General Order

Houston Police Department

ISSUE DATE:	NO.
October 4, 2019	500-11

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 500-11, dated July 15, 2016

SUBJECT: PUBLICLY INTOXICATED PERSONS

POLICY

When appropriate and available, officers are encouraged to use approved alternatives for handling persons who are in violation of Texas Penal Code, Section 49.02, Public Intoxication. When circumstances meet the criteria outlined in this General Order, officers shall divert publicly intoxicated individuals to the custody of a responsible adult or the Houston Center for Sobriety (herein referred to as the "Center") as an alternative to arrest.

The goal of diverting such persons from the criminal justice system is to reduce the use of criminal justice resources and to assist individuals in receiving needed services.

This General Order applies to all employees.

DEFINITIONS

Active Aggression. A threat or overt act of an assault (through physical or verbal means) coupled with the present ability to carry out the threat or assault that reasonably indicates that an assault or injury to any person is imminent.

Intoxicated. Not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or having an alcohol concentration at or above the concentration level as set by Section 49.01 of the Texas Penal Code.

Public Intoxication. A person commits an offense if the person appears in a public place while intoxicated to the degree that the person may endanger himself or another person.

1 AUTHORITY

State law (Code of Criminal Procedure, Article 14.031) authorizes a peace officer to take or send a publicly intoxicated person to certain places under certain conditions. The law states that:

In lieu of arresting an individual who is not a child as defined by Texas Family Code, Section 51.02 and who commits an offense under Texas Penal Code, Section 49.02, a peace officer may release the individual if:

a. The officer believes detention in a penal facility is unnecessary for the protection of the individual or others; and

b. The individual:

1. Is released to the care of an adult who agrees to assume responsibility for the individual; or

2. Verbally consents to voluntary treatment for chemical dependency in a program in a treatment facility licensed and approved by the Texas Commission on Alcohol and Drug Abuse, and the program admits the individual for treatment.

The Center *is* able to serve as the responsible adult under the state law referenced in item "b(1)" above.

2 PERSONS NOT ELIGIBLE FOR THE CENTER

The following persons are *not* eligible to be transported to the Center:

a. Intoxicated individuals less than 18 years of age. State law does not allow the Center to accept anyone less than 18 years of age. These individuals shall be handled in the following manner:

1. Persons seventeen years of age and charged with public intoxication may be released to a parent or legal guardian or arrested and placed in jail.

2. For juveniles (less than 17 years of age) investigated for public intoxication, see General Order 500-06, **Disposition of Arrested Juveniles**.

b. Intoxicated individuals who are unconscious, bleeding from a head injury, or experiencing a serious medical condition. (Officers shall request medical personnel to evaluate the individual.)

c. Intoxicated individuals displaying signs of *active aggression*. (Individuals shall be transported to jail.)

d. Intoxicated individuals who are exhibiting signs of being suicidal and/or having a mental health crisis. (Individuals shall be transported to the NeuroPsychiatric Center [NPC] at Ben Taub Hospital.)

e. Intoxicated individuals who cannot be identified as noted in this General Order. (Individuals shall be transported to jail.)

f. Intoxicated individuals with a Class C or higher warrant. (Individuals shall be transported to jail.)

g. Intoxicated individuals who are also being charged with a Class C offense involving violence, narcotics, vice, or criminal mischief, or any greater offense. (Individuals shall be transported to jail.)

h. Intoxicated individuals who are suspected of driving under the influence of alcohol or other drugs. (Individuals shall be processed in accordance with General Order 500-04, **Driving While Intoxicated**.)

i. Intoxicated individuals with an Immigration and Customs Enforcement detainer. (Individuals shall be transported to jail.)

3 PROCEDURES

As set forth above, when circumstances meet the criteria outlined in this General Order, officers shall divert publicly intoxicated individuals to the custody of a responsible adult or the Center as an alternative to arrest.

Accordingly, whenever either of the below exists, supervisor approval is required to place an individual in jail instead of taking the person to the Center or releasing custody of the person to a responsible adult:

a. An individual is arrested solely for public intoxication.

b. An individual arrested for public intoxication is to be charged with a less serious Class C misdemeanor offense *not* involving violence, narcotics, vice, or criminal mischief.

Officers deciding to place an individual in jail when either of the above applies shall request a field supervisor to the scene. Upon notification, the field supervisor shall immediately respond to the scene. Supervisors shall not grant permission to place the individual in jail without being present at the scene. The arresting officer shall explain to the responding supervisor why the individual requires placement in jail. The arresting officer shall document the approving supervisor's name, employee number, and reason for placing the individual in jail in the Arrest Details box located in the Arrest/Charges tab of the department's Automated Reporting System (ARS).

If an individual is intoxicated on a substance other than alcohol, such as marijuana, glue, paint, or any other drug, the individual shall be handled in the same manner as if he were under the influence of alcohol.

For individuals accepted by the Center or who are released to a responsible adult, officers shall *not* issue a Class C citation for the offense of public intoxication.

Other Less Serious Class C Charges

If an individual arrested for public intoxication is to be charged with a less serious Class C misdemeanor offense *not* involving violence, narcotics, vice, or criminal mischief, the officer shall issue a citation for the less serious Class C misdemeanor charge(s) when the person is taken to the Center or is released to the custody of a responsible adult.

If the individual is unable or refuses to sign the citation, the officer shall complete a *Refused or Unable to Sign Affidavit* form (available on the department's Intranet Portal) and attach it to the citation. See General Order 500-14, **Class C Misdemeanors**.

Medical Conditions

Officers observing persons whom they believe to be intoxicated are reminded that certain medical conditions can be mistaken for intoxication. Officers shall check for a medical identification bracelet or other similar item that may indicate the person has a medical issue.

A detainee who exhibits signs of possible acute alcohol intoxication (alcohol poisoning) or other serious medical condition shall be evaluated by Emergency Medical Services. If responding medical personnel determine that the individual requires transportation to a hospital for further treatment, officers may assist, but shall not transport the intoxicated person themselves. If the person is not being charged with a crime and does not pose an immediate threat to medical personnel, there is no need for officers to follow medical personnel to the medical facility.

Identifiable symptoms of acute alcohol intoxication may include:

a. Unconsciousness or semiconsciousness

b. Repeated episodes of vomiting

c. Vomiting while sleeping or passed out and not waking after vomiting

d. Inability to walk or stand

Identification

If an officer believes it is necessary to take an intoxicated individual into custody for his or her own safety or for the public's safety, the officer shall check the person's identification and check for outstanding warrants or fugitive status.

Prior to an individual being taken to the Center, officers shall verify the person's identity. Some form of government issued photo identification is preferable. If this or other photo identification is not available, officers shall use the department's computer system, mobile computing device, fingerprint identification system, mug shot identification system, etc. to confirm the validity of the personal information provided by the person in custody.

Intoxicated individuals without satisfactory identification, but known to the officer, may be transported to the Center based on the officer's familiarity with the individual.

Unsatisfactory identification requires officers to transport intoxicated individuals to jail with the criminal charge of public intoxication.

Search and Transport

Officers shall release all eligible non-aggressive adult individuals (age 18 years or older) found to be publicly intoxicated to the custody of a responsible adult or the Center located at 150 N. Chenevert St., Houston, Texas. At the Center, officers shall enter the facility using the marked "Police Entrance."

When transporting publicly intoxicated individuals, officers shall handcuff, search, and transport them in the same manner as prisoners in accordance with General Orders 500-01, **Effecting**

Arrests and Searches and 500-02, **Handling and Transporting Prisoners and Other Persons**.

If an intoxicated individual is found to be in possession of illegal weapons, illegal narcotics, or contraband, officers shall contact the District Attorney's Office to seek appropriate charges. If charges are accepted the individual shall be placed in jail.

If charges are not accepted by the District Attorney's Office, the intoxicated individual shall be released to the custody of a responsible adult or the Center. Officers shall tag all firearms, illegal weapons, illegal narcotics, and contraband according to department policy and complete an incident report. These items shall not be left at the Center.

4 PROCESSING AT THE CENTER

Property

Center personnel are responsible for the inventory, safekeeping, and return of all property to individuals processed through the Center.

Medical Screening

All individuals transported to the Center will be subject to a brief medical evaluation by personnel at the Center. If medical issues are present that are beyond the scope of the services at the Center, personnel at the Center will assume custody of the intoxicated individual and arrange for medical transportation. Officers are not required to wait while medical transportation is arranged.

Documentation

Officers utilizing the Center shall complete the Center's *Public Intoxication Jail Diversion* form available in the officer work area at the Center. Officers shall leave a copy of the form with the Center staff. No incident report is required unless circumstances addressed in General Order 800-07, **Criteria for Submitting Incident Reports**, are present.

5 REMOVING INDIVIDUALS FROM THE CENTER

During the Center's intake procedure, the trained staff may reject the admission of a person for specific reasons. When this occurs the officer will be given a rejection slip with the reasons listed. Depending on the reason, the officer may be directed to NPC or to the jail. Upon arrival at the appropriate location, the officer shall give the rejection form to the staff to assist in processing the person.

On occasion Center personnel may find it necessary to request a police response to the location in order to address the criminal behavior of an individual placed at the Center. Officers responding to calls for service at the Center must remain cognizant of the fact that a decision to arrest must be based on probable cause that a crime has occurred. Officers responding to the Center shall clearly establish the elements of the offense existing at the time they respond (e.g., assault, threat, criminal mischief).

Intoxicated individuals who remain in the Center may not be charged with public intoxication because the Center shall not be considered a public place.

Individuals who choose to leave the Center may be charged with public intoxication if the responding officer determines that the individual is intoxicated, appears in a public place, and is a danger to himself or others.

If an individual is to be arrested for the offense of public intoxication, it shall be based on the officer's observations at the time of responding to the call for service at the Center and not based on the observations of the officer who originally brought the individual to the Center.

Officers responding to calls for service from the Center to deal with persons at the Center for criminal violations shall request a supervisor to the scene for authorization prior to arresting and removing the person from the Center. Officers shall include the supervisor's name and the statement, "Sobriety Center Client" in the Arrest Details box located in the Arrest/Charges tab of the department's ARS.

Art Acevedo
Chief of Police