



# Colorado Springs Police Department

## General Order

### 1091 Homeless Outreach & Enforcement

#### Section 1000 – Patrol Functions

Effective Date: 2/24/2022

Supersedes Date: 6/30/2021

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#### **.01 Purpose**

The purpose of this directive is to establish procedures to guide officers during contacts and arrest situations regarding community members experiencing homelessness.

#### **.02 Cross-Reference**

[GO 120 Treatment of the Public](#)

[GO 121 Fair and Impartial Policing](#)

#### **.03 Discussion**

Homelessness is a significant concern for the local and national community. Despite the individually unique and varied reasons for homelessness, homeless persons continue to be afforded the same rights by the Constitution. Therefore, when police encounter homeless persons, they must remain mindful of ensuring their rights are not violated, in addition to facilitating assistance or resources, and enforcing any alleged or observed unlawfulness.

The issues surrounding homeless encampments is typically related to encroachment upon areas, public or private, without approval. These encampments may take a variety of forms, such as a group of individuals living together in a public area, such as a public park. These encampments can vary widely in size and may be constituted by a single or multiple persons. Generally speaking, an encampment will include some type of shelter (e.g., a tent, a lean-to made of cardboard), although some encampments may rely on pre-existing structures, such as a freeway overpass or abandoned building, to provide shelter with the encampment itself consisting primarily of personal property (clothing, sleeping bags, cookware, etc.).

While homelessness itself is not a crime, such encampments have the potential for creating hazards to the public, environment, as well as the persons residing within. The Colorado Springs Police Department (CSPD) is cognizant of these issues and in response has developed specially trained units to assist homeless persons, to include the Homeless Outreach Team (HOT), Downtown Area

Response Team (DART), as well as regular collaboration with other entities that include social workers accompanying officers, real time shelter capacity status, resources for housing, food, medical and mental health care via the city webpage.

## **.04 Policy**

CSPD personnel will provide appropriate law enforcement services to the entire community, while protecting the rights, dignity and personal property of those experiencing homelessness through regulations, city ordinance, state statutes, policy and practices.

This includes but is not limited to:

- Camping on public and private property related contacts
- Camping within a riparian zone
- Camping restrictions in parks
- Fire burn regulations
- RV parking complaints

When responding to a camping complaint or other call type that has homelessness as a nexus, the officers will handle the call in its entirety, in an appropriate and professional manner.

Homeless Outreach Team Officers, DART officers or officers selected as Subject Matter Experts (SMEs) will respond to the requests and needs of homeless persons and persons in crisis when applicable and available.

Training applicable to Homeless Outreach related functions will be completed as required and reported to the training academy for record retention.

## **.05 Definitions**

*Camping:* Sleeping or occupying a temporary shelter out-of-doors, such as being inside a sleeping bag or covered with other materials.

*Downtown Commercial District:* The area bordering on or included within the area bordered on the north by St. Vrain Street, on the south by Cimarron Street, on the east by Wahsatch Avenue and on the west by Interstate-25.

*Median:* The area between two (2) roadways of a divided street or highway measured from the edge of the traveled way to the edge of the traveled way including areas between traffic lanes for control of vehicular movements. Such an area may be physically defined by curbing, landscaping, or other physical obstacles to the area's use by vehicles or by traffic control markings (also known as a painted median).

*Obstruct:* To hinder or slow progress, to retard progress, to make accomplishment of obtaining a goal slower or more difficult, to be or come in the way of, or impede.

*Old Colorado City Commercial District:* The area bordered on or included within the area bordered on the north by West Pikes Peak Avenue, on the south by West Cucharras Street, on the east by 23rd Street, and on the west by 28th Street.

*Public Place:* A place to which the public or a substantial part of the public has access, including streets, highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities, including parking lots or any other area intended for use by the public. It will include the front, entryway, doorway or vestibule or area of immediate access to any public place, store, shop, restaurant, tavern or other place of business.

*Public Property:* Property that is dedicated to public use. Property owned by the government (or its agency), rather than by a private individual; e.g., parks, streets, sidewalks, or libraries.

*Public Right of Way:* Any street, sidewalk, trail, path, alley, parkway, curb, median, traffic island, or any other publicly owned property intended or used for pedestrian, recreational, or vehicular travel.

*Shelter:* Any covered protection from the elements other than clothing, such as tents, shacks, sleeping bags, or other structure, or material

*Soliciting:* To knowingly make a request, whether by spoken words, bodily gestures, written signs or other means, for a gift of money or other thing of value. Soliciting includes, but is not limited to, seeking a donation where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the purchase is in substance a donation, or begging, or panhandling.

*Stream Bank:* Means the terrain alongside a stream between which the flow of water or body of water is confined.

*Stream Riparian Zone or Riparian Zone:* Means public land area that extends one hundred feet (100') away from the edge of the streambank.

*Stream:* Means natural, altered or improved channels that have seasonal or continuous water flows as a result of surface sources, storm water runoff or groundwater influx, or naturally occurring or man-made bodies of water surrounded by land which water is confined. Streams include channels, canals, streambeds, stream banks, drainage ways, flood ways, holding insulting basins, reservoirs, lakes and ponds.

*Waste:* Includes but is not limited to: any and all rubbish; unused, rejected and/or discarded material(s); feces; garbage; trash; debris or other foreign substances, solid or liquid of every form, size, kind, and description.

*Written or Verbal Warning:* For the purposes of this directive, "written warning" refers to the Colorado Springs Police Warning E-citations. The warning ticket must contain the date, time, and location of violation, name of violator, sex, race, DOB, ID number and state of ID. The ordinance will be cited in the "other violations not listed" section and will be written as *9.6.110, Camping on Public Property Prohibited*. All specific referrals given to the violator will be noted within the warning ticket. In the event the E-citation system is not functioning properly or is otherwise unavailable a "verbal warning" may be issued. The verbal warning will be documented on an FIR card and the officer will note the same information as required for a written warning and will be maintained by the Records Section. Additionally the notation "HOT CVW" will be noted on the FIR card.

## **.10 Homeless Outreach and Enforcement Personnel**

### **HOT**

The Homeless Outreach Team (HOT) is a unique asset, as assigned personnel work with public sector, non-profit, and business partners to address specific issues affecting the homeless community in Colorado Springs. HOT is housed out of the Gold Hill Division, but is available to address significant homelessness issues in all areas of the city.

### **DART**

The Downtown Area Response Team (DART) are personnel who respond to calls specifically within the downtown area. It is common for this team to encounter homeless persons or camping related issues so they receive advanced training pertaining to homelessness.

### **Social Workers**

Routinely, contracted social workers will ride along with HOT officers and provide referrals and information to homeless persons who are receptive to or requesting of assistance at the scene. They will conduct interviews with persons for future housing considerations. These social workers are provided by Homeward Pikes Peak.

### **Homelessness Subject Matter Experts**

HOT will provide training specific to homelessness and application of ordinances to members of the patrol division to serve as subject matter experts (SME) who will have authorization to enforce restrictions specific to that of homelessness and camping related issues. Hot SMEs will be required

to complete an initial 10 hour training. After the initial training, they will be required to complete annual recertification training. This training will be conducted by members of CSPD's HOT team.

## **.15 Enforceable Actions by Patrol**

Any officer has the authority to enforce camping restrictions on **park property** as outlined under City Ordinance § 9.9.404 "Camping Restrictions." Any officer can enforce § 9.6.202: "Littering Prohibited," § 9.2.104 "Obstructing Passage or Assembly," § 9.6.102 "Trespass."

## **.20 Camping on Private and Public Property Prohibited**

If the camp is on **private property**, dispatch will build the call as a trespassing call for service and not a camping call. Patrol officers will be dispatched to these calls. The officer will handle the call as a trespassing incident and follow up appropriately with the property owner

Camping in public areas creates a number of issues the police department is frequently contacted about. These issues include trash in public areas, pollution of waterways, aggressive solicitation, etc.

Camping on **non-park public property** is outlined in City Ordinance § 9.6.110 "Camping on Public Property Prohibited." Only personnel who are assigned to the HOT Unit, DART Unit, or patrol officers certified as division SMEs for this ordinance are authorized to cite violators.

The following activities and circumstances may be considered in determining whether reasonable grounds to believe a person has "camped or is camping" in violation of this section:

- Sleeping or making preparation to sleep, including the lying down of bedding for the purpose of sleeping.
- Occupying the shelter out-of-doors.
- The presence or use of campfire, camp stove or other heating source, or cooking device.
- Keeping or storing personal property.

If a call for service is generated regarding persons camping illegally on public property, the Communications Center will build a CAMP call for service. The Peak Station Lieutenant or his/her designee will review these calls for services to determine if the call should be handled by HOT, DART, or divisional SMEs.

If a patrol officer encounters this type of they, they will:

- Advise the violators of the violation and document the contact on a Field Information Report (FIR). When giving a warning for violation of public camping ordinances, it is important to advise the offender camping is illegal anywhere on public property within the city limits of Colorado Springs.
  - The FIR will include notice a warning was given for camping on public property prohibited. The warning will include notification camping is illegal anywhere on public property within the city limits of Colorado Springs. Officers will also photograph the camp.
  - If determined that the call is an abandoned camp or just trash, officers will email the HOT Unit Sergeant. Officers will include the location and description of the abandoned camp.
  - The HOT Unit sergeant will forward the information to the city’s Quality of Life Team, who will then arrange for the cleanup.
  - As a reminder, patrol officers who are not SMEs or who are not assigned to HOT or DART cannot cite the violation if on public property. These officers will send the HOT Sergeant an email regarding the circumstance around the camp on public property.

HOT, DART or SMEs who cite individuals for camping on public property must confirm bed space was available at any shelter at the time the violation occurred. Officers can do this by going to [helpcos.org](http://helpcos.org) and clicking on available shelter beds for a count of beds available. Citations will not be issued if sufficient bed space to house the offender was not available.

If the person to be cited has not received a prior warning or citation for camping in public, the individual will be given 24 hours to remove their camp prior to citation. If they have received a warning or previous citation, officers will cite the person for City Ordinance § 9.6.110 (they do not need to give another warning); however, officers must still give these individuals 24 hours to remove the camp.

## **.25 Camping Within Public Stream/Public Stream Riparian Zone:**

Camping within 100 feet of a public stream is unlawful and outlined in municipal ordinance City Ordinance § 9.6.111 “Camping and Waste Deposit Within Public Stream/Public Stream Riparian Zone Prohibited.” Any officer can and should cite violations of this ordinance.

When making contact for violation of City Ordinance § 9.6.111, prior to issuance of the summons officers will:

- Notify the offender of the violation.

- Advise the offender they need to move.
- Give the offender a reasonable amount of time to move (depending on circumstances, this could be one hour or longer).
- Research LERMS for any FIRs to see if the offender has received previous warnings or citations. If the person has been warned or previously cited, a summons is appropriate
- Measure the distance between the stream bank and edge of camp, and document this distance in the probable cause affidavit or summons notes.
- Take photographs of the camp and submit those photos into DIMS.
- Place the call screen number in the probable cause affidavit so the City Attorney's Office can verify the date/time a warning was given.

When giving a warning, officers will have dispatch add the name and date of birth of each individual that was warned in the call screen. Officers will then document the warning in an FIR. In order to determine if an individual has previously been warned, officers can search FIR's under **VWH20**.

If, after giving an offender a reasonable amount of time to move, he or she has not started to move/remove the camp, officers will issue them a summons. If the offender has started to remove the camp, officers will allow them additional time.

In certain cases involving repeat offenders and after obtaining supervisor approval, HOT officers may seize the offender's tent and other camping materials. These items will be seized as evidence or personal property for violations of City Ordinances § 9.6.110 or § 9.6.111. The seizure of property must comply with all federal, state, and local search & seizure requirements.

### **.30 Expectation of Privacy in Tents**

In *People vs Schafer* the courts outlined people's expectation of privacy when it comes to tents. This ruling reads, "We determine under the Fourth Amendment of the United States Constitution and its Colorado counterpart, Colo. Const. art. II, § 7,<sup>3</sup> that a person camping in Colorado on unimproved and apparently unused land that is **not** fenced or posted against trespassing, and in the absence of personal notice against trespass, has a reasonable expectation of privacy in a tent used for habitation and personal effects therein

In Colorado, one who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with

license and privilege in the absence of personal or posted notice. Section 18-4-201(3), 8B C.R.S. (1986), provides: Except as is otherwise provided in section 33-6-116(1), C.R.S., a person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice forbidding entry is given by posting with signs at intervals of not more than four hundred forty yards or, if there is a readily identifiable entrance to the land, by posting with signs at such entrance to the private land or the forbidden part of the land

The following is how CSPD officers will treat expectation of privacy issues for tents on camping related calls.

- If the person has a tent on **public property**, they have a reasonable expectation of privacy.
- If a property **is clearly identified as private property** (e.g., posted with no trespassing or private property signs at intervals not more than 440 yards, **fenced or otherwise enclosed in a manner designed to exclude intruders**, obvious private property (e.g., residential front yard or back yard, marked business parking lot, etc.), then there is **no reasonable expectation of privacy for tents**.
- If a property is **not clearly identified** as private property, then people do have a reasonable expectation of privacy in their tent. In these circumstances, Officers shall.
  - Check if there is a ‘No Trespass’ letter on file with CSPD. If there is a ‘No Trespass’ letter on file with CSPD, we can act as an authorized person for the property owner. Officers will:
    - Give the offender notice that they are trespassing, this is their verbal warning, and that police have the right to enforce the trespass from the property owner. Officers will then post the area appropriately and give the offender sufficient time (generally one hour, absent exigent circumstances). If after an hour officers return and the offender is still on the property, the expectation of privacy is gone and officers will cite or arrest the offender as appropriate and ensure they leave the private property.
    - If there is not a ‘No Trespass’ letter on file, the property owner **must** give the person notice that they are trespassing prior to them losing their reasonable expectation of privacy in a tent. Once that occurs, regular trespass enforcement rules apply.

## **.35 Fire Burn Regulations**



When an officer comes across an open fire or campsite with a fire, the officer will determine if the fire needs to be put out based on concerns for safety of life and property. If the fire is dangerous, officers will extinguish the fire to ensure safety of life and property. Prior to taking any enforcement action, officers will refer to the burn restrictions currently in place in order to determine if they should be citing someone for a violation. Burn restrictions are set forth by the Colorado Springs Fire Department's (CSFD) Fire Marshal, and outdoor burning guidelines are located on the CSFD guidelines page ([click here](#)).

## **.40 RV Parking Complaints**

CSPD frequently receives citizen complaints regarding recreational vehicles (RVs) that are parked on a public roadway and being used as a stationary residence. Because there is a high likelihood the RV associated with the CFS will be occupied, only patrol officers will respond to parking complaints involving RVs.

After an initial response by a patrol officer, HOT and DART officers and the divisional SMEs will be responsible for any follow-up.

The procedure for handling RV parking violation calls for service is:

1. Once the Communications Center receives a call for an illegally parked RV, a CFS will be built as a PARKRV and zoned to the appropriate patrol division for a patrol response.
2. Responding officers will give a courtesy warning for first-time offenses by placing a fluorescent green ABANDONED VEHICLE REPORT parking sticker on the RV. The RECREATIONAL VEHICLE box on the sticker should be checked. Upon completion of the call for service, officers will ensure the call is split to an abandoned RV call for service to be followed up on after 72 hours. This is accomplished through the Communications Center.
3. HOT officers, DART officers, and the divisional SMEs are responsible for checking the abandoned vehicle queue for any ABANRV CFS and conducting the necessary follow-up. Additionally, although DART, HOT, and Homeless SMEs have been tasked with conducting the follow-up, any officer can self-initiate a response to the ABANRV pending calls.
4. After being tagged, the second, third, and fourth offenses will result in parking tickets with progressive fines. After an RV has been ticketed three (3) times, consultation about impounding the RV will occur between a patrol supervisor, the HOT sergeant or SME supervisor, and the Impound Lot supervisor.

Officers having questions about enforcing the amended ordinance and or the procedure above should contact a HOT, DART or a CSO supervisor.

## **.50 Pedestrian Access Act**

City Ordinance § 9.2.112 “Sitting or Lying Down in Commercial Districts” prevents blocking of public ways in the Central Commercial District and the Old Colorado City Commercial District. The purpose of this ordinance is to prohibit any sitting, kneeling, reclining, or lying down on the surface of any public right-of-way (ROW), and to prohibit any objects from being placed on the surface of the ROW (e.g., tents, etc.). The ordinance is in effect from 7:00AM to 10:00PM daily, and from 10:00PM to 3:00AM on Friday and Saturday nights. Examples of public rights-of-way include streets, sidewalks, trails, paths, alleys, parkways, curbs, medians, traffic islands, and any other publicly owned property intended or used for pedestrian, recreational or vehicular travel.

This ordinance is enforceable by all CSPD officers.

Affirmative defenses for this ordinance include:

- Medical emergency
- Disability requiring the use of wheelchair or walker
- Commercial establishments in the ROW pursuant to any issued permit or license
- Permitted parades or special events
- Objects intended for sitting furnished by the city or other public agency (e.g., benches, etc.), and transit stops.

Officers will not issue a summons unless:

- The violator was previously notified that their conduct violates the ordinance; and
- The violator was previously issued a written warning; and
- The written warning was issued via e-citation.

Upon initial contact, the officer will verify if the violator previously received a written warning. If a violator is found to have received a prior written warning, the officer will note the date, time, location, serving officer, and summons number for the warning within the probable cause section of the e-citation.

Officers will note the elements of probable cause for the violation on the e-citation, including the specific act of the violator. For example, “*Subject was seated on the sidewalk in front of 210 N. Tejon Street at 4:05 pm when contacted by this officer.*”

## **.60 Solicitation on or Near a Street or Highway**

Municipal ordinances prohibit obstruction or interference with the movement of traffic on a street or highway per City Ordinance § 10.18.111 Obstruction or Interference with Traffic. Additionally, it is unlawful for persons to occupy any median posted with official signage prohibiting such access, use, or occupancy.

Municipal ordinances also prohibit aggressive solicitation per City Ordinance § 9.2.111: Solicitation Prohibited.

Aggressive Solicitation does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person, other than in response to an inquiry by that person. Rather, to be a violation, an offender must engage in aggressive conduct as outlined in city ordinance.

Officers may cite persons for aggressive solicitation or obstructing traffic if they establish probable cause that the elements of the ordinances were violations.

*Note:* Seeking a *donation* from someone displaying a "No Soliciting" sign is unlawful. Seeking to *sell* something (Girl Scout cookies, popcorn, etc.) to someone displaying a "No Soliciting" sign does not violate the solicitation ordinance. Other charges may apply (trespass, for example), but a charge under City Ordinance § 9.2.111 is inappropriate against a person *selling* something on private property displaying a "No Soliciting" sign.

## **.65 Use of Medians**

Municipal ordinances make it unlawful to occupy any median posted with official signage prohibiting such access, use, or occupancy per City Ordinance § 10.18.112: Use of Medians. This ordinance is enforceable by all officers, who will use proper discretion on whether to cite violators or issue a verbal warning. Officers are reminded this is a serve-and-release traffic violation.

Officers will not issue a citation unless the median is clearly posted with the required sign. When possible, officers will include a photograph of the sign as part of their investigation. These photographs can be uploaded into DIMS using the call screen number for reference.

## **.70 Available Resources**

Several resources are available for persons who are currently living without a home in the city of Colorado Springs. If a patrol officer contacts a homeless person who could use resources or requests assistance, the officer may contact any member of the HOT Unit for assistance and guidance. If unable to make contact with the unit, officers should check the helpCOS.org website related to the specific type of assistance requested and relay what information may be available. The on-scene officer may also provide this website address with the provided information.

## **.80 Overnight Warming Shelter**

The Colorado Springs Rescue Mission will employ an overnight warming shelter when they have determined it necessary. The shelter will be based on the harm reduction temperature of at least 19 degrees below Fahrenheit, or any other adverse weather conditions they deem necessary to open the shelter. When the warming shelter is open, the shelter is open to everyone, no one is excluded. They have a 10pm curfew, meaning no one will be allowed entry at the Rescue Mission after 10 pm.

## **.82 Placement of Families Needing Shelter**

Requests for placement of families needing shelter need to be coordinated with Family Promise. Family Promise will make attempts to get the family in temporary housing. Officers can make these requests by contacting Family Promise at 719-329-1244.