



**20<sup>TH</sup> JUDICIAL DISTRICT OF COLORADO**

**ADMINISTRATIVE ORDER 23-102**

**SUBJECT: Procedure for Obtaining a Court Order Regarding Restrictive Housing in Jails Pursuant to C.R.S. 17-26-301**

**To:** All Judicial Officers, Court Executive, Clerk of Court, Court Staff, District Attorney, Public Defender, Boulder County Bar Association, Chief Probation Officer, Probation Staff, Community Justice Services, County Attorney, Sheriff, Jail, Law Enforcement

**From:** Ingrid S. Bakke  
Chief Judge

**DATE:** July 24, 2023

Pursuant to the authority granted to chief judges of the judicial districts of the State of Colorado by Chief Justice Directive 95-01, the undersigned, in her capacity as Chief Judge of the Twentieth Judicial District, enters the following Chief Judge Order (“CJO”) 23-102. Colorado Revised Statute § 17-26-301, et seq., impacts the Court and the Boulder County Jail, and thus, the undersigned implements the following procedures for issuing orders with respect to restrictive housing.

The legislative declaration contained within C.R.S. § 17-26-301 includes that “due to the substantial negative impacts of placing juveniles and adults with specific health conditions in restrictive housing, the state must take immediate steps to end and prohibit the use of restrictive housing of juveniles and adults with specific health conditions in Colorado jails.” C.R.S. § 17-26-301(2). Thus, C.R.S. § 17-26-301, outlines procedures to be followed regarding placement of certain individuals in restrictive housing in a local jail. A local jail is defined as “a jail or an adult detention center of a county or city and county with a capacity of more than four hundred beds.” C.R.S. § 17-26-302(2). When an individual meets certain conditions as outlined in C.R.S. § 17-26-303, “the local jail shall not hold the individual in restrictive housing for more than fifteen days

in a thirty-day time period **without a written court order.**” C.R.S. § 17-26-303(2)(i)(I) (emphasis added). Accordingly,

(II) If a local jail wants to hold an individual placed in restrictive housing pursuant to subsection (2)(a) of this section for more than fifteen days in a thirty-day period, the local jail must obtain a written court order. A court shall grant the court order if the court finds by clear and convincing evidence that:

- (A) The individual poses an imminent danger to himself or herself or others;
- (B) No alternative less-restrictive placement is available;
- (C) The jail has exhausted all other placement alternatives; and
- (D) No other options exist, including release from custody.

C.R.S. § 17-26-303(2)(i)(II).

While the statute describes legal findings a court must make to authorize placement of an individual in restrictive housing, the statute is silent as to the administrative aspects of case management for a restrictive housing order. Thus, the undersigned establishes a consistent procedure for the Twentieth Judicial District.

When the Boulder County Jail wants to hold certain individuals in restrictive housing for more than fifteen days in a thirty-day time period, then it must obtain a written court order per C.R.S. § 17-26-303(2)(i)(I)-(II) through the following procedure:


1. The County Attorney will initiate a new action by filing a Petition for Continued Restrictive Housing (“Petition”) with a sworn affidavit (“Affidavit”) with the Court. The Petition should be filed as a public court document and should not include any medical and/or mental health information regarding the individual. The Affidavit should be filed in a suppressed status and can contain medical and/or mental health information regarding the individual.<sup>1</sup>

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<sup>1</sup> The undersigned anticipates that these cases will contain protected mental health information and that it is likely that these individuals will have pending or recently resolved criminal cases. Accordingly, the undersigned finds that the Affidavit should be maintained in suppressed status.

2. When the Clerk's Office receives the Petition, they will open a new civil (CV) case for the action, in which the Boulder County Sheriff's Office will be entered as a party to the proceeding.
3. Once the Court is satisfied that the statutory requirements have been met, the Court shall enter an order extending restrictive housing. After the Court enters its order on the Petition, the Court will set a twenty-one day review.
4. If there are no further filings within the twenty-one days, then the case will be closed.

While the statute mandates that the local jail needs a court order to hold an individual in restrictive housing for more than fifteen days in a thirty-day period without a written court order, it is silent for how long beyond fifteen days the local jail may hold the individual in restrictive housing once it receives the court order. Given the legislative declaration seeking to end and prohibit the use of restrictive housing of inmates with certain health conditions, the undersigned finds that each order will be valid for fifteen days, unless otherwise stated. If the local jail determines that it needs to keep the individual in restrictive housing for longer than ordered by the court, then it must file another Petition and Affidavit within the existing CV case prior to the expiration of the order.<sup>2</sup>



Hon. Ingrid S. Bakke  
Chief Judge  
Twentieth Judicial District

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<sup>2</sup> If the circumstances that are the basis of the original Petition have not changed, then the local jail, through the County Attorney's Office, may file only a Petition representing that there has been no change in circumstances from the original filing. If circumstances have changed and/or there is additional information the local jail believes the Court should be apprised of, then the local jail shall file another suppressed Affidavit with the Petition.

<input type="checkbox"/> County Court <input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/>	<b>▲ COURT USE ONLY ▲</b>
<b>Boulder County Sheriff's Office,</b> Petitioner v. _____, Respondent	
Attorney or Party Without Attorney (Name and Address): _____  Phone Number: _____      E-mail: _____ FAX Number: _____      Atty. Reg. #: _____	Case Number: _____  Division _____      Courtroom _____
<b>PETITION FOR CONTINUED RESTRICTIVE HOUSING</b>	

COMES NOW the County Attorney of Boulder County, on behalf of the Boulder County Sheriff's Office, pursuant to C.R.S. § 17-26-303(2)(i), and hereby moves this Court for entry of an order authorizing the Boulder County Jail to house Respondent, \_\_\_\_\_ (name), in Restrictive Housing, within the meaning of C.R.S. § 17-26-302(6), for more than fifteen (15) days in a thirty (30) day period, through and including \_\_\_\_\_ (end date).

The affidavit, sworn, signed, and attached hereto, relates sufficient facts that meet the criteria of C.R.S. § 17-26-303(2)(i) by clear and convincing evidence.

WHEREFORE, the Boulder County Sheriff's Office respectfully requests that this Court find that all elements as set forth in C.R.S. § 17-26-303(2)(i), have been proven by clear and convincing evidence and authorize the continued restrictive housing for more than fifteen (15) days in a thirty (30) day period, up to \_\_\_\_\_, if such is granted by the Court.

NAME OF ATTORNEY, Reg. No. \_\_\_\_\_  
 Assistant County Attorney

\_\_\_\_\_  
 (printed name of attorney/registration number)  
 Assistant County Attorney—Mental Health Unit  
 Attorney for Boulder County Sheriff's Office

\_\_\_\_\_  
 (date)

\_\_\_\_\_  
 (attorney signature)

**AFFIDAVIT FOR CONTINUED RESTRICTIVE HOUSING**

I, \_\_\_\_\_ (name of Affiant), pursuant to C.R.S. § 17-26-303(2)(i), hereby request this Court to enter an order authorizing the Boulder County Jail to house Respondent, \_\_\_\_\_ (name), in Restrictive Housing, within the meaning of C.R.S. § 17-26-302(6), for more than fifteen (15) days in a thirty (30) day period, through and including \_\_\_\_\_ (end date). In support thereof, Petitioner states as follows:

1. Affiant is employed as a \_\_\_\_\_ (Affiant's job title) at the Boulder County Jail. The Boulder County Jail constitutes a jail and/or adult detention center of a county with a capacity of more than 400 beds and therefore constitutes a "local jail" as defined in C.R.S. § 17-26-302(2).
  
2. The Respondent meets one or more of the conditions limiting involuntary placement in restrictive housing pursuant to C.R.S. § 17-26-303(1), as Respondent:
  - Is diagnosed with a serious mental illness or is exhibiting grossly abnormal or irrational behaviors or breaks with reality or perceptions of reality indicating the presence of a serious mental illness
  - Is self-reporting a serious mental illness or suicidality
  - Is exhibiting self-harm
  - Has significant auditory or visual impairment that cannot otherwise be accommodated
  - Is pregnant or in the postpartum period
  - Is significantly neurocognitively impaired by a condition such as dementia or a traumatic brain injury
  - Has an intellectual or developmental disability
  
3. \_\_\_\_\_ (Name of Respondent) will soon be in restrictive housing, as defined by C.R.S. § 17-26-302(6) for more than fifteen (15) days in a thirty (30) day period. Respondent has been continuously incarcerated since \_\_\_\_\_ (date of incarceration). Respondent was placed in restrictive housing on \_\_\_\_\_ (dates, date ranges) and will have been in restrictive housing for \_\_\_\_\_ (number of days in restrictive housing) days in a thirty (30) day period as of this filing.
  
4. Affiant asserts that Respondent meets the criteria under C.R.S. § 17-26-303(2)(i)(II) for continued placement in restrictive housing for more than fifteen (15) days in a thirty (30) day period and hereby requests a written Court Order to allow the Boulder County Jail to continue to place Respondent in restrictive housing.

Below, Affiant provides detailed statements and information of the grounds supporting the order allowing Respondent to remain in restrictive housing for (A) through (D), and will add any additional considerations under (E):

**(A) The Respondent poses an imminent danger to self or others.**

Explain in detail:

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**(B) No alternative less-restrictive placement is available.**

Explain in detail:

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**(C) The jail has exhausted all other placement alternatives.**

Explain in detail:

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**(D) No other options exist, including release from custody.**

Explain in detail:

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**(E) Other applicable reasons and information supporting further restrictive housing.**

Explain in detail:

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**VERIFICATION**

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I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
(date) (month) (year)

At \_\_\_\_\_  
(city or other location and state or country)

\_\_\_\_\_  
(printed name)

\_\_\_\_\_  
(signature)