6.11 PRELIMINARY AND CRIMINAL INVESTIGATIONS

6.11.1 Preliminary Investigations

The preliminary investigation generally consists of those activities that begin when sworn members arrive at the scene of an incident and should continue until a postponement of the investigation or transfer of responsibility for the investigation will not jeopardize the successful completion of the investigation.

6.11.2 Responsibility for Preliminary Investigations

All sworn members are responsible for the preliminary investigation of assigned incidents.

Sworn members assigned an incident, or discovering a possible crime, will conduct an efficient and reasonable preliminary investigation with the objectives of determining if a crime has occurred and, whenever possible, bringing the case to a satisfactory conclusion without the necessity for a follow-up investigation.

Sworn members will, as appropriate, perform those following tasks relevant to the situation when conducting a preliminary investigation:

(a) Provide aid to the injured.

(b) Protect the scene to ensure that evidence is not lost or contaminated.

(c) Determine if an offense has actually been committed.

(d) Determine the identity of the suspect(s) and effect an arrest, if possible and appropriate.

(e) Provide assisting members with relevant information.
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(f) Locate and identify all witnesses.

(g) Determine what information is known by victims and witnesses.

(h) Determine the exact circumstances of the offense.

(i) Collect or arrange for the collection of evidence.

(j) Obtain written statements from victims, witnesses, and suspects, if feasible.

(k) Accurately document all information on the proper report forms.

6.11.3 Coordination

Certain serious or complex crimes, e.g., homicides, child abuse resulting in serious bodily injury and fatal traffic accidents, require the involvement of specialists in the preliminary investigation. The circumstances requiring the early involvement of specialists are delineated in other directives and members will conduct their preliminary investigations accordingly.

6.11.4 Criminal Investigation Information Development

Information development and case solvability depend on investigative resources. Potential sources of information are unlimited and members should develop pertinent information through all available resources including, but not limited to, witnesses, victims, informants and records of this and other law enforcement agencies.

All elements of the criminal investigation including interviews and interrogations will be conducted according to departmental training, S.O.P.’s, and department directives with specific attention to Directive 14.2.9 - Constitutional Requirements. Members should also be aware that certain types of information, e.g., bank records, toll records, pen registers, etc., are available only through various forms of legal process, e.g., subpoenas, search warrants, etc. Members should keep abreast of the constitutional case law and statutory requirements governing the collection of such information.

During the investigation, all victims, witnesses, and suspects will be physically separated as early as possible so as not to contaminate their perceptions and accounts of the incident. Witnesses and victims will be interviewed at the earliest possible time following a crime or incident. Interviews and interrogations will be conducted to obtain information, particularly pertaining to the who, what, where, when, how and why elements of an incident. The assigned member or designee will be responsible for conducting interviews. All relevant information obtained will be accurately documented and included in the case reports, including exculpatory information, if any. Members should evaluate and utilize an appropriate means of documenting information giving consideration to the use of written statements, and audio/video recordings, if appropriate.
6.11.5 Suspect identification, use of field identification and photo lineups

First responding officers can utilize a field show up to help identify a person of interest or eliminate persons as a possible person of interest. Follow-up investigations can utilize a photo lineup.

In both field identifications and photo lineups, the actions of members can unduly influence the ability of the victim or witness to provide a correct and accurate identification of the person of interest. Members will be diligent in protecting the victim and witness during a field identification. Proper care will be taken to ensure the constitutional rights of the possible person of interest will be protected when utilizing either a field identification or photo lineup.

6.11.6 Field Identification (Show-ups)

Field identification (also known as a “show-up”) can be used whenever a person of interest is detained within reasonable proximity to the crime scene and within a reasonable time frame. To ensure that members do not unduly influence the process, the following guidelines are given:

The first responding officers should interview witnesses and victims to collect as complete a description of the person(s) of interest as possible. The person(s) of interest’s description should be aired to other units and added to the remarks in the call. If a possible person of interest is located, field identification can be conducted.

Officers will transport the victim/witness to the location where the suspect is being detained. Multiple victims/witnesses should be transported separately. Multiple victims/witnesses will be advised to avoid discussing details with other victims/witnesses.

The location should be well lit and with an unobstructed view of the suspect(s). Obstructions may include hoods, hats, bandanas, or clothing that is obstructing or altering the eyewitness’ view of the person of interest. Officers should be cautious about manipulating the person’s appearance so that the officer does not unduly influence the process. The reason for any manipulating of appearance should be documented in the report. The person of interest will not be detained in the back seat of a police vehicle or handcuffed during the field identification. If handcuffing is necessary for safety, all reasonable efforts should be made to obscure the handcuffs from the victim/witness.

For safety, the victim/witness will view the person of interest from the interior of the transport vehicle. The transporting officer will document where the victim/witness was seated within the vehicle and the approximate distance from the transport vehicle to the person of interest.
Investigating and/or transporting officers will not allow or make comments, writings, radio traffic, computer screen data or any other information concerning the possible person of interest in this case or previous arrests to be seen or overheard by the victim/witness that may influence his/her identification of the possible suspect.

The officer should read the advisement listed on the Field Identification/Show-up Form (APD Form 116) to the victim/witness.

Generally, the first reaction of the victim/witness is a good indicator of the accuracy of his/her memory. If there is any doubt, additional investigation may be required to ensure the actual suspect has been detained. The officer will document in detail the identification or non-identification of the suspect, using the victim/witness’ own words, as well as the victim/witness’ level of confidence.

The officer will thoroughly document the field identification including: the identification of all persons present, a description of the location, including lighting conditions, weather conditions and approximate distances, the suspect(s) clothing, demeanor and injuries, if any.

Video recording of the entire field identification procedure is recommended through the use of the body-worn camera. The recording should include the reading of the admonition, the responses by the eye-witnesses, and the confirmation statement.

The officer should complete the Field Identification/Show-up Form and submit it for inclusion with the case. If the Field Identification/Show-up is video and audio recorded, then the form is not necessary, but still can be filled out.

6.11.7 Photo Lineups/Arrays

It is extremely important that photo lineups be created that will not influence the victim/witness. Poorly conducted photo lineups can hinder law enforcement efforts to bring the right suspect to justice.

6.11.8 Constructing Photo Lineups/Arrays

It is recommended that members utilize the “Picture Link” mug shot system in the construction of photo lineups. Photo lineups made using this software ensures that there is a record of the lineup to include a key regarding the persons depicted within the photo lineup that has their respective identifying information attached, which safeguards posterity and audit, if necessary. Additionally, the member will ensure that an unmarked copy of the photo lineup and corresponding key regarding the persons depicted within the photo lineup that has their respective identifying information attached, be placed into police property.

If the “Picture Link” system does not have a photograph of the person of interest and a photograph of the person is available in “LUMEN,” the member may construct the
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lineup using “LUMEN” or request to have the photograph of the person uploaded into the “Picture Link” system for utilization there. If “LUMEN” is utilized, the member will ensure that an unmarked copy of the photo lineup, to include a key regarding the persons depicted within the photo lineup that has their respective identifying information attached, be placed into police property in addition to being attached to the case report through Versadex RMS.

If neither “Picture Link” nor “LUMEN” have a photograph of the person of interest, a member may utilize either the Department of Motor Vehicles (DMV) or any other official photograph on record with any other outside governmental agency, in order to secure an associated photograph. The member may either upload the outside agency photograph of the person of interest into the “Picture Link” system for utilization there, or may construct a photo lineup utilizing any accepted electronic application, such as Microsoft Word, PowerPoint, etc., or may use any appropriate lineup created by such outside entity or agency. If an electronic application other than the “Picture Link” system or “LUMEN” is used, the member will ensure that an unmarked copy of the photo lineup, to include a key regarding the persons depicted within the photo lineup that has their respective identifying information attached, be placed into police property in addition to being attached to the case report through Versadex RMS.

Members constructing photo lineups should utilize the following guidelines:

1) Photo lineups should consist of no less than six photographs, one of the person of interest and five other similar filler photographs. Care should be taken when creating a photo lineup to ensure the backgrounds and photographs used as fillers are similar to the photograph of the person of interest. An officer creating a photo lineup needs to consider the photograph of the person of interest. The filler photographs must be similar in appearance to ensure an equitable photo lineup. Failure to provide similar filler photographs could create an overly suggestive lineup.

2) Filler photographs must be of persons of the same sex, race, age group and physical features as the person of interest. Hair color, hair style, facial hair and earrings or other body piercings should be considered. Use photographs of persons who generally fit the victim/witness’ description of the person of interest. Avoid photographs of persons who so closely resemble the person of interest that a person familiar with the person of interest might find it difficult to distinguish fillers from the person of interest. The filler photographs should depict similar clothing. For example, the person of interest should not be in a jail jumpsuit if all the fillers are in plain clothes.

3) All photographs in the lineup should have similar backgrounds and dimensional characteristics.

4) All photographs should depict persons in a similar pose. Filler photographs should match the person of interest photograph in so far as being a simple head shot or a
bust that includes the head and chest. No writing or other indications that the photo is a mug shot or jail photograph can be visible.

5) When using multiple photo lineups to identify multiple persons of interest from a single victim/witness, members should avoid placing the person of interest’s photo in the same position in each photo lineup. The same filler photographs cannot be used in multiple lineups.

6) Members will document the source of the photographs used in the lineup. The lineups used, whether an identification is made on not, will be retained as part of the case file.

Due to the complexity and uniqueness of investigations, members may choose to utilize photobooks in place of a photo lineup. A photobook can be constructed in two ways, the first being a book of photographs of all known and identified persons associated with a case or with the specific focus on a person of interest like that of a photo lineup. If a photobook is constructed containing all the known and identified persons associated with a case, the member will ensure that only a single photograph appears on each page, that the pages are numbered and that all identifying information is removed. The member will ensure that there are no visibly overt indications that the photograph is a mug shot or jail photograph, and that all photographs are head shots or a bust. The member will ensure that a corresponding key is generated that includes the respective identifying information of the persons depicted within the photobook.

If a member utilizes a photobook with a specific focus on a person of interest, like that of a photo lineup, the member will ensure that in addition to guidelines 1-3 outlined above for constructing photo lineups, that only a single photograph appears on each page, that the pages are numbered and that all identifying information is removed. The member will ensure that there are no visibly overt indications that the photograph is a mug shot or jail photograph, and that all photographs are head shots or a bust. The member will ensure that a corresponding key is generated that includes the respective identifying information of the persons depicted within the photobook.

The order of the photographs within a photobook should be reshuffled and numbered when shown to multiple victims/witnesses.

In either instance where a member utilizes a photobook, the member will ensure that an unmarked copy of the photobook, to include a key regarding the persons depicted within the photo lineup that has their respective identifying information attached, be placed into police property in addition to being attached to the case report through Versadex RMS.

Members are encouraged to utilize color photographs when constructing photo lineups or photobooks. However, it is understood that there are instances where the depicted person’s photograph, or those of suitable fillers, may dictate the necessity to present the photo lineup or photobook in black and white. Members will ensure that all
photographs are either color or converted to black and white. Aside from the issue of color versus black and white, the member will follow the direction outlined in the guidelines for constructing photo lineups and/or photobooks.

6.11.9 Procedural Guidelines for Using Photo Lineups/Arrays and Physical/Live Lineups

When conducting a photo lineup (photo array) or a physical/live lineup, it is recommended that it be presented by a member who does not know the identity of the person of interest when it is viewed by the victim/witness (“blind administrator”). If not by a blind administrator, then it is recommended that the lineup be presented by a member who may know who the person of interest is, but does not know in which positon the person of interest is placed in to a photo lineup or live lineup (“blinded administrator”).

When presenting a photo lineup, members will provide the victim/witness, the Photo Lineup/Array Witness Instruction Form (APD Form 094). The member will advise the victim/witness of all elements of the instruction form to make sure he/she understand the investigation continues regardless of his/her ability to identify a person of interest or not. Members will avoid saying anything that will influence the victim/witness’ selection. Members will not report any information regarding the individual selected before obtaining a clear statement of certainty from the victim/witness.

Members will document the victim/witness’ level of confidence and the identification or non-identification of the person of interest, using the victim/witness’ own words. Members will document the location, date and time and all persons present at the time the victim/witness views the lineup. Viewing should be conducted in a quiet setting such as an interview room. If possible, the use of video/audio recording is encouraged to document the process and results. If multiple victims/witnesses will view the same lineup, the viewings should be done separately.

6.11.10 Additional Considerations for Physical/Live Lineups

Physical lineups have not historically been done in the Aurora Police Department. If a physical lineup is used, the following additional considerations should be followed:

- If a photo lineup was done prior to the physical lineup, the person of interest should be in a different positon than the previous lineup.
- If there is more than one person of interest, different fillers should be used in each live lineup.
- All participants of the live lineup should be instructed not to speak, move, gesture to one another. They should also remain still and face forward during the procedure unless otherwise directed by an officer/investigator.
6.11.11 Composite and Artists Renderings

A non-photographic depiction of a suspect can be developed for investigative purposes when a suspect photograph is not available. Officers will use care to not influence the description provided by the victim/witness. Drawings, identi-kit or computer generated composite images may be used.

6.11.12 Informants

All potential informants should be developed, contacted and debriefed by at least two sworn members, when possible. An informant's credibility, motivation, information and potential utility should be carefully assessed. Informants will be documented, controlled and all pertinent information regarding informants will be maintained according to the member's respective S.O.P. In the event a member's District/Bureau/Section does not have an established procedure, it will be coordinated through and maintained by the Investigative Bureau's or Narcotics Section’s S.O.P., as appropriate.

6.11.13 Collection, Preservation and Use of Physical Evidence

The collection and preservation of evidence is an important function for officers. The recruit officers will receive training in the academy to include the following:

- Properly collecting evidence in the field
- Properly packaging and preserving collected evidence
- Properly submitting evidence to the Property and Evidence Unit

During the recruits field training they will receive additional guidance on evidence handling, and be evaluated on this area of responsibility.
Officers who will be collecting latent prints at crime scenes will receive additional training provided by the Crime Scene Investigations Unit. This training is outlined in Directive 6.17 Latent Print Processing by Officers.

Members should use all measures necessary to preserve and maintain the integrity of any evidentiary items that will support the criminal investigation that may be used during any judicial proceedings.

The assigned member will ensure that relevant physical evidence is collected and stored according to Directive 08.10 - Reports for preservation and/or further testing and evaluation, as appropriate. The assigned investigator should obtain, collate and analyze all laboratory reports relating to the case to determine if additional testing and/or evaluation is required.

When a member realizes, or it is obvious, the requirements for the collection and preservation of evidence exceeds the technical expertise of the member, then that member should notify the Crime Investigations Unit and request assistance as delineated in Directive 03.02 - Duties And Responsibilities Of The Metro Division.

Members seizing physical evidence will document the chain of custody upon the appropriate form(s).

After seizure and proper documentation of the chain of custody, seized evidence will be handled according to Directive 08.09 - Processing, Storage and Disposition of Evidence and Other Property.

6.11.14 Preservation of Notes in Criminal Investigations

For officer notes related to Homicide Investigations / Vehicular Homicide / Officer Involved Shootings / Felony Assaults where death or serious bodily injury is likely, the member will insure that the original notes are scanned by the Records Unit into the appropriate case.

When the member has completed his/her report, he/she will make a copy of all notes connected to the referenced case/investigation, legibly print the case number, member’s name and ID number on each copied page in the upper right hand corner and then submit the copies to the Records Unit to be scanned into the Versadex Records Management System. After the copies are scanned, the copies will then be destroyed by Records Unit personnel. The member will place the original notes into Property.

Members taking notes in misdemeanor and felony cases not listed above should accurately transcribe their handwritten notes into their official report and state in the report that any hand written/typed notes were accurately transcribed into the final police report. The original notes should not be placed into Property except in extenuating circumstances. Nothing in this directive will preclude the preservation of
notes as deemed necessary by members, supervisors or command personnel based on the circumstances surrounding an event.

6.11.15 Major Incident Debriefing

Debriefing major incidents is an excellent method to facilitate communications between working groups. The purpose of a debriefing is to obtain knowledge and share ideas/concerns to improve the effectiveness and efficiency of Department practices and procedures. Supervisory or Command Level officers may facilitate debriefings after major incidents with involved personnel, including but not limited to members of:

- Detective Sections
- Crime Laboratory Section
- Investigations Bureau
- Internal Affairs Bureau
- Victim Services Unit
- Media Relations Unit
- District Patrol
- Public Safety Communications Division

6.11.16 Surveillance

Sworn members, when contemplating possible surveillance activities, should take into account the purpose of the surveillance, the necessity for the surveillance, the environment in which the surveillance will be conducted and legal and statutory constraints upon the proposed surveillance activity.

Prior to any surveillance related activity, members will de-conflict the operation through the RISSafe platform or by utilization of the Rocky Mountain HIDTA Watch Center at 1-800-965-6393.

6.11.17 Biological Substance Sample (DNA) Collection

State statute 16-23-103 requires that a biological substance sample (DNA) be collected from every adult arrested for felony charges. The statute also states that the “Arresting Law Enforcement Agency shall collect the sample from the arrested person as part of the booking process.”

The Colorado Bureau of Investigation (CBI) is in charge of this process. As such, CBI has developed a kit and procedures to fulfill the requirements of the law. Officers must use the kits supplied by CBI and follow their procedure. Everything needed to complete the collection, including written instructions, is included in the kit.

When an adult is arrested on felony charges (including felony warrants) and brought to the Aurora Detention Facility, the arresting officer will collect the DNA sample as part
of the booking process (the detention officers will NOT do the buccal swab collection). The officer will acquire a new (sealed) DNA kit from detention personnel and collect the sample following the included instructions. A sample will not have to be collected if the person has previously provided a biological sample for such testing pursuant to a statute of this state and CBI has the sample. Confirmation of the previously submitted sample must be confirmed by reviewing the Colorado criminal history report for “DNA profile in CODIS” and (Y) means that it is submitted and a (N) indicates that it has not been previously submitted.

If a prisoner is combative and cannot be fingerprinted then do not attempt to collect the buccal swab. When the prisoner has calmed down enough to be fingerprinted an officer will be called to collect the swabs at that time.

6.11.18 Familial DNA Search Protocol

A “Familial DNA Search” is defined as a deliberate search for biologically-related relatives of a contributor of an evidentiary profile conducted with specialized (non-CODIS) software designed for this purpose.

The Colorado Bureau of Investigation (CBI) has developed a DNA Familial Search Policy that deals with this possibility. In appropriate cases, the Chief of Police may request that CBI conduct a search of the Colorado DNA offender database for DNA profile(s) that are not exact but indicate a scientific connection or relative of the offender. The Department will follow all procedures in the current Colorado Bureau of Investigation’s DNA Familial Search Policy. The Crime Laboratory Section Lieutenant will maintain a current copy of the policy.

Requirements of CBI’s policy include but are not limited to:

- Requests for a Familial DNA search must come from the Chief of Police or the District Attorney.
- The request must justify the case having significant public safety concerns and the familial search result is critical to advancing the investigation.
- That the lead investigator assigned to the case has received CBI approved training in the use of DNA familial search evidence.
- That standard investigative leads have been exhausted.
- That the agency agrees to further investigate the case after CBI releases the identifying information to the requesting agency.

Investigators desiring a CBI Familial DNA Search will, in cooperation with their supervisor, command officer and the Crime Laboratory Lieutenant, make a proposal to the Chief of Police that the Chief initiate the request to CBI in accordance with their policy.
6.11.19 Use of Regional Information Sharing and Systems Intelligence Module

The purpose behind the de-confliction process is to increase officer safety, safeguard criminal investigations and promote information sharing within the law enforcement community.

The Rocky Mountain Information Network (RMIN) and the Rocky Mountain High Intensity Drug Trafficking Area (RMHIDTA) facilitate access to the two de-confliction systems, RISSafe and RISSIntel.

RISSafe is an operational de-confliction system. It provides members a way to safeguard that an on-going investigation is not in conflict with another active police operation in the same geographic area and same time frame. Investigators will enter information about police activities such as search warrants, surveillance, narcotics purchases or other police related activities conducted in the field.

RISSIntel is a de-confliction database in which personal identifying information of a subject linked to a specific criminal activity is maintained. It is a resource to determine if an individual is a subject of interest in other on-going independent investigations by other law enforcement agencies. RISSIntel will de-conflict information on a national scale. RISSIntel is an intelligence platform and all submissions must comply with specific requirements as outlined under 28 CFR Part 23.

Members will not direct enter information into RISSIntel. Members who believe information should be added to RISSIntel will forward that information to the Intelligence Unit supervisor for evaluation to include compliance with 28 CFR Part 23 and subsequent entry. The Intelligence Unit will retain the hardcopy of the initial information requesting the entry.

Direct entry into RISSIntel is limited to the following units and only after the approval of a supervisor;
- Members of the Investigative Support Section
- Members of the Narcotics Section
- Members of a Federal Task Force
- Members assigned to any Rocky Mountain HIDTA funded Task Force.

Additional information on these services can be obtained by contacting the Rocky Mountain HIDTA at 1-800-965-6393 (de-confliction/watch center) or 303-671-2180 (main line).

6.11.20 Undercover Operations Restricted
Plainclothes officers wear civilian attire and not a typical police uniform. Officers assigned to a plainclothes function represent themselves as police officers and generally display police identification and/or a badge.

Undercover police officers wear civilian attire but act in a covert position to disguise the fact they are police officers. Undercover operations involve a higher level of risk to the public and to participating officers. For this reason, the use of undercover operations is restricted to only those units that perform undercover operations as part of their normal course of duties and are properly trained in undercover work.

6.11.21 Investigations involving Aurora Mental Health Clients

Officers who are investigating a crime involving a client of Aurora Mental Health, either as a victim or suspect, may contact Aurora Mental Health for assistance. Officers may contact the Aurora Mental Health Emergency Services at 303-617-2300 for assistance. The assistance that can be provided by Aurora Mental Health personnel includes:

- Trying to locate a person who is part of an investigation.
- Identifying an individual who has admitted (outside of therapy) to participating in a violent crime.
- Aiding in an investigation when the victim is incapacitated.
- Responding to an off-site medical emergency.
- Aiding law enforcement in preventing or lessening a serious and imminent threat.
- Identifying or apprehending an individual who appears to have escaped lawful custody.

Aurora Mental Health must verify information from requesting officers. If requested, members of the police department will provide the following:

- City of Aurora Personnel Identification Number (7-digit EID number) and name.
- Business card.
- Business phone number.
- Written request on agency letterhead (preferred but not required).