

DOUGLAS COUNTY SHERIFF'S OFFICE		Policy and Procedure
Specific Policies		P&P-B-103
Criminal Process/Arrest Procedures		
Effective Date: 01-15-13 Supercedes: 10-24-11	Approval: Sheriff	Number of Pages: 6
References: PAT-C-210, PAT-G-202	Reevaluation Date: Annually or as needed	Standards: CALEA 1.1.4, 1.2.1, 1.2.5, 1.2.6, 1.2.7, 61.1.2, 74.3.1-2

I. POLICY

It is the policy of this Office that members should make all arrests quietly, without attracting unnecessary attention or subjecting any prisoner to needless exposure, humiliation or severity. Every arrest shall be made in accordance with the law of the State of Colorado and in strict compliance with all applicable laws and the Constitution of the United States. <1.2.1>, <1.2.5>, <1.2.6>, <61.1.2>, <74.3.2>

II. CRIMINAL PROCESS PROCEDURE <74.3.1>

- A. For the purposes of this order, an arrest is the taking of a person into custody, as authorized by law. Commissioned personnel, as peace officers, may make an arrest with or without a warrant. An arrest warrant is a court issued document authorizing the arrest of an individual for a specified criminal charge based upon sufficient probable cause. <1.2.6><74.3.1><74.3.2>.
- B. The person making the arrest must inform the person to be arrested of the intention to arrest him or her, of the cause of the arrest, and the authority to make the arrest, except when the member making the arrest has reasonable cause to believe that the person to be arrested is actually engaged in the commission of or the attempt to commit an offense, or the person to be arrested is pursued immediately after its completion, or after an escape. <61.1.2><74.3.1>
- C. Any peace officer that has probable cause to believe that the person to be arrested has committed a criminal offense may use reasonable force to affect the arrest, to prevent escape, or to overcome resistance. Any peace officer who makes or attempts to make an arrest need not retreat or desist due to threatened resistance of the person being arrested; nor will such member be deemed an aggressor or lose the right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or overcome resistance. <74.3.1>
- D. When an arrest is made, the arresting officer shall thoroughly search the prisoner for weapons whether handcuffed or not. The search shall be more than a 'frisk' or 'pat down'. Officers must sufficiently search the prisoner until they are confident that a weapon or item that can be used as a weapon does not exist. <61.1.2>
- E. Any member arresting an individual will ensure that probable cause to arrest does exist and that such arrest conforms to existing local authority as reflected in the legal statutes of the State of Colorado. <61.1.2>,<74.3.2>

- F. Officers arresting an individual will ensure that the individual's rights are protected in accordance with existing law. Officers will further comply with statutes regarding the release of persons arrested, the use of telephones after arrest, informing the arrested party of their Miranda rights prior to any interrogation, and other requirements. <74.3.1>
- G. Officers who arrest any individual will ensure that an appropriate Office report(s) is written covering all aspects of the incident and is forwarded through channels in accordance with Office policy and procedure.<1.2.5a>
- H. If the person being arrested is booked into the detention facility, the detention staff will follow their procedures in regards to fingerprints and photographs. <1.2.5bc>
- I. If the arrestee is a juvenile, see P&P-B-142 *Juvenile Operations* for arrest procedures. The detention facility does not take fingerprints or photographs of juveniles that are arrested. Fingerprints and photographs of juveniles arrested will be taken by the Juvenile Assessment Center. <1.2.5bc>
- J. A person arrested on probable cause may be counseled and released, charged by summons and complaint and released, released pending filing of charges at a later time, or incarcerated in the Detention Facility. <1.2.6> <1.2.7><61.1.2> <74.3.1>

III. CCIC ARREST WARRANTS <74.3.1>

As stated above, commissioned personnel, as peace officers, may make an arrest with or without a warrant. There are four different types of arrest warrants that are entered into the Colorado Crime Information Center (CCIC) system:

- Misdemeanor, Traffic, and Municipal warrants (pre-CICJIS). These warrants require a teletype confirmation from the originating agency. This type of warrant was either entered by a court prior to the implementation of CICJIS or is a municipal warrant. (Municipal courts are not under the State Court Administrators Office umbrella and do not participate in the CICJIS program.)
- Felony warrants. Almost all felony warrants require confirmation from the originating law enforcement agency. In rare cases you may encounter a CICJIS felony warrant. This warrant has just been issued by the court and law enforcement has not yet taken 'ownership' of it. It takes 24–72 hours for this to take place.
- CICJIS warrants. These warrants are entered by the courts and are valid on their face. In other words, no confirmation is required. Unless the warrant has “CICJIS no confirmation required” in the heading, it is not a CICJIS warrant.
- Denver County Court warrants. Like municipal courts, Denver county courts are not under the State Court Administrators Office. These warrants require confirmation.

A. CICJIS PROCEDURES

CICJIS is an acronym for Colorado Integrated Criminal Justice Information System. This is a program whereby state courts (the ICON System) electronically issue arrest warrants and transfer them into the Colorado Crime Information System (CCIC).

Although the issuance of the warrants themselves requires no law enforcement effort, the system is dependant on the Sheriff's and District Attorney's Offices providing complete information to the courts, either on an arrest warrant application or on the original summons. The minimum required information is:

- Complete name.
- Date of birth.
- Race.
- Sex.
- Height.
- Weight.
- Hair and eye color.

A large amount of additional information can be included, such as scars, marks and tattoos, place of birth, driver's license and vehicle information. While not necessary for the warrant's entry into the system, this type of information is helpful to a deputy on the street when trying to determine if the person on the warrant is the individual that they are in contact with.

B. TRANSPORTATION LIMITS <74.3.1>

Any warrant may have transportation limits imposed. These are most commonly indicated by a mileage radius from the issuing location, but may also list specific counties that the warrant is only valid in. Each jurisdiction determines their transportation limits, frequently basing the limitations on the bond amount. If there is a question about whether or not to make an arrest because of transportation concerns, it is best to contact the originating agency if at all possible and let them make the decision.

Although CICJIS warrants do not require confirmation, there may be transportation and/or bond limits imposed, or a combination of both. An example of a common type of restriction combining the two that is encountered is –

“Transportation Limits: Valid metro area only if bond = \$100 & under. Valid statewide if bond = \$101 & above.”

Make sure that Dispatch provides you with this information and that all of the transportation limits criteria are met prior to taking an individual into custody.

IV. ARREST WARRANTS AND AFFIDAVITS

A. PROCEDURES <1.2.5a>

When it becomes necessary to obtain an arrest warrant for a suspect sought for the commission of a misdemeanor crime, the officer should follow these steps:

- Review all case facts, including written statements, supplemental reports, LERMS, NCIC, and CCIC computer information.
- Gather all investigative notes you may have completed or obtained.
- Locate the arrest warrant affidavit template, found by logging onto the network and going to the PowerDMS system to locate the proper form.

- Begin filling out the blank portions of the affidavit, i.e., name, location, venue, offense, etc.
- The narrative is written in the same ‘bullet-style’ format used to prepare all offense reports.
- You may cut and paste narrative information from a report in the New World LERMS system, but be sure to quote narratives from other officers and attribute it properly to that officer.
- You can enhance the aesthetics of your affidavit to set apart information that may be more relevant, such as suspect information, criminal history, vehicle information, etc., by the use of bold, underlined, or italicized text.
- When referring to a person by name, use their full name and date of birth the first time their name is mentioned in the narrative. Thereafter, use only their last name in all capital letters. If two or more subjects in the affidavit share the same last name, use their first initial and last name, or first and last name if the first initials are also the same.
- Make sure that some portion of the narrative extends onto the last page of the affidavit (the one the judge will sign) so it is obvious that page pertains to your unique affidavit.

When you have completed the affidavit, review it for errors or omissions. All statutory elements of every offense charged must be clearly established.

Complete an arrest warrant from the template located in the PowerDMS system.

Save the affidavit and warrants in your own filing area on the network. Then do the following:

- Print the affidavit and warrant and have them reviewed by your supervisor.
- After receiving approval from your supervisor, take the documents to a deputy district attorney for review. The deputy DA will make arrangements for you to take your affidavit and warrant to a judge for their review and signature.
- Once you have obtained the judge’s signature, take a *copy* to the court clerk’s office. They will assign a court case number and file the copy in the court file.
- File a *copy* of the affidavit and warrant, along with a case disposition form, with records. This will cause the case to be ‘cleared by arrest.’
- Then submit the *original* warrant and affidavit to the warrants clerk in Records.
- Complete a supplemental case report changing the case status to closed and cleared by arrest. The narrative should state that you obtained an arrest warrant that has been entered into the CCIC system.

V. WARRANTLESS DETENTION PROCEDURES

A. PROCEDURES <1.2.5a>

When a person is arrested and booked into the jail without prior judicial review (i.e. without a warrant) the following procedures will be followed:

1. Complete the *Determination of Probable Cause to Detain* form.
 - It is used by the reviewing judge to record his determination of probable cause and the disposition of the individual arrested (released or held).
 - The officer completes the suspect field information, date and time of court appearance.
 - Out-of-county suspect addresses need to be lead by an asterisk *.
2. Complete the *Statement in Support of Warrantless Arrest* form.
 - This form contains the statutory violation citations.
 - The narrative portion of the form is for the establishment of probable cause.
 - The elements of the specific offenses must be documented in the narrative to establish probable cause.
 - What circumstances exist to believe that this particular person committed the crimes must be documented.
 - It is not necessary to rewrite the offense report in the narrative, and information outside the scope of the aforementioned should be avoided.
3. Traffic violations and all other charges need to be in the ‘*Charges*’ section.
4. **Do not issue a summons for other minor crimes or traffic offenses if the person is also being charged with a felony.**
5. Prior to leaving the jail, make copies of the forms and insure that court dates, time and date of the action are complete and that you have signed the documents. A Detentions deputy should check the paperwork prior to you leaving the jail. Attach a copy of the forms to your completed offense report for submission.
6. A judicial review must be completed within 48 hours of the arrest. This is accomplished by submission of the paperwork to the courts through Detentions.

VI. ARRESTS OF FOREIGN NATIONALS <1.1.4>

- A. The Sheriff’s Office will ensure the timely notification of designated foreign consular officials following the detainment or arrest of their foreign nationals, in accordance with the Vienna Convention on Consular Relations (VCCR).
- B. A foreign national is any person who is not a U.S. Citizen; same as “alien.” Aliens who are lawful permanent residents in the United States and who have a resident alien registration card (“green card”) are foreign nationals. Undocumented or “illegal” aliens are also considered foreign nationals.
- C. A foreign national who is arrested or detained will be informed they have the right under a treaty to which the United States is a party, to have their country’s embassy or nearest consulate notified of his or her arrest and detention.
- D. For this purpose, the arrest or detention of a foreign national is defined as: any arrest, detention, or other commitment to custody which results in the foreign national being

incarcerated for more than a few hours. This triggers the consular notification requirements. A brief traffic stop or an arrest resulting in a citation for a misdemeanor and release at the scene does not trigger such requirements. On the other hand, requiring a foreign national to accompany a law enforcement officer to a place of detention may trigger the consular notification requirements particularly if the detention lasts for a number of hours or overnight.

- E. If the arresting deputy determines that the arrestee is a foreign national, they must make sure to notify the detentions booking staff. The detentions staff will follow their procedures and make the proper notifications. See DET-D-314 Arrests of Foreign Nationals, for specific procedures.
- F. If for some reason the foreign national is not booked into the detentions facility, but meets the criteria in Section D above, they must still be notified that they have the right to have their consular notified. A notation should be made in the case file of the fact that the accused was advised of their rights under the VCCR, and whether or not the accused requested the notification. For more information about what countries have mandatory notification and which do not as well as other information about this process, go to http://travel.state.gov/law/consular/consular_753.html. This link can also be found on the Sheriff's Office intranet site. Resource information on this process will also be placed on the bulletin boards in Patrol, Investigations and Civil/Warrants.

By Order of the Sheriff