

	Houston Independent School District Police Department Directives	DIRECTIVE: 440-007
		EFFECTIVE DATE: October 10, 2019
	SUBJECT: Transportation, Processing and Arrest of Juvenile Offenders	REVISED DATE: January 14, 2023

PURPOSE

The purpose of this directive is to mandate policies for the transportation and processing of children under ten years of age. This directive applies to all Houston Independent School District Police personnel.

POLICY

A police officer may, within the scope of his authority, make reasonable inquiries, conduct investigations, and arrest on probable cause. Houston ISD police officer duties and powers, including the power of arrest, are provided for in the Texas Code of Criminal Procedure, Chapter 2, Article 2.13, and the Texas Education Code, Section 37.081. Police officers' duties and limitations regarding arrest without a warrant and arrest with a warrant are detailed in the Texas Code of Criminal Procedure, Chapters 14 and 15.

Houston ISD police officers will, in every instance involving an arrest, follow the procedures imposed by The United States Supreme Court, applicable state courts, and any legislation pertaining to or governing the laws of arrest, thus, preserving the Constitutional Rights of those arrested.

DEFINITIONS

Arrest: The intentional seizure of a person, whether actual or constructive, by an officer who is acting under real or assumed legal authority to do so, to bring the person before a court to answer for the commission of an offense or for such other purpose as may be authorized by law.

Breach of the Peace: Any act causing consternation or alarm that disturbs the peace of a community or tends to incite violence or provoke or incite others to breach the peace.

Probable Cause: That set of facts or circumstances based on reliable information or personal knowledge or observation by an officer that reasonably shows and would warrant an ordinarily prudent person in believing that a particular person has been guilty of, is threatening, or is about to commit some offense against the law, or that certain items are connected with a crime and are, therefore, seizable under the law and that these items are in the place to be searched.

Probable Cause Warrant: An arrest warrant, based upon an affidavit, setting forth sufficient probable cause to justify the arrest of the accused; for violation of or some law ordinance.

CRIMINAL CULPABILITY FOR CHILDREN UNDER 10 YEARS OF AGE

Responsibility for criminal acts does not start until a child is ten years old; therefore, a child under ten years of age may not be arrested or given a citation.

Whenever possible, a child under ten years of age who is a student should remain in the custody of the school. The school administration can decide to allow a student to return to class or place a student in an in-school alternative setting for violation of school rules or the Code of Student Conduct.

If a child under ten years of age is not a student at the school:

- a) A parent or guardian should be contacted to pick up the child.
- b) If a parent or guardian cannot be contacted, the child should be transported to the appropriate Children's Protective Services location.

Information about the child will be obtained from HISD Connect or other sources to complete the necessary reports and forms as needed.

Whenever an officer transports a child under ten years of age, except as specified in this document, the officer shall attempt to contact a parent or guardian, maintain a record of the contact information, and provide it to the appropriate school administrator for inclusion in disciplinary and attendance records and keep a copy.

If a police report is completed, document the contact information in the narrative section. The following information is required:

- a) The telephone number that was called and where the telephone number was obtained (i.e., enrollment card, student records, etc.); and
- b) The following information as appropriate:
 1. The time the officer spoke with a parent or guardian; or
 2. What time a message was left and whether the message was left on an answering machine or with a person other than the parent or guardian (identify the person); or
 3. The time an unsuccessful attempt was made to contact a parent or guardian.
 4. This information shall be provided to the school.

JUVENILE OFFENDER (10 THROUGH 16 YEARS OF AGE)

By law, the processing of juvenile offenders is required to be accomplished without unnecessary delay. The following steps involving placing a juvenile in custody have

been developed in an attempt to streamline the process and shall be accomplished in the order listed to the greatest extent possible:

- a) The officer will make an initial determination of whether a crime has been committed.
- b) The complainant and witnesses will be interviewed separately.
- c) Place the juvenile into custody.

A juvenile should not be placed in custody until a preliminary investigation has determined that a crime has been committed and the District Attorney's Office has accepted charges.

Whenever possible, a juvenile student should remain in the custody of the school until there has been a determination that a crime has been committed. The school administration can decide to allow a student to return to class or to place a student in an in-school alternative setting for violation of school rules or the Code of Student Conduct.

If a juvenile suspect is not a student of the school, they should be placed in custody immediately.

Safety is of paramount importance; therefore, a juvenile may be placed in immediate custody for the officer's safety or other district personnel.

Information about the juvenile suspect will be obtained from HISD Connect or other internal records systems to complete a police report, booking blotter, Juvenile Intake, and other forms, as needed.

PROBABLE CAUSE ARREST (ADULT 17+)

An officer who has reasonable time and opportunity to obtain an arrest/search warrant should do so. No warrantless arrest or search or seizure shall be made except on determination of the existence of probable cause in compliance with the terms of this directive. Arrests or searches made without probable cause violate the Fourth Amendment to the United States Constitution and Article 1, Section 9 of The Texas Constitution.

Probable cause for arrest exists when an officer has reason to believe that a person has committed an offense or that a person has committed a particular offense, the method of which is uncertain.

In the case of an arrest without a warrant, a magistrate will review the arrest after the fact. If the magistrate does not find that sufficient probable cause existed to make the arrest, the arrested person will be released. The officer may be subject to penalty for false arrest.

In the case of an arrest under a warrant, a magistrate will review the affidavit to support the issuance of the warrant. If the magistrate finds sufficient probable cause to justify the arrest, the magistrate will issue an arrest warrant.

Officers should consider all the lawfully acquired information available at the moment of arrest and employ their training, skills, and experience as peace officers in determining whether probable cause exists. The officer must articulate and record the facts leading to his determination of the probable cause.

Although an officer may not rely solely on mere suspicion, speculation, or reasonable suspicion to justify an arrest, they may use these factors as an initial step in establishing probable cause. The officer's "Good Faith," in the absence of probable cause, will not justify an invalid arrest.

To establish probable cause, the officer does not need the amount of evidence required to prove beyond a reasonable doubt that a person is guilty of committing an offense or that a person or place possesses or contains seizable items. Only that amount of evidence that reasonably shows that a particular person probably or most likely committed an offense or that a particular person or place probably or most likely possesses or contains seizable items is required.

When information from an informant is necessary to establish probable cause, the officer must be able to articulate:

- a) The reason(s) for believing the informant to be reliable;
- b) The underlying circumstances from which the informant concluded that the offense was committed and that a particular person committed it (in the case of arrest) or that the seizable items existed and were present on a person at a particular place (in the case of search); or
- c) The observed details verify the informant's information.

In cases where informants are used, the three items listed above shall be articulated; however, in special circumstances where the evidence is strong, informant reliability and then verifying details may be used in combination to bolster and supplement a case based on an informant whose reliability has not been sufficiently established.

An officer shall seek confirmation of information he receives from a victim or witness. The officer shall determine that the victim or witness could observe and remember what happened.

Directly observable results of an offense or details consistent with the information received can serve as a partial confirmation of the commission of the offense.

Where circumstances suggest that the victim/witness's allegations may be untrue, the officer shall investigate further before making an arrest or search.

The more doubt an officer has about the victim/witness's integrity, sincerity, or ability to perceive, the more they will need to confirm the information.

An officer may arrest when requested to do so by another officer. The arresting officer doesn't need probable cause to make the arrest; however, the requesting officer must have had probable cause to justify the arrest.

CATEGORIES OF JUVENILE ARRESTS

There are three distinct categories for juvenile arrests. Each has distinct reporting and duration criteria:

The first category refers to orders of juvenile courts, laws of arrest, and penal offenses.

- a) Taking Into Custody; Issuance of Warning Notice states, in part, that a child may be taken into custody:**
 - 1. Pursuant to an order of the juvenile court;
 - 2. Pursuant to the laws of arrest; and
 - 3. By a law enforcement officer, if there is probable cause to believe that the juvenile has engaged in conduct that violates any penal provision or ordinance or that constitutes delinquent conduct or conduct indicating a need for supervision.

- b) Release or Delivery to Court requires that a person taking a child into custody, without unnecessary delay and without first taking the child to any place other than a juvenile processing office designated under Section 2.025, shall do one of the following:**
 - 1. Release the child to a parent, guardian, custodian of the child, or another responsible adult upon that person's promise to bring the child before the juvenile court as requested by the court;
 - 2. Bring the child before the office or official designated by the juvenile court if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision;
 - 3. Bring the child to a detention facility designated by the juvenile court;
 - 4. Bring the child to a secure detention facility as provided by Section 51.12(j);
 - 5. Bring the child to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment; or

6. Dispose of the case under section 52.03.

c) **A person taking a child into custody shall promptly give notice of his action and a statement of the reason for taking the child into custody to:**

1. The child's parent, guardian, or custodian; and
2. The office or official designated by the juvenile court. For the HISD Police Department, this requirement refers to the Harris County Juvenile Probation Department. This notification is strictly for compliance with the Family Code. Permission for the action taken is not required.

The second category refers to children taken into custody for traffic offenses, other fine only offenses, or as a status offender:

- a) Children under arrest for an offense that falls under the jurisdiction of a justice or municipal court, other than public intoxication, or as a status offender or non-offender, may be released to the child's parent, guardian, custodian, or another responsible adult.
- b) By department directive, these children must be processed without unnecessary delay by either release or transport.

The third category refers to children taken into custody for violation of juvenile curfew ordinances or orders. Any juveniles placed in custody for curfew ordinance shall, without unnecessary delay, be:

- a) Released to the juvenile's parent, guardian, or custodian;
- b) Taken before a municipal or justice court to answer the charge; or
- c) Taken to a place designated as a juvenile curfew processing office.

Juveniles may also be placed in custody, regardless of whether a crime has been committed and if a situation exists where they are alleged to have been harmed or to be in danger of harm.

If circumstances do not require an arrest, the officer may;

- a) Release the juvenile with no further action; or
- b) The juvenile may be issued a complaint form for any class C misdemeanor offense for offenses that occur on campus after graduated sanctions have been met. The officer will follow procedures set forth by the municipality with concurrent jurisdiction or by Harris County Juvenile Probation; or
- c) The juvenile may be issued a class C citation for any class C misdemeanor

offense for offenses that occur off campus. The officer will follow procedures set forth by the municipality with concurrent jurisdiction or by Harris County Juvenile Probation; or

- d) The juvenile may be referred to juvenile court.

GENERAL ARREST PROCEDURES

Arrest and Warnings

Arrested persons must be made aware that they are being arrested. Unless in uniform, an officer must display a badge and identification which states the officer's name and status as an officer with the HISD Police Department, unless circumstances prohibit it. Persons will be told of the officer's intention to take them into custody and the reason for arrest unless they are in the act of committing the offense, are fleeing from the scene of the crime, the officer is endangered, or the arrest would be imperiled.

An unconscious, mentally ill, or injured person may be arrested even though the person is incapable of understanding that he is under arrest. If an arrest is pursuant to a warrant, officers will advise the arrestee and show them the arrest warrant.

If the officer does not have the warrant in his possession at the time of arrest, they shall inform the defendant of the offense charged and the fact that a warrant has been issued, but upon request, he shall show the warrant to the defendant. All arrested persons will be given standard Miranda warnings before questioning.

Mistaken Identity/Alibi Claims

At the time of arrest or thereafter, if an arrestee asserts mistaken identity or a plausible alibi, mistake, or defense, a reasonable investigation will be made to clarify, confirm, or refute it.

Prohibitions

An officer shall not make an arrest:

- a) For conduct which the officer has provoked;
- b) The department has administratively ruled that certain criminal laws will not be enforced. These will be specified in writing;
- c) Based on the race, gender, religion, ethnicity, national origin, sexual preference, or any other arbitrary classification of the offender or victim.

DISTRICT ATTORNEY CONTACT

The District Attorney's Office shall be contacted to determine if charges will be accepted for Class B Misdemeanor or higher charges. If charges are accepted, officers will obtain the name of the Assistant District Attorney accepting the charge(s). If charges are declined, obtain the name of the Assistant District Attorney declining the charges and the reason.

If the District Attorney approves arrest, contact the HISD dispatcher at (713) 892- 7777 or by radio to request a unit to transport the suspect and obtain an HISD case number.

The officer shall attempt to contact a parent or guardian and provide them with the following information:

- a) That the juvenile has been detained;
- b) What the juvenile was detained for; and
- c) Where the juvenile will be transported.

CHARGES NOT ACCEPTED

If charges are not accepted, the juvenile may not be placed in custody or must be released if in custody. Release from custody does not preclude disciplinary action by the school administration. Police reports for the respective jurisdiction and HISD shall be completed to document the incident.

If the District Attorney refuses the charges, the officer must document the refusal in the narrative section of the report. If the juvenile is in custody when charges are refused, the documented arrest time will be the original time they were placed in custody. If the juvenile is not in custody when charges are accepted, the arrest time will be when the juvenile is placed in custody.

The employee will contact their supervisor and provide them with the arrest details. The supervisor will then approve or disapprove transport.

If the arrest is made in the City of Houston, contact HISD dispatch at (713) – 892-7777 to obtain a case number. If the arrest occurs in another city, follow the procedures set forth by that police department and contact a HISD supervisor..

OTHER AGENCY CONTACTS

Regardless of whether charges are accepted or declined, the following agencies shall be notified whenever a juvenile is detained:

- a) The juvenile division of the city in which the detention is made to determine if there are any wants or holds outstanding on the juvenile; and
- b) Harris County Juvenile Probation (HCJP) at (713) 222-4444 for purposes of Section 52.02(b), Family Code. Note: Information provided to HCJP under this section of the Family Code is for notification purposes only. No permission or guidance is required. The following information will be provided to HCJP:
 - 1. That the juvenile is in custody; and

2. What the juvenile is in custody for.

While the officer is in contact with Harris County Juvenile Probation, they should also determine any wants, holds, or directives outstanding on the juvenile. This information should be included in the narrative section of the police report detailing the incident. Information received from juvenile probation such as "may be released to parents or lack of wants, holds, or directives does NOT relieve the officer of the responsibility to continue the processing of the juvenile for the current offense.

The officer is required to include the following information about each agency contacted in the narrative section of the applicable police report:

- a) The time of the call; and
- b) Who the officer spoke with.

PARENTAL CONTACT EXCEPTION

Parental contact shall not be made:

- a) When a child is being transported for possible child abuse, neglect; or
- b) When requested by Children's Protective Services or other law enforcement or protective services agencies.
- c) Parental notification will be the agencies' responsibility mentioned above unless HISD police officers are specifically requested to make the notification.

COURTESY TRANSPORTATION

When a child under ten years of age is being transported for courtesy purposes only, a police report will not normally be required unless the transport is the result of an incident where potential criminal activity has occurred regardless if the child is a suspect, victim, or witness to the alleged act.

Any officer transporting a child under ten years of age shall notify the communications center at the start of the transport, giving the starting mileage and the intended destination and receiving a starting time from the dispatcher. The transporting officer shall again notify the communications center at the time of arrival at the destination, giving the ending mileage and receiving an ending time from the dispatcher. Communications center personnel and the officer shall record the starting and ending mileage and times.

TRANSPORTS TO CHILD PROTECTIVE SERVICES

When transporting a student from a school, the School Principal or designee shall contact CPS for a reference number given to the transporting officer upon arrival.

Officers dispatched to a school for CPS transport must obtain a reference number before transporting and document the name of the CPS worker. The officer will also contact CPS and confirm transportation to any approved CPS facility.

After completing the transport, the on-duty supervisor will be notified of additional information entered into the report (i.e., name, dob., age). This will replace generating an HISD MOBLAN Report.

The officer will document in the narrative section of the initial report:

- a) The telephone number that was called and where the telephone number was obtained (i.e., enrollment card, student records, etc.); and
- b) The following information as appropriate:
 - The time the officer spoke with a parent or guardian; or
 - What time a message was left and whether the message was left on an answering machine or with a person other than the parent or guardian (identify the person); or
 - The time an unsuccessful attempt was made to contact a parent or guardian.
 - The name, DOB, age, and gender of the child.
 - Name of the CPS worker who authorized the transport and reference number.
 - Location of the CPS facility.
 - Reason for the transport.
 - Any other pertinent information outlined in directive 450-029, Completion of Reports.

This information shall be provided to school administration for inclusion in disciplinary and attendance records.

If the entire offense report cannot be completed before the arrival of the transporting unit, an initial offense report will be completed that provides suspect, witness, and complainant information, a basic description of the crime that includes all elements to establish probable cause, and all necessary documentation. Timely completion of this report and the necessary forms will take precedence over all other school-related assignments except for in-progress emergencies.

Upon or shortly after arrival, the transporting officer will be provided with either the complete report or the initial report ready for upload into the HISD MOBLAN.

The transporting officer will assist with any incomplete documentation to expedite the transport. The suspect will be transported immediately to the appropriate processing facility. If the suspect has a vehicle, proper disposition of the vehicle must be ensured.

Any officer transporting juveniles shall notify the communications center at the start of the transport, giving the starting mileage and the intended destination and receiving a starting time from the dispatcher. The transporting officer shall again notify the communications center at the time of arrival at the destination, giving the ending mileage and receiving an ending time from the dispatcher. Communications center personnel and the officer shall record the starting and ending mileage and times.

If necessary, the campus officer will immediately complete a detailed supplemental report that provides a complete and comprehensive narrative of the offense, additional witness statements, and other pertinent information.

Completing this report is mandatory and will take precedence over all school-related assignments except for in-progress emergencies. Upon completion, the campus officer will ensure that the report is uploaded to the HISD Police computer system (MOBLAN). This report shall be completed before the campus officer goes off duty. If overtime is required, an on-duty supervisor must be notified.

Before the end of the school day, dispatchers shall notify an evening shift patrol supervisor in every instance where a campus officer has arrested a juvenile and is awaiting a patrol unit to transport a juvenile offender or has a supplemental report pending.

It shall be the responsibility of the evening shift patrol supervisor to proceed to campuses where transports or reports are pending and expedite them. The evening shift patrol supervisor will approve necessary overtime forms and turn them in at the conclusion of the shift. Campus officers who have to stay over to complete reports will contact the HISD Police dispatcher by radio or telephone when they go off duty.

SOUND JUDGMENT AND CAUTION

Officers making an arrest will exercise sound judgment and use the utmost caution distinguishing between foolhardiness and courage in making an arrest. When investigating suspicious persons, officers will immediately summon assistance if the least doubt exists as to their safety or the safety of others.

Officers will not use unnecessary force or violence in making an arrest. Officers will use only such force necessary to effect a lawful arrest, prevent violence to another person, in self-defense, or prevent an escape.

All persons arrested will be handcuffed at all times in the manner prescribed by department directive and will remain handcuffed until received at an processing facility, except that the arrested person may have the handcuffs removed during any pre-booking interview.

TRAINING

All HISD PD Officers will attend scheduled training on legal updates and other required training relating to arrest and processing procedures on an as-needed basis.

TRANSPORTATION OF ADULT OFFENDERS

Transportation of adult offenders shall be completed in accordance with Directive 450-008 Prisoner Processing.

PROCESSING OF ADULT OFFENDERS

Adult offenders shall be processed in accordance with the rules and regulations of the processing facility.

Approved By


Pedro Lopez Jr., Chief of Police