



A handwritten signature in black ink, appearing to read "ACH", is written over a horizontal line.

POLICY

It is the policy of the Douglas County Sheriff's Office (DCSO) that all persons detained or arrested by DCSO Members will be afforded full use of their constitutional rights and will be treated in a professional manner.

DEFINITIONS

Probable Cause: Probable Cause exists where the facts and circumstances within the officer's knowledge are more probable than not to warrant a belief that the suspect has committed, or is in the process of committing a crime. Probable Cause is established by two building blocks: 1) an awareness of the articulated facts, and 2) a gathering of supportive evidence.

PROCEDURE

I. Lawful Arrests

- A. There are two criteria for a lawful arrest that must be present:
 - 1. There is reason to believe that a crime has been committed.
- AND-
- 2. There is evidence to establish that the person to be arrested has committed the crime.
- B. A Deputy may request assistance from any person to affect an arrest in accordance with NSS §28-903.
 - 1. The requesting Deputy will identify him/herself to the requested person as a peace officer and the request must be reasonable and may include assistance in apprehending or securing a person charged with or convicted of any offense against any of the laws of this state.

II. Arrests without a Warrant (1.2.5)

- A. To justify an arrest without a warrant, Deputies will have probable cause prior to making the arrest.
- B. In determining whether probable cause exists, a law enforcement officer may take into account all facts and circumstances including:
 - 1. Facts based upon any expert knowledge or experience of the Deputy that a prudent Deputy would judge relevant to the likelihood that a crime has been committed, and that the person to be arrested has committed it.

2. Information received from any informant whom it is reasonable under the circumstances to credit, whether or not at the time of making the arrest the Deputy knows the informant's credibility.
 3. The Deputy may rely on information provided by other Deputies and dispatch.
- C. Probable cause cannot rest on a 'hunch' or 'mere belief' but must be supported by specific information.
- D. A Deputy may physically arrest and book a person without a warrant if the Deputy has probable cause to believe that such person has committed (NSS §29-424.02):
1. A felony.
 2. A misdemeanor, and the Deputy has probable cause to believe that such person:
 - a. Will not be apprehended unless immediately arrested.
 - b. May cause injury to themselves or others or damage to property unless immediately arrested.
 - c. May destroy or conceal evidence of the commission of such misdemeanor-OR-
 - d. Has committed a misdemeanor in the presence of the Deputy.
 3. One or more of the following acts to one or more household members, whether or not committed in the presence of the Deputy:
 - a. Attempting to cause or intentionally and knowingly causing bodily injury with or without a dangerous instrument.
 - b. Placing, by physical menace, another in fear of imminent bodily injury.-OR-
 - c. Engaging in sexual contact or sexual penetration without consent as defined by NSS §28-318.
- E. Deputies will arrest a person with or without a warrant if the deputy has probable cause to believe that the person has committed a violation of a Protection Order in accordance with NSS §42-928 and the DCSO "Protection Orders" policy or has been involved in a Domestic Violence situation (see the DCSO "Domestic Violence" policy).
- F. Deputies will utilize a Mobile ID device to confirm the identity of all adult subjects being booked into DCDC in accordance with the DCSO "Mobile Identification" policy.

EXCEPTION: Deputies may utilize a Mobile ID device to confirm the identity of a juvenile subject being booked as an adult upon receiving approval from the Douglas County Attorney's Office.

G. Deputies who make a warrantless felony arrest will complete a Warrantless Arrest Affidavit and a blank Order that will accompany the person to DCDC.

1. The Warrantless Arrest Affidavit will be signed and must clearly articulate the probable cause for continued detention.

NOTE: If the affidavit does not accurately and thoroughly communicate the probable cause for continued detention, the judge will find “No Probable Cause Exists,” which may trigger a release from custody.

2. The Warrantless Arrest Affidavit will be sworn to and signed in front of a judge, clerk magistrate, or notary public prior to scanning.
3. Deputies will use the designated scanner/copier/fax machines to email the Warrantless Arrest Affidavit and the blank Order to the Duty Judge.
 - a. The Order must be the last page. Sending both the Warrantless Arrest Affidavit and the blank Order creates a packet that DCDC staff can keep together and reduces the risk of unlawful detention.

NOTE: Continued detention is not legal until the Order is signed by the Judge which is why it is critical to send both documents together and create one packet.

4. The Duty Judge will review the packet, complete the Order, and electronically sign the Order. After the Duty Judge has signed the Order the packet will be sent to DCDC and Court Administration.

III. Arrests with a Warrant (1.2.5, 74.3.1, and 74.3.2)

A. Jurisdiction and Authority

1. In accordance with NSS §29-408 and §29-215, DCSO Deputies have the authority to go anywhere in the state of Nebraska to execute misdemeanor and felony warrants.
 - a. Deputies will consult with their Supervisor or Command Officer prior to leaving Douglas County for the execution of warrants or orders.
2. Deputies will not arrest and book suspects based on a warrant if the suspect is responding to a summons relating to the warrant that requires them to either enter and/or or pass through DCSO’s jurisdiction in order to comply with the summons (NSS §29-1909).
3. Deputies cannot enter another state to arrest or take custody of a party with a warrant without completing the extradition process as required by the Uniform Criminal Extradition Act of 1963 (See NSS §29-729 through §29-765).
 - a. The wanted person that was arrested by the law enforcement agency in the other state’s jurisdiction and must have gone through an extradition proceeding prior to Deputies entering the state to take custody of the person.
 - b. Members will refer to the “Fugitive Warrants Team” policy for extradition

procedures.

B. Warrants that Originated within the Omaha/Douglas County Metropolitan Area.

1. Deputies will first contact 911 Dispatch to:
 - a. Confirm that the warrant is valid. (74.1.3d)
 - (1) The status of any arrest warrant (both DCSO and outside agency warrants) may be verified 24 hours a day, seven days a week by: (74.1.3 b, e, and g)
 - (a) Completing a records check of the wanted person's name in IMS.
 - (b) Contacting Douglas County 911.
 - (c) Contacting the Fugitive Warrants Team who can conduct checks to confirm warrants Monday – Friday, 0800- 1630 hrs. The FWT maintains an alphabetized, by last name, warrant file where the original warrant is filed and maintained.
 - b. Obtain the respective warrant numbers. (74.1.3 d & e)
 - (1) Each warrant is listed in IMS under each wanted person's name.
 - c. Ensure felony warrants are for charges extraditable to the originating jurisdiction when applicable.
 - d. Have the warrant sent to the Douglas County Department of Corrections (DCDC) intake/booking.
2. Non-DCSO Warrant Arrests
 - a. Deputies will take the suspect to DCDC and book the suspect on the listed warrant charges.
 - b. Deputies will complete a Case Report in RMS documenting the arrest and any additional applicable information.
3. DCSO Warrant Arrests
 - a. Deputies will take the suspect to DCDC and book the suspect for the listed charges.
 - b. If the arrest stems from any case already created in the RMS, the Deputy will document the arrest and circumstance related to the arrest under the original Case Report. Deputies will modify the original Case Report to indicate that the suspect was arrested.
 - c. If there is no original Case Report in RMS, the arresting Deputy will document the arrest by generating a new Case Report.

4. Warrant Arrest Transfer Reports are non-criminal reports that document the transfer of custody of a person arrested by the DCSO but booked by another Law Enforcement Agency. Deputies will not use a Warrant Arrest Transfer Report to document an arrest.
- C. Felony/Misdemeanor Arrest Warrants from outside of Douglas County but within the State of Nebraska.
1. Deputies encountering suspects with felony/misdemeanor warrants in jurisdictions surrounding Douglas County Nebraska will adhere to the following procedures:
 - a. If there are no DCSO charges, Deputies may:
 - (1) Time and staffing permitting, meet a sworn officer from the respective jurisdiction at the county line and transfer custody of the suspect to the jurisdiction that issued the warrant.
 - (a) Deputies will obtain all transfer information.
 - (2) Book the suspect into DCDC to be held on extraditable warrants.
 - b. If there are fresh DCSO charges, Deputies will transport the suspect to DCDC and book the suspect on the fresh felony/misdemeanor charges. Deputies may also book the suspect on extraditable warrants.
 - c. Deputies will complete a Case Report detailing the arrest.
- D. Out of State Warrants
1. Deputies encountering suspects with extraditable felony/misdemeanor arrest warrants from outside the State of Nebraska will adhere to the following procedures:
 - a. If there are no DCSO charges Deputies will transport the suspect to DCDC and book the suspect as a fugitive from justice on the extraditable warrants.
 - b. If there are fresh DCSO charges, Deputies will transport the suspect to DCDC and book the suspect on the fresh felony/misdemeanor charges. Deputies may also book the suspect as a fugitive from justice on the extraditable warrants.
 - c. Deputies will complete a Case Report detailing the arrest whenever they arrest someone with a warrant who will be extradited. This is required for the extradition process. The details of the report will include the following:
 - (1) Observations and circumstances that led to the probable cause for the arrest.
 - (a) This information must answer the judge's question, "What is the factual basis for the arrest and continued detention of this defendant?"
 - (2) The date, time, and location of the arrest.

- (3) The steps taken by the deputy to determine the identity of the person as an interstate fugitive.
 - (a) This may include a computer record check, a teletype received from the agency issuing the warrant (ORI), or a comparison of scars, marks, tattoos, fingerprints, or other identifying physical characteristics contained in the NCIC warrant information.
 - (4) Any other details that demonstrate probable cause that the person arrested is an interstate fugitive. Such details may include witness statements and/or incriminating statements from the fugitive.
- 2. No 'fugitive from justice' arrested in Douglas County's jurisdiction can post a bond at the time of booking if the warrant is issued in a foreign (out of state) court.
 - a. The only way bond can be posted under these circumstances is after arraignment on the 'fugitive from justice' charge in County Court, at which time the judge will consider the recommendation for bond indicated on the warrant by the source LEA (ORI).
- E. Non-Extraditable Warrants
 - 1. Deputies who encounter suspects who have non-extraditable warrants and who do not have fresh DCSO charges will document and detail the circumstances of the stop, warrant information, and the release of the suspect on the appropriate report based on the circumstances of the incident.
 - 2. Suspects who have non-extraditable warrants may still be booked based on fresh DCSO charges.
- F. Capias Mitimus Warrants (also known as Commitment and Time Pay Warrants)
 - 1. These warrants are typically issued for unpaid fines, show cause order, etc.
 - 2. Whether the warrant was issued from within or outside of DCSO's jurisdiction, Deputies will coordinate with 911 Dispatch to obtain the respective fine/show cause order amounts and the warrant number.
 - 3. 911 Dispatch will send the warrant number to DCDC intake/booking.
 - 4. Suspects may pay fine amounts for other Nebraska jurisdictions at DCDC.
- G. Deputies will utilize a Mobile ID device to confirm the identity of all adult subjects being booked into DCDC in accordance with the DCSO "Mobile Identification" policy.

EXCEPTION: Deputies may utilize a Mobile ID device to confirm the identity of a juvenile subject being booked as an adult upon receiving approval from the Douglas County Attorney's Office.

IV. Post-Arrest Considerations

- A. Deputies will ensure that appropriate medical aid is rendered as quickly as reasonably possible

following an apprehension in accordance with the DCSO “Medical Aid and Hospital Procedures” policy. (4.1.5)

- B. Deputies will ensure that medical clearance is obtained as required prior to booking in accordance with the DCSO “Medical Aid and Hospital Procedures” policy.
- C. Deputies will refer to the “Juvenile Operations” policy for procedures to follow if there are juveniles under the custody of the arrested party.
- D. If a person who is placed under custodial arrest has animals, the animals will be left in the care of a designated person. If a designated person is not available to care for the animals or the animals appear to be in distress or show signs of abuse/neglect, the Nebraska Humane Society will be contacted.

V. Alternatives to Arrest (1.2.6)

A. Citation in Lieu of Arrest

- 1. Deputies will adhere to NSS §29-422 that requires citations to be issued in lieu of arrest or continued custody to the maximum extent consistent with the effective enforcement of the law and the protection of the public.
 - a. Where a failure to appear or warrant history exists, physical arrest and booking of the suspect is appropriate.
- 2. When probable cause exists, but a physical arrest is not allowed due to a failure to meet the requirements for physical arrest without a warrant, the Deputy will attempt to clear the case through citation in lieu of arrest.
- 3. If a Deputy intends to merely issue a criminal citation, it is only necessary for the Deputy to believe that a crime has been committed and that the person being cited committed the crime.
- 4. If neither physical arrest nor citation is prudent or practical, a completed report will be forwarded with all information regarding probable cause including complete identification of the person who is suspected. In these cases, a warrant may be applied for at a later time either by the Deputy or the victim.
- 5. The DCSO will assist the Douglas County Environmental Services Department (DCESD) and the Douglas County Health Department (DCHD) by issuing citations for nuisance or land use violations upon request of the DCESD or DCHD. Arrests for such offenses will only be made in accordance with state statutes and DCSO policies and procedures.
 - a. Deputies will document such citations in accordance with standard DCSO policies and procedures.
 - b. Deputies who observe nuisance or land use violations will contact the applicable agency to initiate an investigation.

B. Informal resolutions

- 1. An informal resolution is the practice of resolving problems without arrest, citation, or referral.

2. An informal resolution is an excellent method to deal with MINOR violations. It should be used in disputes when victims do not wish to pursue criminal charges and when an arrest or citation is not required by law or warranted based on the circumstances.
 3. An essential element to informal resolution is the agreement by all involved parties that no arrest should take place or a determination by the investigating Deputy that inadequate probable cause exists.
- C. Deputies MUST consider the following factors when exercising alternatives to arrest:
1. The presence or absence of probable cause.
 2. Existing law and the elements of the offense.
 3. The level of cooperation by victims and witnesses.
 4. The severity of the offense involved.
 5. Available resources.
 6. Agency policies and procedures.
- D. The decision to make an arrest or not will not be guided by the personal feelings of the Deputy.
1. No release of an arrestee is authorized where such person has been taken into custody on a valid warrant until such arrestee has satisfied appropriate bond requirements.

REFERENCES

I. Laws

- A. Nebraska Revised Statutes §29-411, §29-412, §29-422, §29-424.02, and §42-928.

II. Previous DCSO Orders

- A. Previous General Orders include: #40-2023, #86-2020, #69-2020, #53-2020, #75-2019, #101-2018, #69-2018, #26-2018, #30-2016, #23-2014, #28-2012, #27-2012, #22-2012, #25-2011, #18-2008, and #7-2007.

III. CALEA Accreditation Standards

- A. Relevant CALEA standards include: 1.2.5, 1.2.6, 4.1.5, 74.1.3, 74.3.1, and 74.3.2.

IV. Review Schedule

- A. Quadrennial