



20TH 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.¹

¹ 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.

1. 100 100 100 100

100

100

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.²



Hon. Ingrid S. Bakke
Chief Judge
Twentieth Judicial District

² 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.

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

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:

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

Explain in detail:

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

Explain in detail:

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

Explain in detail:

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

Explain in detail:

VERIFICATION

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)

waddle, amy

From: bakke, ingrid
Sent: Thursday, July 20, 2023 2:23 PM
To: waddle, amy
Subject: FW: House Bill 21-1211 - Restrictive Housing in Jails
Attachments: FINAL - BCJ - HB 21-1211 Initial Pet and Aff.docx; Twentieth Judicial Process.docx; Larimer Cnty Court Order for RH.pdf

Would you please put together a draft admin order based on the language provided (see below). Thanks



Ingrid S. Bakke
Chief District Court Judge, Div. 13
Twentieth Judicial District

Post Office Box 4249, Boulder, CO 80306 (720) 664-1635

23-102
7/24/23

From: Lewis, Melanie <mlewis@bouldercounty.gov>
Sent: Monday, July 17, 2023 12:10 PM
To: bakke, ingrid <ingrid.bakke@judicial.state.co.us>; Goetz, Jeff <jgoetz@bouldercounty.gov>
Cc: cano, marizela <marizela.cano@judicial.state.co.us>
Subject: [External] RE: House Bill 21-1211 - Restrictive Housing in Jails

22-104
6/22/23 Index

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello, Judge Bakke.

My apologies for the delay in getting this to you. Attached is the form petition and affidavit that we plan to use. I have also attached draft language for an administrative order that incorporates the procedure we discussed.

Jeff recently received Larimer County's procedure, and I am attaching it if you would like to see it.

Let us know if you have any questions or concerns.

Thank you.

From: bakke, ingrid <ingrid.bakke@judicial.state.co.us>
Sent: Friday, July 14, 2023 3:52 PM
To: Lewis, Melanie <mlewis@bouldercounty.gov>; Goetz, Jeff <jgoetz@bouldercounty.gov>
Cc: Cano, Marizela <marizela.cano@judicial.state.co.us>
Subject: [EXTERNAL] RE: House Bill 21-1211 - Restrictive Housing in Jails

Hi Melanie,

Hope you are well. Just checking in to see where we are at with a proposed written procedure based upon our prior discussions? Thank you



Ingrid S. Bakke
Chief District Court Judge, Div. 13
Twentieth Judicial District

Post Office Box 4249, Boulder, CO 80306 (720) 664-1635

From: Lewis, Melanie <mlewis@bouldercounty.org>
Sent: Friday, June 23, 2023 4:26 PM
To: bakke, ingrid <ingrid.bakke@judicial.state.co.us>; Goetz, Jeff <jgoetz@bouldercounty.org>
Cc: cano, marizela <marizela.cano@judicial.state.co.us>
Subject: [External] RE: House Bill 21-1211 - Restrictive Housing in Jails

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you. I can take what we have here to create a modified procedure using the points outlined in the memo. We shouldn't need to use the procedure until July 12 or so, as that will be the time when we can predict that someone will be in restrictive housing for more than 15 days of that month. We'll have it ready when you return.

Hope you have a wonderful time away!

Melanie

From: bakke, ingrid <ingrid.bakke@judicial.state.co.us>
Sent: Friday, June 23, 2023 4:18 PM
To: Lewis, Melanie <mlewis@bouldercounty.org>; Goetz, Jeff <jgoetz@bouldercounty.org>
Cc: Cano, Marizela <marizela.cano@judicial.state.co.us>
Subject: [EXTERNAL] RE: House Bill 21-1211 - Restrictive Housing in Jails

I like everything you have proposed. I was unable to attend the metro meeting w/ the other jurisdictions so don't know where they landed but I would approve this starting 7/1 with the understanding we can always tweak it. I am out the next two weeks which is why I am shoring this up now.



Ingrid S. Bakke
Chief District Court Judge, Div. 13
Twentieth Judicial District

Post Office Box 4249, Boulder, CO 80306 (720) 664-1635

From: Lewis, Melanie <mlewis@bouldercounty.org>

Sent: Wednesday, June 21, 2023 11:07 AM

To: Goetz, Jeff <jgoetz@bouldercounty.org>; bakke, ingrid <ingrid.bakke@judicial.state.co.us>

Cc: cano, marizela <marizela.cano@judicial.state.co.us>

Subject: [External] RE: House Bill 21-1211 - Restrictive Housing in Jails

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Judge Bakke,

Attached is a memo that outlines the areas of agreement and disagreement that we have with the 18th Judicial District's proposed procedure and the form petition that is being used in the 2nd Judicial District. I am also attaching a red-lined copy of the form petition and affidavit that has our proposed edits.

We look forward to getting your thoughts.

Thank you,

Melanie

From: Goetz, Jeff <jgoetz@bouldercounty.org>

Sent: Tuesday, June 20, 2023 11:42 AM

To: Bakke, Ingrid <ingrid.bakke@judicial.state.co.us>

Cc: Cano, Marizela <marizela.cano@judicial.state.co.us>; Lewis, Melanie <mlewis@bouldercounty.org>

Subject: RE: House Bill 21-1211 - Restrictive Housing in Jails

Thank you, we will get something put together by tomorrow morning.

Jeff

From: bakke, ingrid <ingrid.bakke@judicial.state.co.us>

Sent: Tuesday, June 20, 2023 11:38 AM

To: Goetz, Jeff <jgoetz@bouldercounty.org>

Cc: Cano, Marizela <marizela.cano@judicial.state.co.us>; Lewis, Melanie <mlewis@bouldercounty.org>

Subject: [EXTERNAL] RE: House Bill 21-1211 - Restrictive Housing in Jails

If one of you would write up what aspect of Denver's you would like to incorporate and what, if anything, you would like to remove from Douglas that would give me a heads up. I am out early Friday for two weeks and the CJC are slowly looking at this. I will not have access to the internet while I am gone (Grand Canyon).



Ingrid S. Bakke
Chief District Court Judge, Div. 13
Twentieth Judicial District

Post Office Box 4249, Boulder, CO 80306 (720) 664-1635

From: Goetz, Jeff <jgoetz@bouldercounty.org>
Sent: Tuesday, June 20, 2023 11:23 AM
To: bakke, ingrid <ingrid.bakke@judicial.state.co.us>
Cc: cano, marizela <marizela.cano@judicial.state.co.us>; Lewis, Melanie <mlewis@bouldercounty.org>
Subject: [External] RE: House Bill 21-1211 - Restrictive Housing in Jails

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello, Melanie and I spoke a little bit ago about this and feel that we need to have a quick call with you sometime this week if possible. I've attached what Denver County is doing and we feel that we need something in the middle of what Douglas is proposing and what Denver is doing. I've copied Melanie onto the string to see if we can find a time this week to discuss this.

Thank you,

Jeff

From: bakke, ingrid <ingrid.bakke@judicial.state.co.us>
Sent: Tuesday, June 20, 2023 11:10 AM
To: Goetz, Jeff <jgoetz@bouldercounty.org>
Cc: Cano, Marizela <marizela.cano@judicial.state.co.us>
Subject: [EXTERNAL] RE: House Bill 21-1211 - Restrictive Housing in Jails

No rush. Thank you.



Ingrid S. Bakke
Chief District Court Judge, Div. 13
Twentieth Judicial District

Post Office Box 4249, Boulder, CO 80306 (720) 664-1635

From: Goetz, Jeff <jgoetz@bouldercounty.org>
Sent: Tuesday, June 20, 2023 7:04 AM
To: bakke, ingrid <ingrid.bakke@judicial.state.co.us>
Cc: cano, marizela <marizela.cano@judicial.state.co.us>
Subject: [External] RE: House Bill 21-1211 - Restrictive Housing in Jails

EXTERNAL EMAIL: This email originated from outside of the Judicial Department. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning, Judge and sorry for delay in response. Thank you for providing us with this info. I will be meeting with our County Attorney this morning to discuss this as I have a few concerns that I want to run by Melanie first. I will get back to either later today or tomorrow.

.eff

From: bakke, ingrid <ingrid.bakke@judicial.state.co.us>
Sent: Friday, June 16, 2023 4:37 PM
To: Goetz, Jeff <jgoetz@bouldercounty.org>
Cc: Cano, Marizela <marizela.cano@judicial.state.co.us>
Subject: [EXTERNAL] FW: House Bill 21-1211 - Restrictive Housing in Jails

Hi Jeff,

This is a procedure that I have essentially agreed to with the 18th J.D. I discussed w/ Mari as well and I believe she is in agreement. I wanted to let you take a look and tell me what you think since this is coming quickly. We would like things to be consistent across the state if possible. Have a great weekend.



Ingrid S. Bakke
Chief District Court Judge, Div. 13
Twentieth Judicial District

Post Office Box 4249, Boulder, CO 80306 (720) 664-1635

-
- (1) Opening a CV case;
 - (2) The jails will file a Petition with an attached Affidavit. The Petition itself will be generic and will not contain privileged information. The Affidavit will outline everything necessary for the four factors. The case status will be PUBLIC but the Affidavit itself will be suppressed. This is one way to ensure transparency and protect medical/mental health information at the same time;
 - (3) I am taking all of them for Arapahoe and Douglas to start. The jails have been working hard on this bill, so we are not anticipating many of these. Arapahoe has been working on this since February of last year. To date, they would have never had to file this Petition;
 - (4) I am not holding a hearing, but rather ruling on the petition and affidavit, I am, however, directing that the jail give the assigned attorney, if there is one, a copy of the petition and affidavit;
 - (5) My court order will be generic, the court finds by clear and convincing evidence that these four factors were met based upon the affidavit submitted. I am doing this to make the order itself also public to increase transparency;
 - (6) We will set a 21-day review and if nothing more filed, we will close the case. If subsequent petitions need to be filed, they can go right back into the CV case for that inmate;
 - (7) I will be meeting again with our PD heads next week. I will outline that there won't be hearings on these cases and why these petitions will not be filed in CR cases. I will tell them that if they have some extraordinary information that truly would impact the court's decision,

they can file into the CV case and I will decide if a hearing should be held. The only factor I see where they might have some input is the factor that says there are no other alternative placements, including release from custody. But here is how I see it - the in-custody status in the first place is a term and condition of BOND. The CR judge knows much more about that than me. If there truly is some other alternative, shouldn't counsel really be filing a Motion to Modify Bond in the CR case (if one exists)? That way the DA can give input and more importantly, there is compliance with the VRA if applicable. An attorney can include in their Motion to Modify Bond the fact that their client is now being housed in RH for more than 15 days in a 30-day time period and the CR judge can decide whether to grant a hearing.



ADMINISTRATIVE ORDER
STATE OF COLORADO
EIGHTH JUDICIAL DISTRICT

PROCEDURE FOR OBTAINING A COURT ORDER REGARDING
RESTRICTIVE HOUSING IN JAILS PURSUANT TO CRS §17-26-301

ORDER 2023-3

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 Eighth Judicial District, enters the following Administrative Order 2023-3. C.R.S. § 17-26-301 impacts the Larimer 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 Eighth Judicial District.

Accordingly, when the Larimer County Jail wants to hold certain individuals in restrictive housing for more than fifteen days in a thirty-day period, it must obtain a court order pursuant to 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 Extension of Restrictive Housing ("Petition") and an 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.¹

¹ The Affidavit may contain sensitive mental health and medical information. To protect the privacy of individuals, the Affidavit will be placed in a suppressed status but can be modified by a Court when appropriate. See CJD 05-01 § 3.08 (defining suppressed court records).

2. The filing must include a certificate of service indicating the individual and, if known to be represented, the individual's counsel has been served with the Petition and the Affidavit.
3. When the Clerk's Office receives the Petition with the Affidavit, they will open a new civil (CV) case for the action, in which the Custodian of the Local Jail will be entered as a party to the proceeding.
4. Once the court is satisfied 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.
5. If there are no further filings after twenty-one days, then the case will be closed.

While the statute mandates the local jail needs a court order to hold an individual in restrictive housing for more than fifteen days in a thirty-day period, it is silent as to how long beyond fifteen days the local jail may hold the individual in restrictive housing once it receives the court order. Given the intent of the legislative declaration is to prevent and prohibit the overuse of restrictive housing of inmates with certain health conditions, if the local jail determines it needs to keep the individual in restrictive housing for longer than ordered by the court, it must file another Petition and Affidavit within the existing CV case prior to the expiration of the order.²

Dated July 7th, 2023.

BY THE COURT:



Susan Blanco
Chief Judge
Eighth Judicial District

² If the circumstances have not changed since the original Petition and Affidavit were filed, the jail may file a request to extend the restrictive housing order representing there has been no change in circumstances from the original filing without an additional Affidavit. If circumstances have changed and warrant notifying the court, then the jail shall file a request to extend the restrictive housing order with an updated Affidavit attached.

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-XX. 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.¹
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.

¹ The undersigned anticipates that these cases will contain protected mental health information and that is it 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.

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.²

² 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

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

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 that 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:

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

Explain in detail:

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

Explain in detail:

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

Explain in detail:

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

Explain in detail:

VERIFICATION

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)