



Policy and Procedure

Policy Number

11.29

Chapter

Law Enforcement Operations

Article

Arrest Warrants, Summons, Bonding, and Civil Matters

Authorized By:

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PURPOSE

The purpose of this policy is to inform department staff about the established practice for the issuance of a summons and complaint, the processing criminal defendants with an arrest warrant, civil matters and whether and to what extent a bonding is utilized.

POLICY

The Department will process criminal defendants in a manner that is consistent with federal, state, and local law and that discretionary acts made by department staff strive to treat all similarly situated defendants in a similar manner.

DEFINITIONS

Civil dispute means a situation where probable cause of a crime is absent and where one or more individuals may have a claim for damages or other relief not associated with the criminal justice system.

Foreign protection order means any restraining or protection 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.

Penalty assessment eligible violation means those violations under the Loveland Municipal Code or under Colorado law, which carry an assessment of four points or less with the exception of careless driving, any relevant subsection regarding the failure to provide or failure to possess proof of insurance, or any circumstance involving a vehicular accident.

GENERAL GUIDELINES

Summons and Complaint <CRS § 24-60-2101>

Officers may issue a summons and complaint into any appropriate court of competent jurisdiction for violations of the law. Officers should utilize the Loveland Municipal Court for violations in those circumstances where the Loveland Municipal Code provides for criminal sanctions that align with the alleged facts of a case.

Officers shall indicate on the uniform summons and complaint that an appearance is required by the defendant in all circumstances unless the violation is a penalty assessment eligible violation.

Officers will make reasonable efforts to inform defendants of the charges against them, the arraignment date, and that a warrant may issue for the defendant's arrest if the defendant fails to appear in court unless the defendant is charged with a penalty assessment eligible violation, in which case an outstanding judgement warrant may be issued and a hold placed upon the defendant's driver's license may occur.





Summons and complaint forms shall be managed and maintained through the police records unit.

Bonding

Provided that the Department is bound by the Nonresident Violator Compact, unless circumstances exist during the traffic stop such that the officer would require a bond or security from a resident, for a traffic related violation, no bond or other security will be required to secure the non-resident's appearance in the appropriate court of competent jurisdiction.

When a criminal defendant is arrested and transported to the Larimer County Detention Center (LCDC), LCDC staff members who process criminal defendants are primarily responsible for all considerations related to bonding. In those circumstances where officers exercise discretion on DUI's or other violations where a personal recognizance bond is appropriate without transportation to LCDC, officers shall be guided by the following factors in making a determination on the permissibility of a personal recognizance bond.

- Prior instances where the defendant has failed to appear in court
- Ties to the community through family relationships, employment, school, and residency within Larimer County
- The defendant's level of cooperation with officers during arrest

Arrest Warrants <CALEA 74.3.1><CALEA 74.1.3 (a)>< C.R.S. 18-1.3-406>

Officers shall make all reasonable efforts to locate defendants with outstanding arrest warrants, as a part of the normal course of duty. Defendant's with outstanding felony warrants or outstanding warrants involving a "crime of violence" defined under C.R.S. 18-1.3-406(2) (a) (I) shall be given priority over all other arrest warrants.

Communication specialists shall enter outstanding warrants issued by the Loveland Municipal Court into the Colorado Crime Information Center ("CCIC"). Additionally, communication specialists will also communicate to requesting officers whether or not an arrest warrant exists from other agencies and update CCIC accordingly as arrest warrants are served, processed, and executed.

Municipal warrants remain active for a period of two years from the date in which the warrant was issued by the municipal court judge. Communication specialists will make a warrant list available to all officers on a regular basis.

Larimer County Court warrants are entered into the CCIC system by the court. Warrants containing charges of domestic violence, interstate compact, and felony charges will be taken possession of and entered into NCIC by the records personnel.

Officers and detectives shall notify Victim Services when an arrest warrant with VRA crimes is issued.

Warrant Surcharge <CALEA 17.4.2>

A \$60 warrant surcharge shall be charged for each person arrested on a warrant who posts bond at the Loveland Police Department or according to the most recent schedule for the City's rates, fees, and charges adopted by City Council.





Officers shall collect the \$60 surcharge in cash, in addition to any cash bond amounts, before sealing in the appropriate respective envelope with the case number listed. The surcharge and cash bond envelopes are then placed in a locked safe deposit box located in the patrol area. Officers will document the case number, date, and the officer's badge number on the log attached to the safe. In all cases, the arresting officer shall provide the defendant a receipt for any cash received for the warrant surcharge. The arresting officer will provide an invoice for the surcharge to all defendants unable to pay the \$60 surcharge for processing. A copy of the invoice shall be sent to the Operations Administrative Specialist for tracking later payment as received.

The Chief may authorize a select number of professional staff members who have the combination to the safe. The combination shall be changed annually. On an as-needed basis, but at least quarterly, the appropriate authorized professional staff member and a witness will collect the envelopes inside the safe and cross references the case number on the log with each envelope. A deposit slip will be prepared by an authorized professional staff member and any cash and deposit slips are to be forwarded to the City's Finance Department for proper accounting that identifies an initial balance, credits, debits, and the balance on hand.

Civil Matters Generally

Department staff shall not provide advice or otherwise become involved in civil disputes between members of the public unless properly subpoenaed to testify or providing notification that parties to perceived civil disputes may seek the advice of a private attorney.

Department staff may be hired as consultants or expert witnesses unless a circumstance arises where the staff member has a conflict of interest, which creates an appearance of impropriety or otherwise conflicts with the interests of the Department or the City of Loveland as determined by the Chief.

Repossession

Department staff shall not participate, in any way, with repossessing property, by any person other than another law enforcement agency repossessing property with a court order. However, officers may answer calls for service where a standby is appropriate to prevent a breach of the peace.

Civil Standby

When requested, officers may, at their discretion, do a standby for persons to remove their personal belongings from a location when authorized by court order. Officers may only be present to prevent any breach of the peace and officers shall not assist in the removal of property or order another to relinquish the property. An officer may advise the person requesting a standby, or another relevant party, to seek a legal remedy if the possessions are not relinquished by the other party or there is a refusal to allow entry to retrieve the property.

Officers shall not be assigned to a civil standby if it is known at the time of request that the standby will take more than 20 minutes to complete. Requestors will be directed to pay for an off-duty officer if the civil standby is likely to take more than 20 minutes to complete.

Protection Orders <CALEA 74.3.1><C.R.S. §13-14-107(3)><C.R.S. 18-6-803.5>





Issuance and enforcement of protection orders is of paramount importance because protection orders promote safety, reduce violence, and prevent serious harm or death. Therefore an 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.

- There are three (3) types of protection orders that can be issued by the courts:
 - Civil (C.R.S. §14-10-108 and C.R.S. §13-14-104.5)
 - Criminal (C.R.S. §18-1-1001)
 - Emergency order (C.R.S. §13-14-103)

Officers shall presume the validity of, and enforce foreign protection orders provided to the officer pursuant to C.R.S. §13-14-110. If 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. 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. An officer who is acting in good faith when enforcing a Foreign Protection Order shall not be civilly or criminally liable pursuant to C.R.S. 18-6-803.5 (5).

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. When there is probable cause that a suspect has violated or attempted to violate a protection order, arrest is mandatory. If an arrest is impracticable (i.e., the suspect cannot be located), the primary officer shall apply for an arrest warrant.

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 may proceed based upon the circumstances as the mere fact that a victim states there is a protection order against an individual may constitute probable cause that a protection order is in effect.

A violation of a protection order is considered a VRA crime if the protection order was issued in a sexual assault or stalking case. Violation of a protection order issued under section 18-1-1001, C.R.S. against a person charged with committing sexual assault in violation of section 18-3-402, C.R.S.; sexual assault on a child, in violation of section 18-3-405, C.R.S.; sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S., or sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S.; or stalking in violation of section 18-3-602, is considered a VRA crime.

A violation of a protection order is considered a VRA crime if law enforcement, the District Attorney's Office, or the Court determines that there is an underlying factual basis of domestic violence for the violation and not the case in which the protection order was issued. Domestic violence is defined as any crime identified by law enforcement prior to the filing of charges as domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; any act identified by a district attorney in a formal criminal charge as





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domestic violence, as defined in section 18-6-800.3 {1), C.R.S.; any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), C.R.S., pursuant to section 18-6-801 (1), C.R.S.

When a violation of a protection order is considered a VRA crime, the officer shall provide the victim with a VRA pamphlet, and notify the Victim Services Unit.

