details will be forwarded to the appropriate jurisdiction for disposition

#### 104.51 Arrests in Liquor Licensed Establishments

- (1) When persons are ordered-in or arrested in bars, taverns, liquor licensed establishments, the arresting officer will report this fact to the Vice/Drug Control Bureau on DPD 200, Inter-Department Correspondence. The officer will state the name and address of the person arrested or ordered-in, the violation for which the arrest or order-in was made, and the name and address of the establishment in which the arrest or order-in took place. See OMS 304.02(2)a2, General Rules and Regulations Governing Liquor Outlets.

#### 104.52 Arrest/Detention of Foreign Nationals

- (1) Whenever any foreign national is arrested or detained, the arresting officer will determine the arrestee's country of citizenship and whether the arrestee wants his embassy to be notified.
- (2) The arresting officer will then contact the Identification Section and provide that information plus the arrestee's full name and date of birth.
  - a. Identification Section personnel will consult the embassy notification list provided by the U.S. State Department. If the arrestee is a citizen of a country requiring mandatory notification, Identification Section personnel will make the notification.
  - b. If the foreign national requests the notification, it will be made.
  - c. If the arrestee's country of citizenship does not require mandatory notification and if the arrestee does not want notice given, no further information is necessary except that the arresting officer will note this information on the arrest documents.
  - d. The Identification Section will keep a record of all such foreign embassy notifications.
- (3) Undocumented immigrants (includes illegal and "undocumented aliens" as referred to in the Federal Immigration and Naturalization act).
  - a. The responsibility for enforcement of immigration laws rests with the Bureau of Immigration and Customs Enforcement (B.I.C.E.). Denver Police officers shall not initiate police actions with the primary objective of discovering the immigration status of a person.
  - b. Generally, officers will not detain, arrest, or take enforcement action against a person solely because he/she is suspected of being an undocumented immigrant. If enforcement action is deemed necessary under these circumstances, the approval of an on duty supervisor or commander is required. In addition, as soon as is practical the commander of the involved officer shall be notified.  
(The original section c. has been deleted. Revised 11-2011)
  - c. The charge "Hold For Immigration" will be lodged against a prisoner only when a warrant has been issued by the U.S. Department of Justice, or an agency thereof, and then only when the warrant is on an immigration matter.
  - d. Physical evidence pertaining to immigration violations shall be placed in the Property Management Bureau as evidence when there is no arrest made. A letter detailing the circumstances of the recovery of the property and the property invoice number shall be sent to the commander of the Major Crimes Division for disposition.
  - e. All questions pertaining to the handling of immigration related cases shall be directed to the officer's supervisor and/or commanding officer. In addition, the commander of the Civil Liability Bureau is available for guidance regarding enforcement and non-enforcement immigration matters.

#### 104.53 Nuisance Abatement (Revised 08-2010)

- (1) It is the policy of the Denver Police Department that real property and vehicles upon which Public Nuisance activity, as defined by Denver Revised Municipal Code (D.R.M.C) section 37-50 and C.R.S. §16-13-303, is occurring be investigated using sound investigative practices, in a manner consistent with the goal of abating the activity.

- a. Abatement of criminal activity occurring at **real** properties may be obtained through the following means, in order of preference:
  - 1. Intervention and resolution by the District Officer, Neighborhood Police Officer, or Community Resource Officer
  - 2. Investigation by the NAU and voluntary compliance with an Abatement Plan
  - 3. Court action and seizure
- b. Because it is difficult to determine which nuisance situations will be abated through voluntary compliance, the following procedures and guidelines shall be followed. They are not all-inclusive and should be interpreted as minimal standards.

(2) Public Nuisance Defined

- a. Properties which are experiencing only health, zoning, or building violations are not public nuisance properties and should be referred to the appropriate City agency for inspection and follow-up. These properties may also be handled in a manner established by District or Bureau Commanders, consistent with community needs.
- b. A property or vehicle shall be referred to the Nuisance Abatement Unit for investigation as a public nuisance when one or more of the following illegal activities occurs, regardless of whether the person engaged in the activity is a patron, employee, owner, resident, occupant, guest, or visitor.
  - 1. Prostitution as defined by C.R.S. §18-7-201; soliciting for prostitution, as defined by C.R.S. §18-7-202; pandering as defined by C.R.S. §18-7-203; keeping a place of prostitution as defined by C.R.S. §18-7-204; or pimping as defined by C.R.S. §18-7-206.
  - 2. Professional gambling as defined by C.R.S. §18-10-102(8), maintaining a gambling premises as defined by C.R.S. §18-10-102(5), or keeping of a gambling device or record as defined by C.R.S. §18-10-102(7).
  - 3. Unlawful manufacture, cultivation, growth, production, processing, sale, distribution, storage, use, or possession of any controlled substance, as defined by C.R.S. §18-18-102, §18-18-104, §18-18-404, §18-18-405 or §18-18-406; any imitation controlled substance as defined by C.R.S. §18-18-420(3), §18-18-421 or §18-18-422; or any counterfeit controlled substance as defined by C.R.S. §18-18-423, except for simple possession of less than eight (8) ounces of marijuana.
  - 4. Felony or misdemeanor theft by receiving as defined by C.R.S. §18-4-410.
  - 5. Unlawful manufacture, sale, advertisement, or distribution of drug paraphernalia as defined by C.R.S. §18-18-426, C.R.S. §18-18-427, C.R.S. §18-18-429 and C.R.S. §18-18-430.
  - 6. Prostitution of a child as defined by C.R.S. §18-7-401; soliciting for child prostitution as defined by C.R.S. §18-7-402; pandering of a child as defined by C.R.S. §18-7-403; keeping a place of child prostitution as defined by C.R.S. §18-7-404; pimping of a child as defined by C.R.S. §18-7-405; or inducement of child prostitution as defined by C.R.S. §18-7-405.5.
  - 7. Sexual exploitation of children as defined by C.R.S. §18-6-403.
  - 8. Two or more signed complaints of disturbing the peace as defined by Denver Revised Municipal Code (D.R.M.C) section 38-89 within a 180-day period.
  - 9. Unlawful discharge, possession, carrying, flourishing, concealment, storage, use or sale of firearms, knives and/or assault weapons, dangerous weapons, or defaced firearms as defined by Denver Revised Municipal Code (D.R.M.C) sections 38-117, 38-119, 38-121, 38-122, and 38-130, and C.R.S. §18-12-102, C.R.S. §18-12-103, C.R.S. §18-12-105, C.R.S. §18-12-106, and C.R.S. §18-12-108; or any offense relating to incendiary devices as defined by C.R.S. §18-12-109 or Denver Revised Municipal Code (D.R.M.C) Section 38-126.
  - 10. Any gang-related criminal activity.
  - 11. Any drive-by crime as defined by C.R.S. §16-13-301.
  - 12. Four (4) or more offenses within any 180 day period of selling, serving, giving away, disposing of, exchanging, delivering, or permitting the sale, serving, giving or procuring of any malt, vinous, or spirituous liquor, or fermented malt beverage, to or for any person under lawful age or to a visibly intoxicated person, as prohibited by C.R.S. §12-47-128(1)(a) and C.R.S. §12-46-112(1)(b)(I). However, if a person who, in fact, is not of lawful age exhibits a fraudulent proof of age, the selling, serving, procuring, giving away or dispensing of beverages to that person shall not constitute a public nuisance.

13. The sale at retail of any malt, vinous, or spirituous liquors, or fermented malt beverages in sealed containers, or the manufacture, sale or possession for sale of any malt, vinous, or spirituous liquors, without holding a valid license in full force and effect to do so under Title 12, Article 47, and as defined by C.R.S. §12-47-128(f), (g), and □C.R.S. §12-46-112(1)(f).
14. The unlawful transportation or storage of any property that is the subject of a felony theft, misdemeanor theft, or theft by receiving under C.R.S. Title 18.
15. The storage or concealment of weapons or tools used in the commission of crimes of violence as defined by C.R.S. §□16-11-309, drive-by offenses as defined by C.R.S. §16-13-301 or any offense in paragraph (9) above.
16. Possession of injection devices as defined by Denver Revised Municipal Code (D.R.M.C) section 38-173.
17. Two or more signed disturbance complaints of prohibited noises as defined by Denver Revised Municipal Code (D.R.M.C) section 38-101, within an 180-day period.
18. Sexual assaults or attempted sexual assaults, C.R.S. sections 18-2-101, 18-3-402, 18-3-404, 18-3-405, 18-3-405.3, 18-3-405.5; or
19. Indecent exposure, C.R.S. section 18-7-302
20. Keeping, maintaining, controlling, renting, or making available property for unlawful distribution or manufacture of controlled substances, to C.R.S. § 18-18-411; or the unlawful possession of materials to make amphetamine and methamphetamine, to C.R.S. § 18-18-412.5; or, the unlawful sale or distribution of materials to manufacture controlled substances, C.R.S. § 18-18-412.7; or possession of one or more chemicals or supplies or equipment with intent to manufacture a controlled substance, C.R.S. § 18-18-405; or
21. Criminal mischief where the aggregate damage exceeds \$1,000.00, C.R.S. section 18-4-501.
22. Vehicular eluding, C.R.S. section 18-9-116.5, or eluding or attempting to elude a police officer, C.R.S. section 42-4-1413;
23. Keeping, maintaining, controlling, renting or making available property for the unlawful operation of a medical marijuana dispensary without a license; DRMC chapter 24, Article XI, section 24-403.
24. Impersonation of a police officer; CRS 18-8-112; DRMC chapter 38, Article II, section 38-33.
25. Illegal dumping; DRMC chapter 48, Article IV, section 48-44 or; Unlawful disposal of trash in certain containers; DRMC chapter 48, Article IV, section 48-44.5.

(3) Investigative Responsibility

- a. The primary unit charged with the investigation of Public Nuisance violations is the Nuisance Abatement Unit.
- b. Detectives from the Vice/Narcotics Bureau, District Narcotics Unit, and Community Resource Officers from each District will be responsible for certain investigations of public nuisance activities and will work in conjunction with the Department's Nuisance Abatement Unit.
- c. Vice/Drug Control Bureau or District Narcotics Unit
  1. The Vice/Control Bureau or respective District Narcotics Unit investigates public nuisance activity involving the seizure and forfeiture of real property, money, vehicles, or other items. In these instances, personnel from the Vice/Drug Control Bureau or respective District Narcotics Unit shall handle all aspects of the public nuisance investigation from start to finish.
  2. Public nuisance investigations involving prostitution, problem bars and liquor establishments, and gambling may be referred to the Nuisance Abatement Unit for investigation even if no criminal charges are filed against individuals.
- d. District Community Resource Officers (CRO) will work in coordination with the Nuisance Abatement Unit to abate any Public Nuisance problems.

(4) Public Nuisances Involving Vehicles

- a. If any public nuisance violation occurs in a vehicle, the vehicle shall be impounded - Hold for Public Nuisance. During times when the Impound Facility is on emergency status discretion is left to the officer's supervisor whether the circumstances dictate overriding this provision and towing a vehicle is appropriate.

- (5) Asset Seizure and Forfeiture
- a. The Denver District Attorney's Office, Property Confiscation Division is responsible for filing all forfeiture actions. The Denver District Attorney's Office, Property Confiscation Division shall provide guidance during all phases of forfeiture actions.
  - b. Types of property subject to confiscation: (Generally, the minimum value of property submitted for a forfeiture filing must be \$1000.00 or more)
    1. Money: Currency and other financial assets which are proceeds of a crime, or intended to be used to facilitate a crime (e.g. bank accounts, CD's, stocks, savings bonds and etcetera).
    2. Real estate: May include houses, condominiums, town homes, businesses, etcetera, as well as the building's fixtures and contents.
    3. Vehicles: Those used in the commission of the crime, conducting, maintaining, aiding, or abetting the criminal activity, or which are proceeds of the crime.
    4. Personal property: Items used in conducting, maintaining, aiding, or abetting the criminal activity, or which are proceeds of the crime; bought with money earned from the crime (e.g. computers, high-end television sets, electronic equipment, bicycles and etcetera).
  - c. Crimes for which property can be confiscated.
    1. Class 1 Public Nuisance (C.R.S. §16-13-303)
      - a. There must be proof by clear and convincing evidence the property to be forfeited was "instrumental" (i.e. a substantial connection between the property to be seized and the crime committed ) in the commission or facilitation of a crime creating a public nuisance or the property constitutes traceable proceeds of the crime or related criminal activity.
      - b. For property to be forfeited, the law generally requires an owner of the property had knowledge or notice of the criminal activity, or prior similar activity.
      - c. There shall be an accompanying criminal filing on an owner of the property in most cases. Assigned detectives shall discuss with the District Attorney's Office, Property Confiscation Division for any exceptions to this rule (e.g. no one will claim the property, fugitive owner, dead owner, no innocent owner).
  - d. Forfeiture Affidavit
    1. A forfeiture Affidavit shall be completed after meeting the criteria set forth in 104.53 (5) b. and 104.53 (5) c.
      - a. A "Stipulation for Entry of Judgment" (sign-over form) may be utilized in cases involving currency seizures of \$500 - \$3,000 where the suspect voluntarily agrees to sign over the currency at the time of arrest.
      - b. Even with a signed "Stipulation for Entry of Judgment," the assigned detective shall still need to complete a "Judgment and Order of Abatement and Forfeiture" and a "Complaint" to be presented with a copy of the case file to the Denver District Attorney's Office, Property Confiscation Division.
    2. Detectives shall submit the forfeiture Affidavit to the Denver District Attorney's Office, Property Confiscation Division, within twenty (20) days of the seizure of property, so as to enable the District Attorney to comply with the requirement for filing the case in court within sixty (60) days of seizure (the deadline runs from the seizure of the property, not the filing of the criminal case). The assigned detective shall send copies of ALL related paperwork with the forfeiture Affidavit, unless directed otherwise by the Denver District Attorney's Office, Property Confiscation Division.
      - a. Property held as evidence may be exempted from this requirement; however, the Denver District Attorney's Office, Property Confiscation Division, shall make this determination. This exception should not be relied upon due to the unpredictable timing of the conclusion of the criminal case.
      - b. The District Attorney should be notified immediately and provided a copy of the case and ownership information when real property may be a target of forfeiture, so that a "Notice of Seizure" may be filed with the Clerk and Recorder to prevent refinancing or sale of the property.

## e. Service of Process

1. Each person with rights (or claim) to potentially forfeited property (generally those persons listed as defendants in the case caption) shall be served with a copy of the civil forfeiture case filing documents and an "Affidavit of Service" to be filled out and returned to the District Attorney's Office, Property Confiscation Division. The District Attorney's Office, Property Confiscation Division shall provide the assigned detective with the "Affidavit of Service" and packet of documents to be served. The assigned detective shall check to ensure each packet has complete copies of all of the documents listed on the "Affidavit of Service," so the detective can testify, if necessary, that complete copies were served. Generally the documents include but are not limited to:
  - a. Summons
  - b. Complaint
  - c. Affidavit of the Detective (forfeiture Affidavit)
  - d. Motion for Temporary Restraining Order (if applicable)
  - e. Temporary Restraining Order (if applicable)
  - f. District Civil Case Cover Sheet for Initial Pleading of Complaint
2. The assigned detective shall complete service to all named persons within thirty (30) days of receiving the "Affidavit of Service" packet from the Denver District Attorney's Office, Property Confiscation Division. Services which cannot be timely completed due to vacation, reassignment, or other unavailability of the assigned detective shall be reassigned by a supervisor.
  - a. If service cannot be made, the assigned detective shall prepare an "Affidavit in Support of Petition for Service by Publication." The affidavit will articulate the detective's diligent, good faith efforts to locate and serve the named parties.
    1. In cases involving a defendant with a related criminal case, a detective shall not complete an "Affidavit in Support of Petition for Service by Publication" unless the defendant failed to appear at the criminal action.
    2. If the defendant's first court appearance falls outside the thirty (30) day window for service, contact the Denver District Attorney's Office, Property Confiscation Division for direction.
    3. If the criminal case is over, contact the defendant's probation officer or correctional institution where defendant is an inmate to assist with completion of service
  - b. The "Affidavit in Support of Petition for Service by Publication" shall be forwarded to the Denver District Attorney's Office, Property Confiscation Division within forty-five (45) days from the day the forfeiture case was filed (or fifteen (15) days from the original thirty (30) day deadline for service).

## f. Temporary Restraining Orders

1. In the absence of exigent circumstances where there is a compelling need to immediately close a property, defendants must be provided notice and an opportunity for a hearing before physically seizing a house or any other form of real property. The Denver District Attorney's Office, Property Confiscation Division shall make this determination.
2. The assigned detective shall coordinate with the Civil Division of the Denver Sheriff's Office to conduct the physical posting of the Temporary Restraining Order on the door(s) of said property.
  - a. Should the location be unoccupied, the assigned detective shall coordinate to have a locksmith allow officers entry.
  - b. If the property in question has been vacated by the defendant(s) or the location now contains a new, unrelated business, the Temporary Restraining Order posting is unnecessary as is the inventory search of the property. Notification shall be made immediately to the Denver District Attorney's Office, Property Confiscation Division in these instances.
3. The assigned detective shall read the Temporary Restraining Order thoroughly to determine exactly what the assigned detective can and cannot do.
  - a. Generally, the provisions of a Temporary Restraining Order allow for: posting the TRO on the premises, performing an inventory search of the property, placing currency and valuables into property and seizing evidence found in plain view.



4. Each named defendant at the location shall be served with a service packet and an "Affidavit of Service" to be completed and returned to the Denver District Attorney's Office, Property Confiscation Division. Defendants shall be advised they have ten (10) business days to request a hearing and twenty (20) business days to file an answer to the court; the defendants are not being evicted at the time of the Temporary Restraining Order service.
5. The assigned detective shall perform an inventory of the property, videotaping the contents of the property. Currency and valuable articles are to be placed into the Denver Police Property Bureau for safekeeping. The Temporary Restraining Order allows for the inventory of the entire property; thus evidentiary items discovered during the inventory may be seized.
  - a. Place all items recovered from the inventory search into them Denver Police Property Bureau with a copy of the Temporary Restraining Order. Report to the Denver District Attorney's Office, Property Confiscation Division any additional items seized.
  - b. A forfeiture Affidavit shall NOT be required for items seized during the service of the Temporary Restraining Order unless the assigned detective is instructed to do so by the Denver District Attorney's Office, Property Confiscation Division.

**104.54 Narcotics Investigations and Immediate Entry Search Warrants**

- (1) Policy It is the policy of the Denver Police Department that any request for an immediate entry search warrant shall be limited to reasonable concerns for either: (1) the safety of police officers, people who may be in or near the area, and the potential suspects; or, (2) the likelihood of destruction of evidence. To apply for an immediate entry search warrant, the affiant must conclude that there exists a reasonable suspicion that knocking and announcing the presence of the police would be dangerous or futile, or that it would inhibit effective investigation of the crime.
- (2) Definition
  - a. Immediate Entry Search Warrant - A warrant that does not require officers to make their presence known to the occupants of a building or residence prior to entry.
  - b. Knock and Announce Warrant - A warrant that requires officers to first knock on the outer entrance and announce their identity and intentions prior to entering a building or residence. Officers are permitted to forcibly enter if no response is received in a reasonable time or if there are indications the occupants are:
    1. Attempting to flee, or
    2. Destroying evidence or contraband, or
    3. Arming themselves
- (3) **Narcotics Detectives** - Narcotics detectives are the DPD experts in drug affidavits and search warrants. As such, their expertise must be fully utilized.
  - a. Narcotics Detectives as On-Call Experts - Narcotics detectives and supervisors are assigned and designated to serve as on-call liaison to all non-Narcotics Bureau personnel. Narcotics Bureau personnel are responsible for the following:
    1. To be readily available to respond and advise. Designated Narcotics detectives shall have pagers.
    2. To field all requests for technical assistance, including, but not limited to:
      - a. Use of confidential informants
      - b. Controlled purchases of narcotics
      - c. Affidavit and search warrant application
      - d. Execution of any search warrants
  - b. Narcotics detectives shall supervise the use of CIs in the following manner.
    1. Any officer or detective not assigned to the Narcotics Bureau, who wishes to utilize a CI as an investigative tool for a search warrant for drugs, must contact the appropriate Narcotics detective liaison.
    2. The Narcotics detective must supervise the officer and CI.
    3. The officer or detective and Narcotics detective must meet in-person with the CI.
    4. For controlled purchases or other direct investigation, the Narcotics detective must first approve the investigation and be present while it is conducted.

5. The officer or detective and Narcotics detective will assess pertinent factors to determine whether an immediate entry or a knock and announce warrant is most appropriate.
6. Should the investigation produce evidence to justify an application for an immediate entry search warrant, the Narcotics detective shall supervise the preparation of the affidavit and search warrant.
7. The Narcotics detective and affiant shall be present for the execution of the search warrant.

(4) Factors to support an Immediate Entry Search Warrant

- a. **Safety** - The primary and fundamental consideration is safety. An affiant must carefully evaluate the potential danger to:
  1. Police officers executing the search warrant
  2. Others who may be in the area when the search warrant is executed
  3. Occupants of the premises to be searched
  4. Suspects
- b. Additional Factors:
  1. Probability of Violence
    - a. The Criminal History of the intended target(s). The affiant must obtain a criminal history (NCIC, CCIC, and "Denver Rap Sheet") for any intended target(s), and evaluate:
      1. Prior arrest(s) for drug offenses (increasing the likelihood of destruction of evidence)
      2. Pending Felony Case(s)
      3. Prior arrest(s) for weapon offenses
      4. Prior arrest(s) for violence (assaults, threats, etc.)
      5. Prior arrest(s) for resistance or interference with police officers
      6. Prior arrest(s) for domestic violence related crimes
      7. arrest warrant(s) for escape
    - b. *Gang Affiliation*: If a suspect may have gang affiliation, the affiant must contact the DPD Gang Unit to determine the suspect's gang involvement.
      1. When a suspect is a known gang member the affiant should also research prior acts of violence by this suspect and the gang. Mere gang membership is not sufficient, standing alone, for an immediate entry warrant.
    - c. *Mental Health*: The affiant should investigate to determine whether the suspect has any history and documentation of mental health issues. This research should also include a determination of the suspect's prior history of drug and alcohol abuse.
    - d. *Ownership of Weapons*: The affiant should investigate whether the suspect(s) or others in the target location have purchased any firearms or other weapons.
  2. The Potential for the Destruction of Evidence - If there exists a real potential for the destruction of evidence, the affiant must articulate this concern.
  3. Assessment of the Intended Target Location - The affiant must evaluate:
    - a. The likelihood of the destruction of the evidence as the officers attempt to make entry
    - b. Potential threats and danger to neighbors, nearby businesses, and any schools in the area
    - c. Whether the intended location is fortified. This may include the use of surveillance equipment and the use of mail slots or drop boxes for transactions
  4. Type of Drugs and Business
    - a. *What is Being Sold?* The affiant must consider and evaluate the potential for the destruction of the drugs.
    - b. *Type of Business* - Sporadic relatively small quantity sales versus consistent heavy volume traffic versus infrequent sales of larger quantities
  5. Methods of Operation
    - a. The use of lookouts
    - b. Product sales techniques
    - c. Presence of weapons. Use or ready availability of firearms at the targeted location

- (5) **Procedure.** If, after carefully evaluating all safety concerns of a particular investigation, an officer is convinced that a request for an immediate entry search warrant is reasonable, then any officer may proceed, following the procedural requirements listed below. Any request for an immediate entry search warrant shall include the following.

- a. Review and Approval - All immediate entry search warrants must be reviewed before presented to a Judge. Although the review process varies, at a minimum, for all officers below the rank of Lieutenant, the approval and signature of the immediate supervisor and a DA is required before presentation to the Judge.
  - 1. Any request for an immediate entry search warrant should clearly state that it is a request for immediate entry. Any such request should include the following:
    - a. On the first line of the first page of the affidavit, in the center of the page, in bold type and in capital letters: AFFIDAVIT IN SUPPORT OF IMMEDIATE ENTRY SEARCH WARRANT.
    - b. A final paragraph with the heading in bold type and in all capital letters: BASES FOR THE REQUEST FOR IMMEDIATE ENTRY SEARCH WARRANT.
      - 1. Immediately following this heading, the affiant shall clearly detail factors supporting the request for an immediate entry warrant.
  - 2. Every search warrant that seeks an immediate entry should clearly state that the search warrant authorizes an immediate entry into the premises to be searched. Any such search warrant should include the following:
    - a. At the top, center, in bold type, and all capital letters on each page of the search warrant: IMMEDIATE ENTRY SEARCH WARRANT
    - b. Immediately preceding the authorizing judicial officer's signature, in bold type and all capital letters: IMMEDIATE ENTRY SEARCH WARRANT
    - c. The authorizing judicial signature placed in a clearly designated box, which states in bold type and all capital letters: IMMEDIATE ENTRY SEARCH WARRANT IS AUTHORIZED
      - 1. If the authorizing Judge finds probable cause to search, but that an immediate entry is not justified, the Judge may sign the search warrant, but not the immediate entry designation.

(6) Application Process for an Immediate Entry Search Warrant

- a. **Officers/detectives NOT assigned to the Narcotics Bureau** seeking an Immediate Entry Search Warrant may apply through the following procedure.
  - 1. When investigating a felony drug offense, requires:
    - a. Immediate supervisor review of the affidavit and search warrant. If the affidavit and search warrant are factually, legally, and procedurally acceptable to the supervisor, he/she shall approve the documents by placing signature, badge number, date, and time on the final page of the affidavit.
    - b. The officer/detective and supervisor must then present a hard copy of the affidavit and warrant to the appropriate Narcotics detective.
    - c. The assigned Narcotics detectives will review hard copies of the affidavit and search warrant. If the affidavit and search warrant are factually, legally, and procedurally acceptable, the narcotic detective will approve by signature, badge number, date, and time on the final page of the affidavit.
      - 1. If the affidavit or warrant is found to be deficient by the assigned Narcotics detective, the application shall be halted until corrections are made. The detective must note the deficiencies and/or recommendations for further investigation on the back of the first page of the affidavit along with his/her name, badge number, date, and time. If the affidavit and proposed search warrant are re-submitted after corrections, the officer must re-submit the refused and revised documents to the same Narcotics detective.
    - d. After the signed approval of the immediate supervisor and the Narcotics detective, the officer shall present hard copies of the affidavit and search warrant to a designated "Warrant DA."
      - 1. The "Warrant DA" shall carefully review hard copies of the affidavit and search warrant. If the affidavit and search warrant are factually, legally, and procedurally sufficient, the reviewing DA shall approve the same by signing, dating, listing the time, and registration number on the last page of the affidavit.
        - a. If the affidavit or warrant is found to be deficient by the "Warrant DA," the application shall be halted until appropriate corrections are made. The "Warrant DA" must note the deficiencies and/or recommendations for further investigation on the back of the first page of the affidavit along with his/her name, date, and time.

- b. After making the necessary corrections, prior to re-submission to the "Warrant DA," the affiant must give the refused and revised documents to the same Narcotics detective who gave prior approval. Additionally, the affiant and the same Narcotics detective must obtain the approval of the immediate supervisor of that Narcotics detective, before re-submission of the documents to the "Warrant DA."
- c. After the necessary corrections are made, and approved by the Narcotics detective and that detective's supervisor, the officer must re-submit the refused and revised documents to the same "Warrant DA."
- e. After the approval of the immediate supervisor, the Narcotics detective, and a "Warrant DA," the affiant shall present the affidavit and search warrant to a Denver County Court Judge.
  - 1. If the affidavit or warrant is found to be deficient by the Judge, the affidavit and warrant application shall be halted until appropriate corrections are made.
  - 2. Prior to re-submission to a Judge, the affiant must obtain the approval of: the same Narcotics detective; that detective's immediate supervisor; and the same "Warrant DA."
  - 3. If the affidavit and proposed search warrant are re-submitted after corrections, the officer must re-submit the refused and revised documents to the same Denver County Court Judge.
- 2. If the same Narcotics detective, same "Warrant DA", and/or the same Judge are not available for the second review, then the refused affidavit (with the notes from the original refusing reviewer) and the revised affidavit must be submitted to another Narcotics detective, "Warrant DA," and/or Judge for review.
  - a. The circumstances surrounding the unavailability of the same reviewer shall be noted in the supplemental report.
- b. **Detectives assigned to the Narcotics Bureau.** Detectives investigating felony drug cases must follow the same procedure as set forth above, with the EXCEPTION that they need not obtain the approval of another Narcotics detective.
- c. **Investigations other than Drug Cases seeking an Immediate Entry Search Warrant.** Officers investigating a felony case other than drugs should follow the same procedure as set forth above, with the EXCEPTION the officer need not obtain the approval of a Narcotics detective. Instead, the assistance and approval of a detective from the affected bureau must be obtained prior to submitting the application to the Warrant DA.
  - 1. Prior to re-submission of any corrected affidavit and warrant to the "Warrant DA," the affiant must tender the documents to the same supervisor who gave the prior approval. Additionally, the affiant and the supervisor must obtain the approval of a commander in the affected Bureau.
- d. Any officer designated as a supervisor or commander not assigned to the Investigation Division shall follow the procedure as set forth above.

## (7) METRO/SWAT

- a. Immediate Entry Search Warrants ("No-Knocks"). METRO shall execute ALL immediate entry search warrants.
  - 1. Any request for METRO to execute an immediate entry warrant should be made to a METRO Sergeant (or higher rank) no later than eight (8) hours after judicial approval.
  - 2. The requesting officer shall supply the METRO supervisor with the affidavit and search warrant.
  - 3. The METRO supervisor should ensure the information regarding the targeted location is correct.
    - a. Every affidavit should include a summary of the investigation and facts that conclusively demonstrate that the targeted location is the correct location.
- b. Knock and Announce Search Warrants. The level of participation METRO will have in the execution of "knock and announce" search warrants will be determined by the supervisor of the affiant. METRO should serve as on-call experts. Officers are encouraged to contact METRO for assistance in executing this type of warrant.
  - 1. A Metro supervisor may determine, for officer safety, that facts and circumstances justify application for an immediate entry search warrant. In such cases, the METRO supervisor will consult with supervisor of the affiant. If no resolution can be reached, the issue will be pursued and resolved through the chain of command of the Patrol Division. The warrant will not be executed until the issue is resolved.

- (8) Execution and Follow-up
- a. **Time Frame for Execution.** If an officer obtains approval for an immediate entry search warrant, that search warrant must be executed within seventy-two (72) hours of judicial approval.
    1. Exceptions. If an extension is granted, an immediate entry search warrant shall be executed within one hundred and twenty (120) hours of judicial approval. To be granted an exception to the seventy-two (72) hour execution rule, the affiant must obtain the approval of:
      - a. The supervisor who first approved the documents
      - b. Where applicable, the Narcotics detective (or immediate supervisor) who approved the documents
      - c. A commander of the rank of lieutenant, or higher
      - d. The same DA (or immediate supervisor) who approved the documents
    2. Extension Requests. Any request for extension will be written on an *Extension Request*, stating the reasons for the request and will contain signature lines for the reviewers noted above.
    3. Extensions - Approved. If an exception to the seventy-two (72) hour execution requirement has been approved, a forty-eight (48) hour extension may be granted. If the immediate entry search warrant is not executed within the extension period (one hundred and twenty (120) hours from judicial authorization), then a new immediate entry affidavit and search warrant must be obtained.
  - b. **“After-Search Case File.”** Within seventy-two (72) hours of the execution of all immediate entry search warrants, the affiant must submit a full “After-Search Case File”. This report should be a detailed narrative accounting of the search process. Where the search warrant is NOT executed, a written report shall be made explaining why the warrant was not executed.
    1. “After-Search” Case File. Within seventy-two (72) hours after a search authorized by an immediate entry warrant has been executed, or within seventy-two (72) hours after the expiration period for execution of an authorized immediate entry search warrant, the following documents are required:
      - a. The affidavit
      - b. The search warrant
      - c. The inventory and return
      - d. Any requests for extension
      - e. The “Metro/SWAT After-Search Report”
        1. Contents. The report should include the following:
          - a. Target location address
          - b. Name of notifying party (usually the affiant)
          - c. Date and time of notification
          - d. Special problems with target location (i.e., fortification, presence of children, elderly, etc.)
          - e. All preparations during the time period between judicial approval of the search warrant and execution of the warrant
            1. Examples of preparation should include surveillance, scouting method, and tactical preparation
          - f. Briefing time and location
          - g. Personnel involved in warrant execution
            1. Supervisor(s)
            2. Entry team and assignments
            3. Perimeter team and assignments
          - h. A detailed narrative explaining what, if any, violence or injury (or the real potential for the same) occurred during execution of the immediate entry warrant
          - i. A description of the method of entry including the use of diversionary devices
          - j. Description of injuries to officers, suspects, or victims during the execution of the warrant (detailed information will be noted on the Use of Force report)

- k. The number of weapons found during the search, and location, proximity to occupant(s), and availability of the weapons
  2. Completion of the "Metro/SWAT After-Search Report" will replace the requirement to complete an "After Action Report," DPD 286, and a Forced Entry Report.
- c. The "Affiant After-Search Report"
1. Contents. The report should include the following:
    - a. Location of target address
    - b. All preparation during the time period between judicial approval and execution of the warrant
      1. Examples of preparation should include additional investigation, surveillance, and any extension of time that may have been obtained.
    - c. A listing of all occupants in the premises during the execution of the warrant, and what, if any, involvement these individuals may have had with the execution of the warrant and/or the crime investigated
    - d. Identity of all persons arrested during the execution of the warrant
    - e. An analysis of whether the searched for items or other contraband were recovered
    - f. A description of any evidence or other contraband destroyed during execution of the warrant
  2. Distribution of "After-Search Case File." Within seventy-two (72) hours of the executed immediate entry search, or the expiration of the search warrant, copies of the "After-Search Case File," as described above, shall be distributed to the following:
    - a. The detective's criminal case file (discovery)
    - b. The affiant's immediate supervisor
      1. And/or the supervisor who approved the affidavit and search warrant
    - c. Where applicable, the Narcotic's detective who approved the affidavit and search warrant
    - d. The DA who approved the affidavit and search warrant
    - e. The Judge who authorized the search warrant
    - f. Captain of the Narcotic's Bureau (who will keep records on all immediate entry search warrants for semi-annual reporting)
    - g. Captain of METRO/SWAT
    - h. Commander of the affected District
    - i. Civil Liability Bureau
    - j. Commander of the Major Crimes Division
    - k. Deputy Chief of Operations
    - l. Chief of Police
    - m. Manager of Safety
  - d. **Semi-Annual Report** The DPD will issue a semi-annual summary of immediate entry search warrants executed. The Chief of Police will issue this semi-annual written report, with input and contributions from the Narcotics Bureau and Metro/SWAT.
    1. Distribution - This report shall be distributed as follows:
    2. The Mayor
    3. The Manager of Safety (available to all DPD officers)
    4. The Denver District Attorney
    5. The Presiding Judge of the Denver County Court (available to all County Court Judges)
    6. Available for public inspection
- (9) Immediate Entry Warrants from Outside Agencies
- a. Officers or detectives from outside agencies who request assistance in executing an immediate entry search warrant must:
    1. Have the original affidavit reviewed by a Denver "Warrant DA" who will note the approval by signing, noting the date, time, and registration number on the affidavit
    2. Present the affidavit and search warrant to a Metro/SWAT supervisor within eight (8) hours of judicial approval

3. Have the warrant executed by the Denver Police Department Metro/SWAT who will have total control over the tactical execution
  4. Execute the warrant within seventy-two (72) hours of judicial approval, unless a forty-eight (48) hour extension is obtained pursuant to procedures outlined in this section
- b. The After-Search Case File must be completed by Denver personnel and distributed per the procedure noted above.

#### 104.55 Operational Planning

(1) Policy:

It is the policy of the Denver Police Department that all tactical and covert operations be thoroughly planned and that those plans be documented and discussed with all personnel responsible for executing the plan.

(2) Definitions:

- a. Tactical Operation: Any high-risk operation that requires a coordinated effort by officers to accomplish a police objective by use of approved tactics. Tactical operations are typified by the use of uniformed personnel.
- b. High-risk operations present an elevated risk to all participants and may require additional personnel or equipment to ensure the safety of all participants. Tactical operations are generally non-covert in nature.

(3) High-Risk Plainclothes Operation: Any operation that requires officers to operate in a plainclothes or undercover capacity in order to accomplish a police objective.

(4) Covert Operation: Investigations or police actions utilizing plainclothes officers and unmarked police cars to surreptitiously conduct surveillance gather evidence or apprehend persons under criminal investigation. Examples include but are not limited to: search warrant execution, controlled deliveries, surveillances which are intended to result in the arrest of dangerous persons, robbery stakeouts, property crime stakeouts, etc. Note: the approving command officer must make notification to the affected Operations Bureau(s).

- a. Undercover Operation: An authorized clandestine criminal investigation involving the use of sworn officers, confidential informants, or other cooperating individuals, in an attempt to actively infiltrate or otherwise covertly gather information or evidence from an individual or group reasonably suspected of being involved in criminal activity. Examples include but are not limited to: "buy-bust" operations, reverse stings, controlled buys, and murder-for-hire investigations.

(5) Non-Covert Operations: Investigations or operations utilizing uniformed personnel and marked police cars. Plainclothes personnel may also be utilized during a non-covert operation. The objective of this type of operation is to provide police services that require the coordination of a greater number of officers than would be required for a "routine" pre-planned response. Examples include but are not limited to: high-profile demonstrations, dignitary visits, large public gatherings, parades, festivals, and sporting events.

(6) Operation Commander: The highest-ranking command officer having overall authority over the operation or event.

- a. Operation Supervisor: The supervisor or command officer who conducts the Operational Briefing will be referred to as the Operation Supervisor

(7) Duties and Responsibilities of Participating Personnel

a. Officer Responsibility

Officers who conduct investigations or operations that meet the definitions as described above will be required to complete an Operational Plan Briefing, DPD 567.

b. Supervisor Responsibility

Planning:

1. The immediate supervisor of the officer drafting the operational plan shall review it in its entirety, ensuring that the plan is thorough, complete, and complies with the Operations Manual. During the course of the review process, the immediate supervisor shall discuss options and alternatives to the proposed plan. The safety of the participating officers, general public, and suspect(s) is of paramount importance and shall be considered during the review process.

2. The operational plan will be a written synopsis of any type of plain-clothes, undercover, or high-risk operation where any undercover or cooperating informant is inserted into any location or event for the purpose of gathering information, intelligence, or evidence.
  3. The operational plan will include specific details of the operation and will include a brief description of the objective of the operation.
  4. In the absence of exigent circumstances, officers shall not engage in **any** undercover operation unless a lieutenant, acting lieutenant, or other command officer has reviewed and approved the request for such undercover operation, in writing, prior to the initiation of the undercover operation.
  5. In the absence of exigent circumstances, a command officer, before implementation, must approve all operational plans in writing. In the event that there is an immediate need for a tactical operation, i.e. any officer safety, or public safety issues where immediate response is required, a command officer approval is not required in advance, but must be obtained as soon as practicable.
  6. The immediate supervisor shall be tasked with conducting an Operational Briefing. The officer who drafted the operational plan will assist as needed during the briefing. The Immediate supervisor will assure that all participants are present and attentive at the briefing.
  7. The operational briefing will be a planning session of all members involved in the tactical operation. This briefing will include all pertinent information, which will enhance both the implementation and safety of the operation. It is imperative that all participating undercover officers be available for the briefing so that all team members are familiar with their appearance. The operational briefing will include all updated intelligence as well as objectives of the operation.
- c. Execution:
1. The Operation Supervisor will be charged with the overall responsibility of implementing and executing the operational plan. The Operation Supervisor will be in charge of the operation through its conclusion. The officer who drafted the plan will assist the Operation Supervisor. The Operation Supervisor will be in close proximity to the actual operation and will monitor all radio traffic regarding the operation.
  2. The Operation Supervisor shall:
    - a. Authorize or cancel the operation, based on all available information and the provisions of Denver Police Department Policy.
    - b. Continually assess the risks and hazards involved in allowing the operation to continue, and make a decision to allow the operation to continue or order it terminated.
    - c. Communicate with the initiating officer throughout the course of the operation for the purpose of determining if the goals and objectives of the operation are being met.
    - d. Communicate with a member of the Denver District Attorney's Office and/or members of the City Attorney's Office for guidance as needed.
    - e. Nothing in this section precludes the Operation Commander or the undercover officer from canceling the operation at any time.
    - f. The Operation Supervisor will be tasked with drafting an After Action report detailing police actions taken in those operations that may draw media attention.
- d. Command Officer Responsibility:
1. A command officer of the initiating officer will review and approve the Operational Plan Briefing, DPD 567. The command officer should address with the supervisor any areas of concern regarding the tactics that are planned. Other areas of concern include ensuring that there are sufficient personnel to conduct the operation, that the planned location and time of the operation provide the safest option available. Considerations regarding location and time of day include ensuring the operations are not planned around in-session schools or densely populated areas. Executing operations in isolated areas will ensure sufficient visibility to conduct the operation safely, etc.
  2. The command officer who reviews the completed Operational Briefing plan is responsible to notify all districts, bureaus, and units that have a need to know of the operation prior to its commencement. At a minimum an on-duty supervisor or command officer of the district where the operation is being conducted, Denver 911, and in the case of a narcotics operation or other high-risk tactical operations that may conflict with narcotics operations, the HIDTA Watch Notification Center will be notified.



3. **Because the operational plans are solely for officer safety purposes the command officer of the initiating officer shall insure that all copies of the operational plan are destroyed upon completion of the tactical operation. The command officer shall send the original copy of the operational plan to the Civil Liability Bureau via email DPD-CLB@denvergov.org. Operational plans will be retained by the Civil Liability Bureau for a period of 5 years**
- e. Vice/Narcotics Operations:
1. In those situations where the assistance of uniformed personnel will be needed, the Operation Supervisor will coordinate with a supervisor or command officer of the uniformed personnel.
  2. When uniformed officers request the assistance of the Vice/Drug Control Bureau, the following shall apply:
    - a. A Vice/Drug Control Bureau supervisor or command officer will have the responsibility to review all Vice or Drug-Related operations. Any concerns that become known will be addressed with the immediate supervisor of the officer who drafted/presented the plan for consideration. Operational plans will not be implemented until a consensus is reached.
    - b. The reviewing Vice/Drug Control Bureau supervisor or designee will confirm that a query has been made through the CLEIN system to ensure that the target of an operation is not under active investigation by another officer, agency or unit. This supervisor will also ensure that the HIDTA Watch Center has been notified.
    - c. All department personnel are required to notify the Vice/Drug Control Bureau regarding all Vice/Drug-related investigations prior to undertaking any enforcement/investigative action.
    - d. A Vice/Drug Control Bureau investigator or the officer's supervisor will accompany any officer conducting a drug enforcement-related knock and talk, unless an officer has received adequate training in narcotic investigations, as prescribed by the Deputy Chief of Operations. This does not prohibit officers from taking appropriate action for on-sight violations or those detected in the course of routine patrol. If the knock and talk is considered high-risk, an Operational Plan and Operational Briefing will be completed. See OMS 304.00

(8) Undercover Operations involving the Consumption of Alcoholic Beverages

- a. Purpose:  
The Denver Police Department recognizes that undercover operations are a necessary law enforcement tool. Furthermore, it is recognized that alcoholic beverages are sometimes required as a prop that is needed to complement the role of an undercover officer in a particular setting. More importantly, it may also be necessary to protect the safety of the undercover officer.
- b. Policy:  
The on-duty consumption of alcoholic beverages shall be permitted **only** where it is absolutely necessary to maintain the officer's undercover status in an authorized covert investigation. A command officer must approve such consumption **in advance**. The approving supervisor or command officer will be present in the field during all such operations and ensure that the consumption of alcoholic beverages does not result in the officer's inability to perform official police duties.
- c. Training:  
The Vice/Drug Control Bureau will provide training to officers and supervisors who may need to possess, purchase, or consume alcoholic beverages during the performance of their official duties. The training shall address department policy, officer safety, and specific techniques to minimize the consumption of alcoholic beverages by the undercover officer. **Officers are reminded of their requirement to adhere to OMS 304.00 regarding the notification of Vice/Drug Control Bureau personnel, prior to the commencement of any Vice/Drug related operation or investigation.**
- d. Consumption of Alcohol by an Undercover Officer
  1. The undercover officer must submit an operational plan to his/her command officer describing the investigation as required in the plan outline. The supervisor will review the operational plan for completeness, with an emphasis on operational soundness and officer safety concerns.
  2. The undercover officer will explain the necessity for consuming alcohol during the investigation. The command officer will consider the request and give authorization, if deemed necessary.

3. The undercover officer(s) will be covered by a surveillance team. The operation supervisor will take into account the totality of the circumstances to determine the composition of this team. The members of this team shall not consume alcoholic beverages during the surveillance. The approving supervisor or command officer will be present during the operation and monitor the surveillance.
4. The undercover officer(s) will not consume more than one (1) drink per hour nor more than three (3) drinks during any assigned duty shift.
5. The supervisor or command officer will meet with the undercover officer(s) immediately following the undercover assignment to determine the officer's ability to continue work and/or to drive.
6. Any undercover officer who has consumed any amount of alcohol during an on-duty shift will not be permitted to participate in any tactical operation. Tactical operations include, but are not limited to: "buy-bust operations, reverse sting operations, high risk entry search warrants, a 'knock & talk' consent search operation, or any operation where consumption of alcohol is determined to be a safety or liability concern.
7. If the supervisor or command officer determines that the officer is unable to continue to work and/or drive, the officer will be transported to the office. If necessary, the officer will be transported to his/her residence at the conclusion of the shift.
8. The supervisor or command officer will submit a report utilizing Inter-Departmental Correspondence, DPD 200, to the officer's commanding officer, outlining post-operation observations of the officer. A copy of the operational plan will be attached. The commanding officer will be responsible to maintain these forms for a period **not to exceed six (6) months**.
9. Undercover officer(s) will use only official department funds to purchase evidence and alcoholic beverages. **Officers are not permitted to use personal funds or vehicles during undercover operations.**

#### 104.56 TACTICAL EVENT DECONFLICTION POLICY – (Revised 05-2011)

##### (1) Purpose

The purpose of Tactical Event Deconfliction is first and foremost, to ensure officer safety. Secondary to this is to prevent enforcement and/or investigative conflicts between law enforcement units, bureaus and other agencies. The goals are; to reduce duplication of effort, promote the exchange of information crucial to multi-unit, multi-jurisdictional operations and investigations; and to coordinate units, bureaus and agencies with common interests. Tactical Event Deconfliction must be performed as part of Operational Planning, pursuant to DPD OMS 104.55 (Operations Planning). The purpose of this policy is to provide guidance for the Denver Police Department in the responsible and effective use of available software to insure safety during enforcement operations.

##### (2) General Principles:

- a. The Denver Police Department restricts the use of Tactical Event Deconfliction software applications to trained officers, detectives, supervisors and/or commanders.
- b. Keeping in mind the Denver Police Department's Mission, Vision, and Values, the principle objectives of Tactical Event Deconfliction include:
  1. Enhancing public safety in areas where the safety and security of our citizens are at risk;
  2. Preventing and deterring crime;
  3. Reducing the risk of operational and/or investigative conflict;
  4. Identifying criminal activity;
  5. Identifying suspects and gathering evidence;
  6. Documenting police actions to safeguard citizens and police officers;
  7. Improving the allocation and deployment of law enforcement resources.
- c. Tactical Event Deconfliction (through the use of RiSSafe) will be conducted with accepted legal concepts regarding privacy, and in a professional and ethical manner. Personnel involved in the use of RiSSafe use must be appropriately trained and supervised in the use of this application.

- d. Information obtained from Tactical Event Deconfliction RiSSafe use will be used exclusively for public safety and law enforcement purposes. Information in any form obtained through the use of the RiSSafe application will be handled according to accepted departmental procedures and legal rules governing the handling of evidence and criminal justice records. Dissemination of such information should be conducted in accordance with applicable departmental procedures, State, and Federal laws.

(3) Definitions:

- a. **Event Conflict:** A law enforcement event which occurs either at the same location, time, or has common suspects with another unit, bureau, or agency. These types of conflicting events often are unknown to the receiving jurisdiction.
- b. **Tactical Event Deconfliction:** The coordination of any number of law enforcement events, which may have the potential to involve conflicting times, geographic areas, or suspects. Also known as Event Deconfliction.
- c. **Law enforcement events needing Tactical Event Deconfliction:** Undercover operations to include but not limited to; controlled buys, reverse stings, controlled deliveries, arrest warrants, search warrants, consent searches, stationary surveillances, staging locations, mobile surveillance, clandestine lab site, undercover meetings, & storefront operations.
- d. **RiSSafe:** The Regional Information Sharing Systems (RISS) Tactical Deconfliction application. This program is administered through the local RISS Center – the Rocky Mountain Information Network (RMIN). RiSSafe software is a secure, permission based application. The RISS Program is funded by the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. RiSSafe was created by RISS to provide a national event Deconfliction service for law enforcement as officer safety is a key element in the information sharing environment.  
This application has an intelligence module, however Denver Police Department officers are forbidden to populate those fields. RiSSafe shall only be used for Event Deconfliction.
- e. **RMIN:** The Rocky Mountain Information Network. RMIN is the regional RISS Center, supporting Colorado, Arizona, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming & portions of Canada.
- f. **RiSSafe Training PowerPoint:** The RiSSafe Tactical Event Deconfliction PowerPoint, accessed through the department’s intranet page.
- g. **RiSSafe Watch Center:** Staffed location where event Tactical Deconfliction can be telephonically relayed and entered into RiSSafe. This watch center is staffed 24 hours a day, seven days a week.
- h. **Combined Communications Center (CCC):** The Denver 911 call center, located at 950 Josephine St. Denver, CO.

(4) Procedure:

- a. There is always a risk that a number of events occurring within law enforcement will unintentionally overlap between agencies or even within various units/bureaus of the same agency. The Deconfliction process itself is simple. An officer enters an event into the application either directly (as a remote user) or by calling the RiSSafe Watch Center.

Required Information to enter or inform personnel at the RiSSafe Watch Center:

1. Date and time frame of operation, target(s) names;
  2. Address of the operation, including zip code;
  3. Type of operation;
  4. Staging Location;
  5. Primary agency conducting the operation and any other participating agencies;
  6. Case agent’s name and office phone, cellular phone number;
  7. Alternate point of contact, including office phone and cellular phone number;
  8. Specify the radius of event (a one-tenth to five mile)
- b. If no conflict is detected by RiSSafe, the information is stored in the application for the life of the event.
  - c. If a conflict is detected, the application can electronically notify the involved parties (via email/text message) and in all cases the appropriate RiSSafe Watch Center will contact the involved parties (via phone) and advise them that a conflict has been detected.

- d. It is mandatory to additionally contact the Combined Communications Center (CCC) either by radio or telephone as to location(s), times, and officers involved for the law enforcement event. The reporting officer will inform the Combined Communications Center supervisor of the time and the location of the intended operation. The Combined Communications Center supervisor will ensure that officers who are dispatched to the area are not unnecessarily exposed to danger, while at the same time not jeopardizing the operation or the safety of the officers involved.

It is mandatory that officers keep the Combined Communications Center and the RiSSafe Watch Center informed of any changes that occur during the operation, such as times, locations, and spin-off operations.

Supervisors of the operation are required to insure that the Event Deconfliction has been accomplished; adjustments to the operation are communicated through RiSSafe and the Denver 911 call center and are documented on the Operational Plan.

#### **104.57 Rule 41.1 – Court Order for Non-testimonial Identification (Revised 08-2010)**

1. Definition of Terms used in this Rule:
  - a. "Offense" means any felony, class 1 misdemeanor, or other crime punishable by imprisonment for more than one year.
  - b. "Non-testimonial identification" includes, but is not limited to, identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, specimens of material under fingernails, or other reasonable physical or medical examination, handwriting exemplars, voice samples, photographs, appearing in lineups, and trying on articles of clothing.
2. Rule 41.1 of the Colorado Rules of Criminal Procedure provides for the following when obtaining an order for non-testimonial identification.
  - a. Any judge of the Supreme, District, Superior, County Court, or Court of Appeals may issue this order.
  - b. can make an application request for a non-testimonial identification order when they have probable cause that a crime occurred and reasonable suspicion not amounting to probable cause that a specific person committed the crime, prior to the arrest of the suspect.
  - c. The Court shall issue an order only on an affidavit or affidavits sworn to or affirmed before the judge and establishing the following grounds for the order:
    1. That there is probable cause to believe that an offense has been committed;
    2. That there are reasonable grounds, not amounting to probable cause to arrest, to suspect that the person named or described in the affidavit committed the offense; and
    3. That the results of specific non-testimonial identification procedures will be of material aid in determining whether the person named in the affidavit committed the offense.
  - d. Upon a showing that the grounds specified in c) exist, the judge shall issue an order directed to any peace officer to take the person named in the affidavit into custody to obtain non-testimonial identification. The judge shall direct an expeditious execution of the non-testimonial identification procedures. After completing such identification procedures, the officer shall release such person or charge them with an offense.
  - e. An order to take a person into custody for non-testimonial identification shall contain:
    1. The name or description of the individual who is to give the non-testimonial identification;
    2. The names of any persons making affidavits for issuance of the order;
    3. A description of the criminal offense supporting the issuance of the order and the specific non-testimonial identification procedures the officer shall conduct;
    4. A mandate within the order that directs the officer receiving the order to detain the person for only such time as is necessary to obtain the non-testimonial identification;
    5. The typewritten or printed name of the judge issuing the order and signature of the judge.
  - f. Any peace officer or other person designated by the judge may conduct a non-testimonial identification procedure. Medically trained personnel shall supervise blood tests, and the judge may require medical supervision for any other test ordered pursuant to this section when the judge deems such supervision necessary. Officers shall not detain any person who appears under an order of appearance issued pursuant to this section f) longer than is reasonably necessary to conduct the specified non-testimonial identification procedures unless the officer arrests the person for an offense.

**REV. 8-10**

3. The officer must execute and return the order within fourteen days after its date of issuance.
4. Officers shall only execute the order in the daytime unless the issuing judge endorses on the order that the officer may serve the order at any time, because it appears that the suspect may flee the jurisdiction if the officer does not serve the order immediately. The officer must supply information supporting this conclusion within the affidavit of the order.
5. The officer executing the order shall provide only a copy of the order to the person served. The officer shall not provide a copy of the affidavit to the person served.
6. Except for a protective search for weapons, the officer shall conduct no search of the person given an order for non-testimonial identification, unless the officer also has a separate search warrant to do such a search of the person.
7. Upon execution of the order, or the expiration of the fourteen-day time, whichever comes first, the officer shall make a return to the issuing judge showing whether the person named has been:
  - a. Detained for such non-testimonial identification;
  - b. Released or arrested
8. The limits of a Rule 41.1 are to non-testimonial identification evidence only. The order does not authorize the officer to pursue or acquire testimony or other communications protected by the privilege against self-incrimination.
  - a. While detaining the subject for the purpose of obtaining the non-testimonial sample, officers cannot question or interrogate the subject.
  - b. Officers can seek consent to conduct an interview after completing the execution of the order and releasing the subject from custody.
  - c. If the officer arrests the subject after executing the non-testimonial order, the officer may question the subject in accordance with OMS 301.02 Interrogation of Suspects.

