

IDENTITY THEFT VICTIM PROCEDURE (FACTUAL INNOCENCE)

Disclaimer: The following may be used as a guide in the process to determine factual innocence, it is not legal advice.

If someone has used your identity in the commission of a crime, there are steps you can take to make sure law enforcement knows that you are not the defendant/perpetrator of the crime. These are the steps the victim must take to obtain a finding of factual innocence from the court.

_____ File a report with the appropriate law enforcement agency if you have been the victim of identity theft and/or criminal impersonation, pursuant to C.R.S. 16-5-103. Obtain a copy of the report for your records.

_____ Contact the court in the jurisdiction in the location where someone used your identity. Request a copy of the arrest report and/or summons.

_____ From the Identify Theft section of the D.A. webpage print a copy of the **MOTION TO DETERMINE FACTUAL INNOCENCE**. Fill out the **MOTION** completely, using the information from the arrest report and/or summons.

You may also find the forms at the state court website at www.courts.state.co.us/forms (select Criminal, then select Identity Theft, forms are located on the bottom).

_____ Only the top left portion of the **ORDER** should be filled in with the name of the Defendant found in the arrest report and/or summons.

_____ If there was an arrest, a set of your fingerprints will be needed to be compared to the prints taken at the time of the arrest. To be fingerprinted bring a copy of the completed **MOTION TO DETERMINE FACTUAL INNOCENCE** to either your local law enforcement agency or the following:

Boulder County Sheriff's Headquarters
5600 Flatiron Pkwy
Boulder, CO 80301
303-441-3600
11 am- 4 pm Monday - Friday, \$10 fee

Colorado Bureau of Investigation
690 Kipling St., Suite 3000
Denver, CO 80215
303-239-4208

The law enforcement agency will send your fingerprint card to the C.B.I. to do the comparison. Within two weeks you will receive a letter from C.B.I. with the results.

_____ These documents should be sent or delivered to the Clerk of the Court AND the District Attorney's Office (**originals to the court, copies to the D.A.'s office**):

1. The C.B.I. letter
2. The **MOTION TO DETERMINE FACTUAL INNOCENCE**
3. The **ORDER RE: FACTUAL INNOCENCE**
4. Any other information you may want to include that would verify your identity including:

- a. a photocopy of your driver's license
- b. utility bills showing you were living in another state at the time of the offense
- c. payroll records, showing you were at work at the time of the offense
- d. a notarized statement from your employer or former employer stating that you were at work at the time of the offense
- e. a copy of the arrest report and/or summons
- f. a copy of your Social Security card
- g. military records showing you were out of the area at the time of the offense
- h. records showing you were incapacitated at the time of the offense

Include copies of any documents that would show the court you could not be the person who was arrested in this incident.

Mail to:	Clerk of the Court 20 th Judicial District P.O. Box 4249 Boulder, CO 80306 303-441-4750	District Attorney's Office P.O. Box 471 Boulder, CO 80302 303-441-3700 Attn: Chief Investigator
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The physical address for both agencies is:
1777 6th St.
Boulder, 80302

_____ The Court will send your documents to the District Attorney's Office for review. After reviewing the facts, the District Attorney's Office will file a Response Motion with the Court to let them know whether there is any objection to a finding of factual innocence.

_____ The Court will review your motion, the evidence, the District Attorney's Response Motion, and will then determine if a finding of factual innocence should be granted.

_____ If the Court grants your motion, the Court will issue an **ORDER RE: FACTUAL INNOCENCE** and mail you a certified copy.

_____ If your driver's license has been affected, contact the Department of Motor Vehicles to set up a meeting with an Investigator. **You must provide the certified copy of the ORDER to the Department of Motor Vehicles:**

Colorado Department of Motor Vehicles
1881 Pierce St., Room 136
Lakewood, CO, 80214
303-205-8383

BE SURE TO MAKE AND KEEP A COPY OF ALL DOCUMENTS

These directions do not cover all scenarios. For additional assistance, please contact the Boulder District Attorney's Office at 303-441-3700.