General Order

Houston Police Department

ISSUE DATE:	NO.
May 2, 2019	500-01

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 500-01, dated July 24, 2012

SUBJECT: EFFECTING ARRESTS AND SEARCHES

POLICY

The highest regard possible shall be given to arrested individuals' and officers' safety and well-being.

Prisoners shall be thoroughly searched at the time of arrest and by each employee in the chain of custody to ensure no weapons, contraband, or evidence remains on the prisoner.

Except as noted in this General Order, all persons under arrest shall be properly handcuffed behind the back prior to being thoroughly searched and shall remain handcuffed while being transported in any police vehicle.

This General Order applies to classified employees only.

DEFINITIONS

Body Cavity Search. A search involving the internal physical examination or probing of all body cavities.

Gender Identity. An individual's innate identification as either male or female, although it may not correspond to the individual's body or gender as assigned at birth.

Interlocking. A technique used to accomplish the arrest or restraint of a violent person by handcuffing the wrists and ankles together behind the back.

Positional Asphyxia. An impairment of the respiratory system due to body positioning that results in the reduction of oxygen or the increase of carbon dioxide in the bloodstream and tissues.

Strip Search. A search of an individual requiring the removal of some or all of the clothing to allow visual inspection of the breasts of a female or the genitalia of either sex.

Systematic Search. A thorough search of a prisoner including removing the prisoner's shoes and socks for inspection.

Transgender. An umbrella term that describes individuals whose *gender identity* is different from their assigned sex at birth.

1 JURISDICTION

Officers may exercise full police powers within the city limits of Houston. Further, officers may arrest a person for a violation of Transportation Code, Subtitle C, Title 7 (Rules of the Road)

occurring in the officer's presence or view anywhere in any county in which any part of the city of Houston is located.

Outside the city limits of Houston, but within the state of Texas, officers may arrest without warrant a person who commits an offense in the officer's presence or view, remembering that the jurisdiction to make arrests for violation of Transportation Code Rules of the Road noted above extends to only those counties in which a part of the city of Houston is located – currently Harris County, Fort Bend County, and Montgomery County. Arrests made outside Houston city limits should, whenever possible, be made in cooperation with the law enforcement agency having primary jurisdiction in order to facilitate the presentation of the person arrested before a magistrate as required by the Code of Criminal Procedure.

For additional parameters, refer to the Texas Code of Criminal Procedure, Chapter 14, Arrest Without Warrant.

2 LEGAL WARNING

When suspects are arrested, they shall be told as soon as possible they are under arrest and the charge or cause for the arrest.

If custodial interrogation is to take place, suspects shall be given the legal warnings as set out in the Texas Code of Criminal Procedure.

3 RESPONSE TO RESISTANCE

When dealing with citizens, suspects, or prisoners, employees shall limit their use of force and physical contact to only the amount reasonably necessary to protect themselves or others, to effect an arrest, or to bring an incident under control. See General Order 600-17, **Response to Resistance.**

Officers who use force against any person must be able to state in detail the specific reasons for using the force. If force is utilized during an incident, the officer and the supervisor must ensure that such force is documented according to General Order 600-17, **Response to Resistance.**

Suspects Who Ingest Contraband

The department's primary objectives in dealing with suspects who are believed to have ingested narcotics or other contraband are the preservation of life and the safety of the officer. The secondary objective is to preserve and recover evidence whenever possible.

Officers are prohibited from choking and/or restricting the airway of a suspect in an attempt to extract contraband from the suspect's mouth. Officers using reasonable force to extract contraband from a suspect's mouth should be cognizant of the risks and dangers associated with putting the officer's hands in or near the suspect's mouth.

Employees should be aware of and look for potential signs of distress following an ingestion, which could include, but are not limited to, loss of consciousness, trouble breathing, choking, profuse sweating, non-responsiveness, loss of mobility, and/or vomiting.

When an employee reasonably believes that a suspect has ingested narcotics or other contraband, which could present a health hazard, the employee shall immediately summon emergency medical personnel to provide assessment and treatment.

When a suspect has been transported to a medical facility after ingesting narcotics or other contraband, the arresting officer shall:

a. Notify a supervisor as soon as is practical.

b. Advise the attending physician of the situation, including an estimate of the amount of time elapsed since the ingestion and, if possible, the type, quantity, and packaging of the item(s) ingested.

c. Generate an incident report or supplement that includes a detailed statement of the incident, medical treatment received (if known), and any actions taken by those on the scene.

Employees are advised that when a suspect ingests narcotics or other contraband and evidence is destroyed, they are to consult with the appropriate district attorney's office to discuss the acquisition of a search warrant, if necessary, and the possibility of filing all applicable charges including, but not limited to, Tampering with Evidence.

In the event that, after medical evaluation, medical personnel release the prisoner back to the officer, the officer shall:

d. Immediately transport the prisoner to the designated jail facility.

e. Document in the RMS "Arrest Tab" under "physical condition" that the prisoner "possibly ingested narcotics/contraband."

f. Notify the jail HPD sergeant and jail personnel of the incident upon arrival at the jail facility.

4 RESTRAINTS AND TRANSPORTATION

Handcuffs

An exception to the handcuff policy is if a medical or specific physical condition (e.g., suspect's age or size) precludes handcuffing behind the back. Then the prisoner shall be secured in the safest possible manner before being placed in a police vehicle.

If a prisoner cannot be handcuffed, the transporting officer shall clearly document the reasons and specific justifications for not doing so in the incident or supplement report. The safety of the officer and the suspect or prisoner must be assured before the decision to transport without handcuffs is made. Unless otherwise approved by a supervisor, only two-officer units shall transport prisoners without handcuffs.

[redacted]

Transporting

When placing a prisoner in a police vehicle, officers shall position the prisoner's back toward the upper back seat with the prisoner sitting upright and facing forward. Officers shall then properly secure the prisoner in the seat restraint (seat belt and shoulder harness). The transporting officer shall watch the prisoner and ensure the prisoner does not become entangled in the seat restraint and that the seat restraint does not wrap around the prisoner's neck.

If the design or configuration of the transporting vehicle is such that it cannot safely transport a prisoner in accordance with this General Order, a more appropriate unit shall be dispatched.

Interlocking Technique

The *interlocking* technique shall be used by only officers trained in and utilizing the approved interlocking devices.

No changes, alterations, or modifications are permitted to approved leg restraints or interlocking devices.

In all arrest or transporting situations, especially those involving an interlocking technique, employees shall ensure prisoners are placed in a position that enables them to breathe freely and is the most comfortable position possible. Additionally, while officers may use their weight to initially gain control over a prisoner and to maintain control if necessary, officers are to use caution that the resulting compression of the chest or abdomen does not interfere with the prisoner's breathing.

WARNING: DO NOT leave the prisoner face down when using the interlocking technique as *positional asphyxia* may occur.

Interlocking is meant only as a temporary measure and suspects must be released from the interlocked position as soon as it is safe and practical.

[redacted]

[redacted]

Officers may encounter individuals who attempt to spit on them or others. Due to the potential health hazards associated with bodily fluids, officers shall have the option of employing department-issued spit covers on aggressive individuals. The use of a spit cover shall be only in response to the behavior exhibited or the immediate threat made by the person. Only department-issued spit covers shall be used. Spit covers shall be applied as described below:

[redacted]

If a suspect should spit on an officer or other public servant, the officer shall contact the appropriate district attorney's office to discuss possible felony harassment charges. Officers are reminded that the use of spit covers constitutes a response to resistance and shall be reported as described in General Order 600-17, ***Response to Resistance***. Transporting officers shall notify jail personnel in the event a spit cover was used on a suspect.

Spit covers are to be used once and then disposed. Officers shall not reapply a used spit cover. If a subsequent application is required for the same individual, a new spit cover shall be used. Due to possible biological contamination, spit covers shall be disposed of properly as described in General Order 300-21, ***Communicable Disease Policy***.

If a spit cover has been applied to an individual who subsequently dies in custody, the spit cover shall be placed in an evidence bag pursuant to the evidentiary property procedures outlined in General Order 700-01, ***Property and Evidence Control Regulations***.

5 SEARCH

Persons

Terry Frisk/Pat Down:

When an officer temporarily detains a person without probable cause because the officer has a reasonable suspicion that the person has committed, is committing, or is about to commit a crime ***and*** has a reasonable belief that the person may be armed and presently dangerous, the officer may perform a limited protective search for weapons of the outer clothing and of those areas which may be within the suspect's wingspan and therefore pose a danger to the officer.

High Risk Search:

[redacted]

Search Incident to Arrest:

[redacted]

If the gender of an individual needing to be searched comes into question, officers should respectfully inquire as to whether the individual identifies as *transgender.* [redacted]

An employee who searches a person shall document the search and the results in an incident or supplement report. Whenever practicable, officers should have a witness to the search. An officer taking custody of a prisoner shall search the prisoner for weapons and contraband even if the prisoner was searched by another officer.

If an officer becomes aware of the presence of contraband or evidence on a person, whether as the result of a search, Terry pat down, or the receipt of credible information, the officer shall attempt to safely secure the contraband or evidence.

Evidence or Contraband in Sensitive Areas:

If an officer has reasonable suspicion that evidence, contraband, or a weapon is located in a sensitive area of a person's body, including the person's genitalia, breasts, or buttocks, the

[redacted]

Strip Search:

[redacted]

Body Cavity Search:

Body cavity searches may be conducted only subsequent to an arrest when there is probable cause to believe that weapons, contraband, or other evidence of a crime has been concealed in a body cavity. [redacted]

A supervisor shall be notified of the necessity to conduct a body cavity search prior to the search. Upon approval from the supervisor, [redacted] The supervisor shall ensure that all necessary documents (e.g., consent form, search warrant) [redacted]

[redacted]

Body cavity searches shall be conducted privately and with the suspect's dignity as a consideration. [redacted]

Whenever a body cavity search is conducted, an incident report shall be initiated or supplemented containing the following information:

a. The name of the supervisor who authorized the search.

b. The probable cause for the search.

c. The date, time, and location of the search.

d. The names and identifying information of all persons who witnessed or participated in the search.

e. Results of the search.

Vehicles

Officers may search a vehicle when at least one of the following applies:

a. There is probable cause to believe that there is evidence of a crime within the person's reach.

b. The officer reasonably believes a search is necessary for the officer's own safety (weapon).

c. Contraband is found in plain view.

d. The search is related to the suspect's arrest.

Inventory of a vehicle is required when a vehicle is to be towed.

Property

Officers may search a residence or other premises without a search warrant or consent when any of the following exigent circumstances apply:

a. A person is in imminent danger.

b. The escape of a suspect.

c. Reasonable belief that a suspect poses a danger to the public and/or officers on a scene.

d. A welfare check of the property for persons who may need medical assistance.

e. Reasonable belief that contraband or evidence is about to be destroyed.

The above is not an exhaustive list of exigent circumstances. [redacted]

6 CONSENT SEARCH

Both federal and state constitutions provide every individual with the right to be free from unreasonable searches and seizures. Consent to search is considered a waiver of what would otherwise be a warrant requirement and, as such, the waiver must be voluntary and knowing. When a person consents to a search the officer shall remember the following:

a. A person with a possessory or proprietary interest in the property or place to be searched may give consent.

b. A person can refuse to consent to a search. However, if consent is granted, the person remains in control of the search and may limit the scope of the search or revoke the consent entirely.

c. All searches shall be conducted with dignity and courtesy. Officers shall also explain to the person being searched the reason for the search and how the search will be conducted.

d. When the search involves property, the property being searched, when feasible, shall be returned to its original condition prior to the search.

Search Protocol

The following search protocols and supervisor responsibilities apply, except in those instances for which a divisional standard operating procedure addressing searches has been specifically approved by the Chief of Police.

When practicable, the voluntary consent should be obtained in written or audio recorded form. Non-written or non-recorded consent shall be fully documented in an incident report if one is generated. When an incident report is not generated, such as a traffic stop, full documentation must be included in the required database entry.

Officers shall utilize only department approved *Consent to Search* forms located in the *Departmental Forms* section on the HPD Intranet Portal. Any exceptions require approval by the Chief of Police.

[redacted] Employees are reminded that these types of searches have specific protocols, may require specific training, and shall be conducted in consultation with the concerned division and the district attorney's office. These specific types of consensual searches shall always be documented in the appropriate incident report.

If the person granting consent is not present during the search, as in the case of electronic or digital devices that are removed to a police facility for examination, the case investigator shall provide the owner of the property a telephone number where the investigator may be contacted. If the property to be searched is being removed by officers not assigned to the division handling the investigation, those officers shall provide the person granting consent the telephone number to the proper concerned investigative division.

[redacted]

If a supervisor is unable to be at the scene in a reasonable amount of time, the officer shall, with approval from the supervisor, continue the investigation. The supervisor, however, is expected to arrive on the scene as soon as practicable and shall supplement the original incident report documenting the circumstances.

7 DOCUMENTATION OF CONSENT

Documentation of consent may be necessary in defending the search in court.

Verbal Consent

When an officer receives only verbal consent to proceed with a search, the officer shall document the outcome of that consent to search request [redacted]

Recorded Documentation

Audio/video recordings shall be handled under the appropriate department guidelines, depending on the type of audio/video recording. Examples include, but are not limited to, mobile video, body worn cameras, and/or personal recording devices. See General Orders 400-28, **Body Worn Cameras** and 400-23, **Mobile Video Equipment**. If an officer records a verbal consent to search request, the officer shall document the outcome of that consent [redacted]

[redacted]

Consent Form Disposition

If a consent form is completed and no charges are filed and no contraband or evidence is seized, the original consent to search form shall be submitted at the end of the shift with the officer's work card or placed in the case file. If the original is placed in the case file then a copy shall be forwarded to the division commander's administrative office. The consent request, including the outcome of that consent to search request (granted, refused, withdrawn), shall be documented [redacted] A copy or the original shall be kept in the division commander's administrative office for two years.

[redacted]

Data Collection

All consensual searches involving vehicles relating to traffic stops shall be documented in either the Demographic Tracking Database or an Electronic Ticket Writer device, but not both.

All consent to search requests involving non-traffic related incidents shall be documented in the Demographic Tracking Database. When an officer completes a written consent form, receives verbal consent, or records consent on a recording device, the officer shall document the outcome of that consent to search request (granted, refused, withdrawn) [redacted]

Data Reporting

The Office of Planning shall compile and place consent to search data into an annual report.

8 TRESPASS AFFIDAVITS

The trespass affidavit, which assists the department with enforcing trespass laws, continues to be a valuable law enforcement tool. It is in no way mandatory that a particular location have a trespass affidavit on file and officers shall provide a consistent level of service to all locations.

[redacted]

Officers utilizing trespass affidavits shall follow the current *Guidelines for Obtaining and Maintaining Trespass Affidavits* found on the department's Intranet Portal to assist citizens who wish to file a trespass affidavit with HPD.

[redacted]

[redacted]

Any time an arrest is made that directly or indirectly involves the use of a trespass affidavit for a location, the on-scene officer shall verify that a trespass affidavit for the location is on file with the concerned patrol division and notify a field supervisor that a trespass affidavit was used in an arrest. In addition, officers shall scan the trespass affidavit, if utilized, into the incident report and complete a detailed report. The original affidavit shall be placed back in the divisional trespass affidavit files.

Trespass affidavits shall be kept at the division commander's administrative office and retained according to the division's records retention schedule.

9 RESTRICTIONS

Off-duty officers shall not initiate traffic stops using a non-HPD marked police vehicle equipped with emergency equipment unless the officer suspects felony activity (not including Evading as a state jail felony) and the officer's vehicle meets the requirements as stated in General Order 600-04, **Motor Vehicle Pursuits.** [redacted]

An officer, whether on or off duty [redacted] Also, if police action is required and the suspect's identity is unknown or cannot be determined, the officer may detain such person.

Officers shall not communicate in any manner, directly or indirectly, information that may delay an arrest. Officers shall not enable persons who have committed criminal acts to escape arrest or punishment, dispose of property or goods obtained illegally, or destroy evidence of unlawful activity.

Officers shall not exercise police authority while under the influence of any drug, medicine, alcoholic beverage, or substance that affects the normal use of mental or physical faculties, unless under an exception outlined in a division's standard operating procedures. In the case of alcohol, "under the influence" means having any measurable concentration of alcohol in one's blood, breath, or urine.

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