

General Order

Houston Police Department



ISSUE DATE:

May 2, 2019

NO.

500-07

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 500-07, dated May 10, 2017

SUBJECT: FILING PROPER CHARGES

POLICY

The Houston Police Department shall work cooperatively with district attorney's offices to help reduce the number of cases dismissed. Proper documentation of the facts and supervisory review should help reduce incidents of charges being dismissed as well as protect officers from frivolous Internal Affairs complaints.

Effective law enforcement requires cooperation between police officers and members of the district attorney's offices. This General Order outlines procedural guidelines for officers and supervisors to use when consulting with the district attorney's offices in Harris, Fort Bend, and Montgomery counties regarding the filing of charges.

This General Order applies to classified employees only.

1 ARRESTS MADE IN HARRIS COUNTY

Before filing charges with the Harris County District Attorney's Office, the officer filing the charges shall speak with an assistant district attorney to ensure that the charges will be accepted.

During the consultation, the officer shall provide the elements of the offense, sufficient details to show that probable cause existed to arrest the person, and evidence that the person being charged did in fact commit the offense. These probable cause details shall be included in the charges filed via the District Attorney Intake Management System (DIMS).

An assistant district attorney shall also be consulted before the simultaneous filing of both county and municipal charges against one suspect if these charges are based on the same set of circumstances or the same criminal action. This consultation eliminates the possibility of a case being dismissed because of noncompliance with the Speedy Trial Act or because of violations of legal restraints against placing a defendant in double jeopardy.

Whenever an officer is unsure of the elements of a particular case, he shall discuss the matter with his immediate supervisor or contact the Harris County District Attorney's Office.

Under no circumstances shall a lesser charge be filed merely as a matter of convenience. For example, a charge of Public Intoxication shall not be filed if the actual offense was Driving While Intoxicated (DWI). Appropriate charges shall be filed according to the elements of the offense.

Rejection of Charges by Assistant District Attorneys

If an officer tries to file charges through the Harris County District Attorney's Intake Office and the charges are rejected, the officer shall include all of the following information in the original or supplemental incident report:

- a. Time and date the officer spoke with the assistant district attorney about filing charges in the case.
- b. Name of the assistant district attorney who rejected the charges.
- c. Reasons given by the assistant district attorney for rejecting the charges.

If the officer feels that the appropriate charge was not accepted by an assistant district attorney, then the officer shall notify a supervisor. If the supervisor finds mishandling on the part of the officer, the supervisor shall instruct the officer on policy and proper procedures to avert recurrences.

Filing Charges on Prisoners for Class "B" or Greater Offenses

Officers shall ensure that all elements of the offense and sufficient details are included in the charge filed via the DIMS or Juvenile Offender Tracking System (JOTS). Details of the offense need to show that probable cause existed to arrest the person and that there was evidence to prove that the person being charged did in fact commit the offense.

It is imperative that there is a compelling probable cause statement in the charge details, given that this may be the only information available to the assistant district attorney when the defendant is arraigned before a magistrate during a probable cause hearing. The officer filing charges shall document the exact time of arrest.

When officers are required to file Class B or greater charges on suspects, the officer shall do all of the following:

- a. Complete a General Person's Inquiry on the prisoner.
- b. Complete the required incident or supplement report and related paperwork.

Officers shall refer to General Orders 500-08, **Required Booking Information and Procedures** and 800-07, **Criteria for Submitting Incident Reports**, for further information.

- c. Enter charges in DIMS or JOTS, as applicable. Officers shall not delay entering the charge documents in order to wait for a fingerprint identification number.

Upon completion of charges being filed and after required information and paperwork has been provided and accepted, officers shall return to service.

The officer transmitting the charges via DIMS shall confirm with District Attorney (DA) Intake that they have received all necessary information.

2 RESISTING ARREST, SEARCH, OR TRANSPORTATION; EVADING ARREST OR DETENTION; AND INTERFERENCE WITH PUBLIC DUTIES

Officers shall use their training and experience in evaluating the totality of the circumstances when assessing whether charges should be pursued. If an event warrants an officer making an arrest of a person for Resisting Arrest, Search, or Transportation; Evading Arrest or Detention; or Interference with Public Duties, the arresting officer shall immediately notify a supervisor of the arrest and request his presence at the scene.

A supervisor shall check by on all scenes involving any of the above incidents. Once at the scene, the supervisor shall do all of the following:

- a. Observe the suspect's physical condition, if possible.
- b. Ensure the suspect receives medical attention if injured.
- c. Speak with all officers at the scene and review the facts with them.
- d. Review all the facts with the arresting officer and discuss with the arresting officer the range of charges that may be applicable.

If the incident occurs in Harris County, then after the supervisor has completed the above requirements, the officer shall contact the District Attorney's Office to determine if criminal charges will be accepted. After the officer speaks with the District Attorney's Office, the officer shall immediately notify the scene supervisor of the assistant district attorney's decision.

If the incident occurs in Fort Bend or Montgomery county, then officers shall follow the procedures outlined under the appropriate section of this General Order.

In addition to the above listed requirements, the supervisor shall do all of the following:

- e. Take and maintain accurate field notes related to the incident.
- f. Review the officer's incident report to ascertain that sufficient details of the incident are documented to support the arrest charge.
- g. Ensure any response to resistance is properly documented.

The officer shall also document in the incident report the name of the supervisor that checked by on the scene and reviewed the facts with the officer.

3 DRIVING WHILE LICENSE INVALID (DWLI)

Texas driver license suspensions shall be verified through the department's Vehicular Crimes Division. A license is considered invalid if it is confirmed to be suspended, revoked, cancelled, non-renewed, or expired. A DWLI first offense is a Class C misdemeanor. DWLI becomes a Class B misdemeanor if the person has a previous conviction for DWLI or the person's driver license was previously suspended as the result of an offense involving the operation of a motor vehicle while intoxicated.

4 USE OF RETAIL VALUE

The value of items in theft cases shall be determined by the retail value of the stolen goods.

5 ARRESTS MADE INSIDE THE CITY LIMITS OF HOUSTON IN FORT BEND COUNTY

Adults arrested inside the city limits of Houston in Fort Bend County shall be taken before a magistrate in Fort Bend County to be given their legal warnings. All property and evidence shall be tagged properly according to Houston Police Department policy. Original incident reports and supplements shall be submitted to the concerned division of the Houston Police Department.

An arrest packet including a copy of the incident report, suspect criminal history, and the Warrant Information Sheet shall be forwarded to the commander of the Southwest Division. The Fort Bend County District Attorney Warrant Information Sheet and arrest packet information are accessible via the HPD Intranet Portal under *Documents in General > Departmental Forms > Intake* and must be completed by the arresting officer.

After regular business hours, the arrest packet shall be delivered to Fort Bend County Intake by the Southwest Division liaison.

Filing Charges on Prisoners for Class "B" or Greater Offenses

Adults arrested in Fort Bend County for felony or Class A or B misdemeanors shall be transported to the Fort Bend County Jail. Officers shall file charges at the Fort Bend County District Attorney's Intake Division. A copy of the incident report shall be delivered to Fort Bend County Intake.

DWI Arrests

When an adult is arrested for DWI in Fort Bend County, the arresting officer shall take the prisoner to the Fort Bend County Jail for an intoxilyzer and video test. The officer shall contact the HPD dispatcher who shall notify the Fort Bend County Sheriff's Office to have an on-duty intoxilyzer operator meet the arresting officer at the Fort Bend County Jail facility.

The video shall be submitted to the Fort Bend County District Attorney's Intake Division with copies of all necessary paperwork. A copy of the paperwork shall also be delivered to the HPD Vehicular Crimes Division.

If the arrest occurs after normal business hours, the officer shall deliver the original paperwork and video to the desk sergeant at the Southwest Division. The Southwest Division liaison shall submit the paperwork and video to the Fort Bend County District Attorney's Intake Division during normal business hours.

Juvenile Arrests

Juveniles who are arrested in Fort Bend County shall be transported to the Fort Bend County Juvenile Detention Center. When juveniles are going to be interrogated as suspects, they shall be taken before a magistrate in Fort Bend County for their legal warnings.

Officers shall not leave the Fort Bend County Juvenile Probation Department until they have obtained the juvenile's fingerprints and fingerprint identification number and completed the Juvenile CJIS form. The juvenile arrest packet with the juvenile warrant information sheet including a copy of the incident report must be left with juvenile probation personnel and a copy must be delivered to the Fort Bend County District Attorney's Juvenile Intake Division.

Officers shall contact the HPD Juvenile Division and forward a copy of the incident report to them. Juveniles arrested in Fort Bend County shall not be taken to Harris County.

Deaths

During the investigation of a death that occurred in Fort Bend County, officers shall ensure that a Fort Bend County Justice of the Peace is summoned to rule on the cause of death. A Fort Bend County Sheriff's Office dispatcher will contact the Justice of the Peace.

6 ARRESTS MADE INSIDE THE CITY LIMITS OF HOUSTON IN MONTGOMERY COUNTY

Adults arrested in Montgomery County inside the city limits of Houston shall be processed in Montgomery County.

Original incident reports and supplements shall be submitted to the concerned division of the Houston Police Department. All property and evidence seized in Montgomery County shall be tagged properly according to Houston Police Department policy.

Filing Charges on Prisoners for Class "B" or Greater Offenses

All adult female suspects arrested inside the city limits of Houston in Montgomery County for a felony or a Class A or B misdemeanor shall be processed through the Montgomery County Jail in Conroe. Adult male suspects may be processed through either the Montgomery County Jail in Conroe or the East Montgomery County Jail Annex (non-violent and non-CIT prisoners only) in New Caney.

Officers shall complete all necessary paperwork found on the HPD Intranet Portal under *Patrol > Kingwood > General Information* while processing adult suspects at the jail facility. Officers shall file charges at the Montgomery County Attorney's Office Monday through Friday from 8 a.m. to 5 p.m.

After normal business hours, officers shall process the suspect and fax a copy of the incident report to the Montgomery County Attorney's Office immediately.

DWI Arrests

When an adult is arrested for DWI inside the city limits of Houston in Montgomery County, the arresting officer shall take the prisoner to the Montgomery County Jail in Conroe for an intoxilyzer and video test. The officer may also utilize the Harris County Sheriff's Office Annex in Humble, HPD intoxilyzer locations, or Texas Department of Public Safety (DPS) intoxilyzer locations.

Officers shall contact the dispatcher, who shall contact the Montgomery County Sheriff's Office dispatcher in order to have DPS personnel meet the officer at the jail facility to administer the intoxilyzer test. Montgomery County deputies may also administer the intoxilyzer test. The suspect shall then be processed and charges filed as indicated above.

A copy of the paperwork shall be delivered to the HPD Vehicular Crimes Division.

Juvenile Arrests

Juveniles who are arrested in Montgomery County shall be transported to the Montgomery County Juvenile Detention Center located in Conroe where the juvenile shall be fingerprinted. The officer shall complete the Referral/Identification portion of the DPS *Juvenile Justice Tracking* form and leave a copy of the probable cause statement and, if completed, the HPD incident report with Detention Center personnel.

Normal intake hours are Monday through Friday from 8 a.m. to 5 p.m. After hours officers should contact the Montgomery County Juvenile Detention Center, Juvenile Intake Control Center at 936-538-7755.

When juveniles are going to be interrogated as suspects, they shall be taken before a magistrate in Montgomery County for their legal warnings.

Officers shall complete all necessary paperwork and forward a copy of the incident report to the HPD Juvenile Division. A copy of the incident report must be faxed to the Montgomery County Attorney's Office immediately upon completion of the paperwork.

Deaths

During the investigation of a death that occurred in Montgomery County, officers shall ensure that a Montgomery County Justice of the Peace is summoned to make the official ruling on the cause of death. A Montgomery County Sheriff's Office dispatcher will contact the Justice of the Peace.


Art Acevedo
Chief of Police