


AURORA POLICE DEPARTMENT

DIRECTIVES MANUAL

06.04	Title: CRIMINAL AND LEGAL PROCESS	
	Approved By: Nick Metz, Chief of Police	
	Effective: 09/01/1998	Revised: 03/04/2016
	Associated Policy:	
	References:	
Review: Narcotics Section Lieutenant		Page 1 of 4

6.4 CRIMINAL AND LEGAL PROCESS

6.4.1 Members Notification to Records

When a member is assigned to service or execute legal process and is not successful, the member will document the attempt with MDC notes and include the following information:

- (a) The address where service was attempted/made.
- (b) The date of the attempt/service.
- (c) The time of the attempt/service.
- (d) The member's name and suspect's name and date of birth.
- (e) Method of attempted service.
- (f) Explanation of non-service.
- (g) Type of Service

Officer initiated attempts will require the same notes in a MDC Report (i.e., arrest warrants).

When a member initiates or is assigned to service or execute legal process and is successful, the member will complete a police report to document the process and include the following information:

- (a) The address where service was made.
- (b) The date of the service.
- (c) The time of the service.
- (d) The member's name.
- (e) Method of service.
- (f) Type of legal process (civil and criminal).
- (g) Nature of document.
- (h) Source of document.
- (i) Name and date of birth of plaintiff/complainant or name and date of birth of defendant/respondent.
- (j) Officer assigned for service.

- (k) Date of assignment.
- (l) Court docket number, and/or summons number, and/or warrant number.
- (m) Date service due.

Records personnel will date/time stamp the report as it is received in Records, where it will be processed and maintained to document the successful service or execution.

6.4.2 Execution of Criminal Process

The execution of writs, summonses, mandates, and/or other process issuing from a court of law will be performed according to local, state and federal laws, and according to local policy.

- (a) Child custody disputes.

Under the Uniform Child Custody Jurisdiction Act, C.R.S. § 14-13-101 et seq. (UCCJA), child custody orders from another state, if registered in Colorado, are given full faith and credit, as if the order was entered by a Colorado Court. For the UCCJA to apply, certified copies of out-of-state custody orders must be filed in -the Office of the Clerk of a District Court in the State of Colorado. C.R.S. § 14-13-305(1). In-state child-custody orders, or “determinations”, are already on file with a District Court in the State of Colorado, and are binding on all persons served with the order. CRS § 14-13-105; *see also* CRS § 14-13-201. Under Colorado law, service of these custody orders is the duty of the sheriff, and not the duty of municipal police officers. Enforcement of any lawful custody order falls to all law enforcement agencies.

Under Colorado law, it is unlawful to violate a custody order.

C.R.S. 18-3-304 (2): Except as otherwise provided in subsection (2.5) of this section, any parent or other person who violates an order of any district or juvenile court of this state, granting the custody of a child or parental responsibilities with respect to a child under the age of eighteen years to any person, agency, or institution, with the intent to deprive the lawful custodian or person with parental responsibilities of the custody or care of a child under the age of eighteen years, commits a class 5 felony.

C.R.S. § 18-3-304(2.5) Any person who, in the course of committing the offenses described in subsections (1) and (2) of this section, removes a child under the age of eighteen years from this country commits a class 4 felony.

Sworn members should not take action solely because of an alleged custody dispute unless the requesting party can produce a certified copy of a custody order indicating both:

- (1) The order was issued by a district court in Colorado or, if an out-of-state order, has been properly filed with the clerk of a district court in Colorado;

and

- (2) The terms of the decree authorize immediate enforcement by any peace officer or any police officer.

Absent the above conditions or any other facts and circumstances that amount to probable cause for an arrest, cases where an alleged violation of a child custody order is brought to the attention of the Aurora Police Department, will at a minimum, be documented in an MDC report. These types of cases may involve out-of-state custody orders or informal custody agreements. Officers will note the specifics of the dispute and provide the reporting party with an incident number.

When there is an alleged custody violation based on an order issued by a Colorado court or registered with a Colorado court, where the facts and circumstances do not rise to the level of probable cause, officers will document such investigations in a general offense report. The case number will be given to the reporting party and the case will be forwarded to the appropriate district detective unit for resolution.

Supervisors will not cancel child custody calls for service unless the supervisor has contacted the reporting party and has determined that the custody order was informal or an out-of-state order that was not registered with a district court in Colorado. The supervisor will then complete or assign an officer to complete an MDC report reflecting the circumstances.

(b) Execution of Criminal Process and Search Warrants Outside of APD's Jurisdiction

In outside jurisdictions, the execution of criminal process will be performed only when the effected jurisdiction has been advised. A member of the effected jurisdiction may be requested to participate.

In the case of search warrants, unless otherwise directed by a court of competent jurisdiction, a sworn member of the local jurisdiction entitled to execute search warrants within that jurisdiction will be present during execution.

6.4.3 Property Received Pursuant to Legal Process

All property received pursuant to legal process will be accounted for in the Property and Evidence Unit, and will be disposed of according to Directive 8.9, Processing, Storage and Disposition of Evidence and Other Property.

6.4.4 Financial Management

This department does not maintain or disburse funds for the service of legal process. Therefore, no accounting system has been created for this purpose.

6.4.5 State and Federally Forfeited Assets

The Colorado Public Nuisance Law, the Colorado Contraband Forfeiture Act and the United States Code relating to federally forfeited property all require that any monies forfeited under their provisions will be used by the Aurora Police Department in carrying out its law enforcement mission; and further require that any such monies be in addition to the departmental budget approved and appropriated by the City Council. To ensure compliance with these statutory requirements, and to avert the risk of the potential loss of such funds:

- (a) Any monies so forfeited will be deposited in one or more funds specifically designated to receive forfeiture proceeds.
- (b) Records of deposits and expenditures of forfeiture proceeds will be maintained by the Department according to generally accepted accounting principles.

Any requests for expenditure of forfeiture proceeds will be made, in writing, to the Chief of Police through the appropriate Division Chief. The written request will, at a minimum, include the following:

- (a) Certification that the requested expenditure is to be utilized for a purpose for which there are no appropriated budget monies; and
- (b) An explanation of how the expenditure will be used to assist the Department in carrying out its law enforcement mission.

The Narcotics Section Command Officer is designated the Department's Asset Forfeiture Manager. Property received pursuant to Civil Seizure will be accounted for and disposed of in accordance with Narcotics Section S.O.P.