

	SECTION:	OPERATIONS	OPR-213
	CHAPTER:	ARRESTS-SEARCH AND SEIZURE	
	DIRECTIVE:	ARRESTS WITHOUT A WARRANT (High Risk)	

213.01 SUMMARY

The purpose of this Directive is to provide guidance for handling private person's arrests and detentions made pursuant to CRS § 16-3-101, CRS § 16-3-102(1)(b)(c)

An Officer shall always make an arrest with an arrest warrant, except under specific exceptions established by law, constitutions, and judicial interpretations of the State of Colorado and of the United States.

213.02 DEFINITIONS

ARREST – An arrest occurs when an Officer:

- Holds a person by physical force, coercive verbal commands or creates circumstances under which a reasonable person would believe that he or she is under arrest or not free to leave, OR
- Holds a person for longer than the time needed to conduct an initial investigation following a stop, OR
- Exceeds the authority to stop or acts in a way usually associated with an arrest, OR
- Transports a suspect without consent to another location. Exceptions to this are emergency situations including, but not limited to: Officer Safety, identification by a seriously injured victim, or when transportation is in the best interest of the subject.

INTOXICATED PERSON – Any person whose mental or physical functioning is temporarily, but substantially, impaired as a result of the presence of alcohol in the body. An Officer determines whether a person is intoxicated in accordance with the principles for determining probable cause.

PROBABLE CAUSE TO ARREST – Probable cause to arrest exists when an Officer has sufficient specific reliable information to believe that, under the totality of the circumstances, there is a fair probability that the suspect has committed and/or is committing a crime.

FRESH PURSUIT – The Officer has probable cause to arrest a suspect OR knows that a warrant has been issued for the subject's arrest and while attempting to contact and/or arrest the suspect he/she crosses the jurisdictional boundary such as the city limits. The lapse of time between spotting the suspect and apprehension must be short.

213.03 ESTABLISHING PROBABLE CAUSE TO ARREST

An Officer may make an arrest without a warrant only if the Officer has probable cause to arrest. The Officer may rely on any of the following to establish probable cause to arrest:

- The Officer's own direct observations of the suspect, the victim, the witness, or the crime scene.
- The Officer's own evaluation of observations based on past experience and training as a Police Officer.
- Credible information from other Police Officers. The information may be based on the observation, experience, training of the Officers or it may be information communicated or adopted by the Department, including the Department's collective knowledge.
- Information from the victim or identified witness of a crime.
- Information from a credible informant. Before the Officer relies on an informant, the Officer must have evidence that the informant is trustworthy and the information has been corroborated.
- The Officer may consider the suspect's:
 1. Incriminating statements, if obtained lawfully.
 2. Erroneous statements (for example, "I'm waiting for the bus" where there is no bus stop).
 3. Contradictory statements.
 4. Incomplete statements.

213.04 PRIVATE PROPERTY ARREST(S)

The Officer may make an arrest without a warrant on public or private property. Normally, to enter the suspect's private property, the Officer must have an arrest warrant. Also, to enter the property of a third party normally requires a search warrant. Exceptions to these requirements are:

OFFICER LEGITIMATELY ON PREMISES – If the Officer is already on the property for a legitimate reason (that is, not just a pretext for entering the property) and finds the suspect there, the Officer may make an arrest without a warrant. Examples of legitimate reasons include the execution of a search warrant or responding to a call/request for help.

**PRIVATE PROPERTY
ARREST(S) (con't)**

CONSENT TO ENTER – If the Officer asked for and received consent to enter in order to talk to the suspect and then developed probable cause to arrest after entering, the Officer may make an arrest without a warrant.

ENTRY TO ARREST – If the Officer is not present for a legitimate reason and does not have consent to enter, then the Officer may only enter private property to make an arrest without a warrant under three (3) circumstances:

- In fresh pursuit of a suspect for a crime that could result in a jail sentence.
- In an emergency situation that requires immediate police action to protect public safety and the arrest is for a crime that could result in a jail sentence.
- The owner or person with lawful authority and control over the property consents to the Officer's entry.

**213.05 PRIVATE
PROPERTY
ARREST(S)
PROCEDURES**

The procedures for entering to make an arrest without a warrant are the same as those for arrests with a warrant.

- The Officer may only use all necessary and reasonable force to enter the property.
- The Officer who intends to make an arrest on private property must first announce his/her authority and purpose and wait a reasonable time to be admitted. The circumstances of the entry determine what is reasonable.
- If forced entry is necessary, the Officer will use the least destructive method of entry that can safely be used. The Officer will reasonably secure the premises before leaving.

**213.06 GENERAL
PROCEDURE –
ARRESTS**

WITH OR WITHOUT A WARRANT – The procedures for making an arrest without a warrant are the same as those for making arrests with a warrant.

- An Officer may make an arrest on any day and at any time **(C.R.S. 16-3-101)**.
- An Officer may use only necessary and reasonable force to make an arrest **(C.R.S. 16-3-101)**.
- The Officer always will inform the arrested person of the charges.

213.07 ARRESTS BEYOND JURISDICTION LIMITS

CERTAIN CIRCUMSTANCES MANDATORY – An Officer may make an arrest outside the city limits (within the State of Colorado) in any of the eight (8) circumstances listed below. If none of the circumstances apply, the Officer is and shall be considered by the Department and the City to be acting as a private citizen without benefit of Officer status and/or City liability protection:

- When there is a valid arrest warrant.
- At the lawful direction of a Peace Officer of another jurisdiction.
- In fresh pursuit which started within the City limits.
- Under a Mutual Aid agreement.
- A State of Emergency has been declared by the Governor or President.
- A multi-agency task force or special assignment has been made where another jurisdiction has authorized or requested the Officer's presence and he/she is acting under color of authority of that jurisdiction or in accordance with State law defining the Officer's authority and status as a Peace Officer. This would apply to Police Officers who have been deputized by the Mesa County Sheriff or other Police Chiefs or Sheriffs.
- Exigent circumstances.
- A crime occurs in the Officer's presence and the other jurisdiction has authorized or requested the Officer's presence and he/she is acting under color of authority of that jurisdiction or in accordance with State law defining the Officer's authority and status as a Peace Officer.

NOTE: In those situations where an Officer has a valid arrest warrant – OR – has developed probable cause for the arrest of a suspect – AND – the suspect is outside the Officer's jurisdiction, the Officer must make a good faith effort to notify the agency of jurisdiction of his/her intent to contact and arrest the suspect and request an Officer/Deputy from that agency to be present before effecting the arrest.

213.08 OFF-DUTY ARRESTS WITHOUT A WARRANT

An off-duty Officer who is present when a subject commits a crime may arrest that subject. The Officer shall, at minimum, verbally identify himself/herself as a Police Officer to the arrested person and whenever practical present credentials and/or a badge.

213.09 AFFIDAVIT IN SUPPORT OF AN ARREST WITHOUT A WARRANT

AFFIDAVIT REQUIRED – If the arrested person is placed in the Mesa County Detention Facility, an Officer must complete an **Affidavit in Support of a Warrantless Arrest** at the time of booking. The affidavit describes the probable cause supporting the charge.

CALLED TO AN EMERGENCY – If the Officer is called to respond to an emergency before the Officer completes the affidavit, the Officer must tell Detention personnel that he/she will complete the affidavit once the emergency call is cleared.

AFFIDAVIT NOT REQUIRED IF – No affidavit is required if the arrested person is:

- In custody on a warrant and no additional charges are pending.
- Being held on immigration holds, parole violations, work release violations, or community corrections violation(s).
- Taken into protective custody.

213.10 RELEASE AFTER AN ARREST WITHOUT A WARRANT

The arresting Officer may release a person arrested without a warrant if:

- The arresting Officer or the Officer's Supervisor is satisfied that there is insufficient basis to conclude that the person committed an offense.
- The offense for which the person was arrested is not a felony and the arresting Officer is satisfied that the person arrested will appear if released on a summons. **Note:** if the underlying facts include an act of domestic violence, as defined in **C.R.S. 18-6-800.3 (1)**, the person must not be released.

213.11 INTOXICATED PERSONS - PROCEDURE

An Officer will handle an intoxicated person as follows:

- An Officer may take an intoxicated person into protective custody if that person clearly endangers the health or safety of any person, including him or herself. This action is not an arrest without a warrant. The Officer makes no NCIC or CCIC entry or other record that the intoxicated person has been arrested, unless that person is charged with a crime.

**INTOXICATED PERSONS –
PROCEDURE (con't)**

- The Officer may place an intoxicated person who is not dangerous to the health or safety of others in a safe environment or with a responsible person.
- The Officer may take an intoxicated person to an approved treatment center. If no such facility is available, the Officer may take an intoxicated person to an emergency medical facility in order to prevent injury to himself or other persons, or to prevent a violation of law.
- When detaining an intoxicated person, the Officer will use reasonable methods to protect his/her own safety while making reasonable efforts to protect the detainee.

**213.12 MENTAL
COMMITMENT**

CAUSE FOR COMMITMENT – If an Officer contacts a subject regarding mental health or emotional problems, and has cause to believe that the subject is a threat to the subject’s own safety or the safety of others, because of mental health or emotional problems, the Officer may take the subject into protective custody for evaluation by qualified medical personnel.

- The Officer should first contact Colorado West Mental Health to determine if the individual is able to be placed within their facility. If the individual has overdosed, has injuries, or in need of medical treatment the Officer will transport the individual to a local hospital.
- If Colorado West Mental Health can examine the individual, they still may require the individual to be medically cleared. The Officer is responsible to transport the individual to an area hospital for evaluation and medical clearance.
- If the Officer takes the subject to a medical facility (for example, St. Mary’s Hospital or Veteran’s Medical Center) for a mental commitment, the Officer will fill out or obtain a completed Observation form. In addition, the Officer will complete an incident report describing the circumstances and outcome of the commitment.
- If the Officer has probable cause to believe a felony crime was committed, then the Officer will take the subject into custody and book the subject into the Mesa County Detention Facility.

