

- (a) With consent of the juvenile court (e.g., via a court order).
- (b) If the child is taken into custody for delinquent conduct that is punishable by confinement in jail (Class B misdemeanor or higher).
- (c) If the child is not in custody and the child's parent or guardian voluntarily consents in writing to the photographing of the child.

318.6.4 PROHIBITED RECORD KEEPING

All field photographs must be downloaded to the ARS Efiles or turned in as evidence.

- (a) Deputies shall not:
 1. Keep a personal or shift-level copy of any photograph taken during a field stop for non-law enforcement purposes.
 2. Post a field photograph of any person not currently wanted by a law enforcement agency.

318.6.5 SUPERVISOR RESPONSIBILITY

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices for compliance with Department policy. This is not to imply that supervisor approval is required before each photograph.

318.7 FIELD EYEWITNESS IDENTIFICATION

Proper procedures for handling field identifications are outlined in the Field Identifications section of Policy 403 (Follow up Investigations).

Policy
319

ARRESTS

Revised: September 18, 2017

319.1 PURPOSE AND SCOPE

This policy outlines the guidelines for warrant and warrantless arrests. The following policy cannot address every situation that a deputy might encounter; however, in exercising arrest authority, deputies should be guided by what is contained in this

document. Nothing in this policy should be interpreted as authorizing or restricting a deputy's arrest authority as defined by the Code of Criminal Procedure.

319.1.1 ARRESTS REQUIRING SUPERVISOR APPROVAL

Deputies shall obtain supervisor approval on the following types of arrests prior to booking the subject into jail:

- A. Any arrest where an officer is the victim (e.g., assault on a police officer, resisting arrest or search).
- B. Evading arrest.
- C. Arrest for multiple traffic.
- D. Refusal to sign a citation.
- E. Failure to identify.
- F. Any arrest where a foreign official is claiming immunity as outlined in Policy 330 (Foreign Officials Claiming Immunity).

319.1.2 SUPERVISORY ORDERS

Supervisors will not order any subordinate to arrest a person suspected of a misdemeanor violation of law witnessed by the supervisor but not witnessed by the subordinate unless:

- A. The supervisor articulates the probable cause upon which the arrest is based as soon as practicable; and the supervisor completes a supplement to the incident report.

319.2 WARRANT ARREST GUIDELINES

- A. Deputies will arrest any person found to have an outstanding warrant, provided the arrest can be made in compliance with Department policy.
- B. Deputies legally inside a residence that finds any resident found to have an outstanding:
 - 1. Felony, Class A or Class B warrant will arrest the person.
 - 2. Class C warrant will be at the discretion of the deputy.

319.2.1 WARRANT SERVICE GUIDELINES

Deputies attempting to conduct a warrant service shall adhere to the following guidelines:

- A. Before any warrant service is attempted at a private residence or place of employment (as listed in the PICKUP supplement) deputies shall:
 - 1. Review the incident report in its entirety to determine if and when a previous warrant service has been attempted.
- B. Deputies shall not normally return to a location to serve a warrant where an attempt has been previously made unless additional information has been developed suggesting the offender has returned.
 - 1. Verify the warrant status by contacting the Warrant Unit or Teletype, either directly or through Communications.

2. Supervisors shall be notified and a "Threat Assessment Form" shall be completed prior to any warrant service where a forced entry is planned or anticipated.

C. Deputies receiving information that a person with an arrest warrant is inside a third party private residence may NOT enter and search for the violator. Courts have held that this includes, but is not limited to a home, apartment, or hotel/motel room. The exception to this rule is when:

1. The deputy is in possession of a valid search warrant for that specific residence/location. (There is no requirement for a search warrant of PUBLIC areas of a commercial establishment); or
2. The deputy has received consent from the person/s in care, custody and control of the location. Consent procedures are outlined in Policy 306 (Search and Seizure); or
3. The deputy can clearly articulate exigent circumstances that delaying entry would expose a person to serious injury or death or allow the violator to escape.

D. Warrant service attempts that did not result in the arrest of a subject shall be documented immediately documented by supplement to the original incident report in ARS. The following information is required in the supplement:

1. Date/time of each attempt; and
2. Address(s) and/or location(s) of attempt(s); and
3. Identity of person(s) contacted; and
4. Information relating to the search of a location (e.g., was permission granted or refused, vacant); and
5. Useful information relating to a subject (e.g., new location, vehicles, employment, acquaintances); and
6. Identification of all officers involved in warrant service.

E. Warrant service resulting in an arrest of the wanted subject shall be documented immediately by a supplement to the original incident report into ARS. The following information is required:

1. "CANCEL CANCEL CANCEL" in the subject line and at the top of the supplement; and
2. Date/time of service; and
3. Address(s) and/or location(s) of service; and
4. Information relating to search of location (e.g., was permission granted or refused, vacant); and
5. Identification of all deputies involved in warrant service.

319.2.2 WARRANT HIT AND CONFIRMATION

During the course of a lawful detention or arrest, a deputy may run a subject for warrants.

A. When a "hit" is received on a local, TCIC or NCIC warrant inquiry, confirmation from Pct. 3 Dispatch or the originating agency must be obtained prior to taking official action. Confirmation shall be the authorization for placing the person in jail for the warrant.

1. The person may be detained until confirmation is made by Pct. 3 dispatch or the originating agency.
2. Should circumstances make a custody arrest impractical, a person detained solely for a Class C warrant may be released with the approval of a supervisor.
3. If a warrant confirmation is not received within 10 minutes, the arresting officer may either release the subject or continue to await a response.

B. If a subject is arrested for a Pct. 3 warrant, deputies shall:

1. Have Communications/Teletype fax or email the warrant to the jail after confirmation.
2. Warrants from other agencies should be faxed or emailed to dispatch by the originating agency after confirmation, and sent forward to deputy.

319.2.3 WARRANT ARRESTS AT PRIVATE RESIDENCES

A. Deputies legally inside a residence shall arrest any resident found to have an outstanding Felony, Class A or Class B misdemeanor warrant.

B. Deputies shall not normally arrest a resident for a Class C warrant and must use discretion in making an arrest.

319.3 WARRANTLESS ARREST GUIDELINES

These guidelines are based upon the idea that the use of an arrest, followed by prosecution, is not the primary or exclusive method available to deputies and the Department.

A. Minor infractions of the law may not be sufficient to justify an arrest. Deputies should be concerned with what the law says and what the law was designed to accomplish. Laws generally serve as the tools officers use to protect residents' rights and to maintain peace in the community. If enforcement of the law does not serve these purposes, arrests can rarely be justified.

B. One of our concerns is the maintenance of public order, looking toward a preventive rather than a punitive approach to crime.

C. Deputies are not required to exhaust all alternatives, or go through the alternatives in succession before making an arrest, but may resort to that method that will most quickly and safely bring the situation under control.

D. Deputies may consider any factors that are reasonably believed to be relevant, based upon observations and in light of personal knowledge, training and experience.

E. Deputies are expected to be able to state and describe the reason(s) for a particular course of action upon the request of a reviewing supervisor.

F. Arrests will not generally be made outside the jurisdiction of this department except in cases of hot and/or fresh pursuit, while following up on crimes committed within the County, or while assisting another agency. On-duty deputies who discover criminal activity outside the jurisdiction of the County should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

319.3.1 IN-CUSTODY ARREST SITUATIONS

A. Felony, Class A and Class B Misdemeanors

1. Custody arrests shall be made for all other offenses greater than a Class C where there is a lawful arrest authority.

B. Class C Misdemeanors

1. Class C misdemeanors should *generally* be enforced by a field release citation.

2. Deputies shall select the least intrusive or severe course of enforcement action but should initiate a custody arrest if the issuance of a citation will not:

(a) Stop existing criminal conduct; or

(b) Remove the imminent threat of violence or criminal conduct; or

(c) Prevent persons from endangering themselves or others.

3. A custody arrest for minor offenses should be made when there is reason to believe the actor is, or has been, involved in a more serious offense and the arrest will serve to gather evidence of that additional offense.

319.3.2 WARRANTLESS ARRESTS AT A PRIVATE RESIDENCE

A. Misdemeanors

1. Deputies shall not forcibly enter a private home to arrest a person for a misdemeanor violation. This does not include deputies in hot pursuit of a subject, and cases in which the subject has escaped from custody and fled into a private home.

2. Custody arrests shall not normally be made for a misdemeanor offense inside a home unless authorized by a supervisor. However, the following misdemeanor custody arrests inside a home shall be made and do not require a supervisor's approval:

- (a) The offense is committed in the officer's presence.
 - (b) Family Violence incidents. Deputies shall comply with current Department policy regarding Family Violence.
 - (c) The offense is a violation of a valid protective order.
3. Except as noted above, when a violation occurs in a private home or the person flees into a private home, it is preferable for the deputy or a citizen to file a complaint and have warrants issued for the person's arrest.
4. Persons should not be arrested and charged with being intoxicated if they are on their own property. Subjects may be arrested if they are creating a disturbance on their own property and can be viewed by other persons, and the disturbance cannot be ended in any other manner. However, if they are not creating a disturbance and no other violation exists, no arrest shall be made.

B. Felonies

1. Deputies who are legally inside a private residence and observe a felony being committed, or develop probable cause to believe a felony has been committed and there is no time to get a warrant, may make an arrest.
2. Before deputies forcibly enter a private home to arrest for a felony, they should, whenever possible, obtain the approval of a supervisor and act only when the supervisor is present.
3. When deputies develop probable cause to believe a felony is being committed inside a private home and a bona fide emergency exists (exigent circumstances), they may enter to arrest the violator.
4. Deputies in hot pursuit of a felony violator who flees into a private home may enter to effect the arrest.
5. Deputies receiving information that a felony violator is inside a private residence (courts have held that this includes but is not limited to a home, apartment, or hotel/motel room) may only enter and search for the violator when:
 - (a) They are in possession of a valid search warrant for the location; or
 - (b) They have received consent from the person(s) in care, custody and control of the location. Consent can be written or recorded electronically with audio and/or video; or
 - (c) They can clearly articulate that delaying entry would expose a person(s) to serious injury or death, or allow the violator to escape; or
 - (d) They have personally observed the felony violator enter the residence at that time.

319.3.3 ADDITIONAL FELONY ARREST PROCEDURES

- A. Most felony arrests require direct notification to the appropriate Investigative Unit.

B. Deputies can make the notification by phoning the Harris County Investigations during normal business hours, the on-call detective after business hours.

1. The arresting officer is responsible for consulting with their supervisor prior to notifying any *on-call* detective after business hours.
2. Supervisors are responsible for ensuring the appropriate Investigative Unit is contacted when necessary.

319.4 SPECIAL CIRCUMSTANCES SURROUNDING ARRESTED PERSONS

319.4.1 IMPOUNDING VEHICLES

A. If the owner/operator of a vehicle has been arrested, the vehicle shall be impounded and preserved for evidence processing if it:

1. Is the instrument, fruit, or evidence of a crime; or
2. Contains an instrument, fruit or evidence of a crime.

B. If the owner/operator of a vehicle has been arrested but the vehicle is not needed for evidentiary purposes, the arresting officer may impound the vehicle.

1. At the officers discretion, the vehicle may be released to a responsible person present at the scene if the owner/operator requests it.

(a) The person taking custody of the vehicle must be in possession of a valid driver's license and be capable of providing care, custody and control of the vehicle.

(b) The identity of the person (name, DOB, driver's license, address) who takes custody of the vehicle shall be noted in the officer's incident report.

319.4.2 CHILDREN IN CUSTODY OF ARRESTED PERSONS

When arrested persons have a child less than 17 years of age in their care, custody and control at the time they are arrested, it is the responsibility of the arresting deputy or a designated deputy on-scene to ensure the safe placement of the child.

A. Whenever possible, deputies should take reasonable steps to accomplish the arrest of a parent or guardian out of the presence of a child.

B. Deputies shall first attempt to locate a competent adult, at the request of the arrested party, to come and take custody of any children. Should a competent adult be located, the deputy shall:

1. Run a check for any protective order regarding the adult with whom placement of the child/children is being considered.
2. Complete warrant and criminal history checks to ensure the child/children is not being placed with a wanted or dangerous felon.
3. Contact Child Protective Services' Law Enforcement Number at (800) 877-5300 and request a CAPS (Child/Adult Protective Services) check be done to ensure the child/children is being placed in a safe environment with no abuse history through CPS. The CPS worker answering the phone will need the following information on the person with whom you want to place the child:

(a) Name, address, and any other pertinent identifying information.

(b) The CPS worker will ask you for a phone number to call in order to verify your identity and provide any history on the subject.

Deputies shall provide the phone number for the Communications supervisor. (This process should take approximately 10 minutes).

4. Fully identify the person with whom the child/children is being placed and any CPS related information in the incident report.

C. If a competent adult is not located after a reasonable amount of time, the arresting officer shall contact a supervisor to assign custody of any children and assist with their placement with Child Protective Services.

D. Law enforcement officers in the State of Texas under the Family Code, Chapter B, are given the same powers as Child Protective Services in the following situations:

1. Section 262.104: Taking possession of a child in an emergency without a court order.
2. Section 262.110: Taking possession of child in an emergency with intent to return home.

319.4.3 ANIMALS IN CUSTODY OF ARRESTED PERSONS

When prisoners have an animal with them at the time of their arrest and no responsible person is available to take custody of the animal, it shall be taken by County Animal Control for safekeeping until the prisoner's release. Officers shall note in the incident report who took custody of the animal.

319.5 SPECIAL ARREST SITUATIONS 31 9.5.1 FOREIGN NATIONALS

A. These guidelines apply to foreign nationals who do not claim diplomatic or consular immunity.

1. For handling detentions of foreign nationals, refer to Policy 318 (Detentions, Field Interviews and Field Photographs).
2. For foreign nationals who claim some form of immunity, refer to Policy 330 (Foreign Officials Claiming Immunity).

B. Deputies shall arrest foreign nationals only under the following circumstances:

1. There is a valid warrant issued for the person's arrest.
2. There is probable cause to believe that the foreign national has violated a federal criminal law, a state law or a local ordinance.

C. Deputies shall not arrest foreign nationals solely for alleged undocumented entry into the U.S.

D. The U.S. is obligated under the Vienna Convention on Consular Relations, when foreign nationals make such a request, are arrested, or are detained for more than 2 hours.

1. Arresting deputies shall immediately inform any foreign nationals of their right to have their consular official notified concerning the arrest. If foreign nationals ask that such notification be made, the arresting officer shall inform the intake officer at the booking facility.
2. The Communications Division will maintain a current telephone list of foreign embassies and consulates and a list of mandatory notice countries.

E. After a criminal arrest, officers may detain foreign nationals for alleged undocumented presence in the U.S. if the U.S. Immigration and Customs Enforcement (ICE) is contacted and can respond to take custody within a reasonable time.

F. Foreign consular officials have the right to visit their arrested or detained nationals unless the person objects to the visit.

G. Deputies shall document in the narrative of the appropriate incident report the date and time Communications was notified of the foreign nationals arrest/detention and his claimed nationality.

319.5.2 FEDERAL AND STATE LEGISLATORS

Numerous federal and state legislators have offices within the County of Pct. 3. During official legislative sessions, including travel to and from sessions, senators and representatives are immune from citations and arrest except for felonies and breaches of the peace.

A. Deputies shall notify their supervisor when enforcement action (e.g., arrest, citation) is taken against a senator or representative.

B. Supervisors shall ensure the Watch Commander is notified.

319.6 CITIZENS'S ARREST

The purpose of this section is to provide guidance for handling arrests made by citizens pursuant to state law.

319.6.1 CITIZEN ARREST AUTHORITY

A citizen may arrest another under the following circumstances:

A. When the offense is committed in the citizen's presence or view and the offense is one classified as a felony or a breach of the peace (Tex. Code of Crim. Pro. art. 14.01).

B. When there are reasonable grounds to believe property is stolen, a citizen may seize the stolen property and the person suspected of committing the theft and bring the person and the property before a magistrate or to a peace officer for that purpose (Tex. Code of Crim. Pro. art. 18.16).

319.6.2 DEPUTY RESPONSIBILITIES

Deputies approached by a citizen making an arrest must determine whether there is probable cause to believe that such an arrest would be lawful. Deputies should not detain or restrain a subject beyond that which reasonably appears necessary to safely investigate the matter and determine the lawfulness of the arrest.

A. When deputies determine there is probable cause to believe the arrest is lawful, they may exercise one of the following options as outlined by Department policy:

1. Call the HCDA intake office for charge disposition and if accepted take the individual into physical custody for booking; or
2. Release the individual pursuant to a field release citation.

B. When deputies determine there is insufficient arrest authority or that there does not appear to be probable cause for a lawful arrest, and after consulting with the HCDA's office and no charges are accepted they will promptly release the arrested individual.

1. Deputies should advise the parties that no arrest will be made at that time and that the circumstances will be documented in an incident report. Deputies will document the basis of the release in the incident report.

319.6.3 PRISONER PROCESSING

A. Prisoner Control and Security

1. All arrested persons are thoroughly searched for weapons and contraband at the scene of the arrest prior to being placed in a police vehicle.
2. Any contraband located on the arrested person is considered evidence, seized, and properly secured as evidence.

3. Any property removed from a suspect shall be secured by the arresting officer and released to the custody of the county when the individual is booked into the jail. (TBP 10.10)
4. Persons arrested by this agency may be transported to HCSO outline jail facility for paperwork processing prior to transport to the county jail.
5. At no time will any person arrested or detained be left alone while in custody, including the police vehicle or any facility.
6. Persons to be detained in the county jail are escorted into the facility through the sally port.
7. Upon arrival at the facility, arrested persons are placed immediately into a temporary holding area.
8. No person is kept in the temporary holding area without supervision.
9. All booking activity -- including interviews, fingerprinting, photographing, and similar actions -- is conducted while the arrested person remains in the temporary holding area.
10. Officers will take extra precautions to ensure that all items taken from a prisoner in the field are turned over to the county for safekeeping. (The property is returned to its owner at the appropriate time.)
11. Officers who develop information during an arrest -- through observation or self-profession by the arrestee -- that the individual may be suicidal, is homosexual, transgender, intersexual, or gender nonconforming will make sure that holding facility staff are informed of the situation in a manner that does not embarrass or endanger the arrestee.

B. Juvenile Detentions

1. Children who are detained and transported to 903 Hollywood patrol station will be held only in the area designated as the juvenile processing office.
2. Under no circumstances will a child in custody be left unsupervised.
3. All children held at the 903 Hollywood will remain out of sight and sound of adult prisoners.
4. A child who is being held for a status offense is not to be detained in a secured area or any locked room.

5. Status offenders are held in a non-secured area, out of sight and sound of adult prisoners.

319.7 ASSISTING OTHER AGENCIES

319.7.1 ASSISTING WITH OTHER AGENCIES WARRANT SERVICE

A. Officers encountering or dispatched to assist out of County law enforcement agency personnel or bail/bond apprehension agents with a warrant service shall contact a supervisor and consult with them prior to ANY warrant service attempts.

B. If granted permission to assist in the warrant service, deputies shall follow all warrant service guidelines outlined in this policy including:

1. Contacting Communications to verify warrant status. Confirmation from the originating agency that the warrant is valid must be obtained prior to taking official action.
2. Checking involvement on the address for prior warrant service attempts. Deputies shall not return to a location to serve a warrant where an attempt has been previously made, unless additional information has been developed suggesting the offender has/will return.

C. If an arrest of the wanted subject is made:

1. Deputies shall transport the subject to jail for booking and/or magistration in accordance with CCP 15.16 and 15.17.
2. Warrant confirmation and any other warrant paperwork should be submitted with the booking sheet.
3. Deputies will not turn an arrested subject over to a bail/bond apprehension agent under any circumstances.

D. All warrant service attempts and arrests for out of County agency personnel or bail/bond apprehension agents shall be documented as outlined in the warrant service section of this policy.

319.7.2 ARRESTS BY OTHER AGENCIES

When an arrest is made by another law enforcement agency within the confines of its geographical jurisdiction and the Department is asked for assistance, necessary assistance will be provided in compliance with Department policy governing relations with other law enforcement agencies. All follow-up investigations, booking, and filing of complaints shall remain the responsibility of the arresting agency.

A. Under CCP Article 14.03(d) and (g), peace officers have statewide arrest authority in many situations, even when outside the peace officer's jurisdiction. Pct. 3 may be called upon to take custody of a subject for any arrest made in the Pct. 3 by a peace officer whose jurisdiction does not include Pct. 3:

1. Pct. 3 officers shall handle the case complying with CCP 14.03(d) or (g).
2. The outside agency arresting officer is required to complete the necessary supplemental reports. Any arrest made by an off-duty officer from another jurisdiction that does not meet the requirements of CCP 14.03 (d) or (g) shall be handled as a citizen's arrest.

Policy

CARE AND TRANSPORT OF PRISONERS

321

Revised: June 15, 2017

321.1 PURPOSE AND SCOPE

Department values mandate that persons taken into custody will not be abused, and the individual rights of prisoners must be protected at all times. Until arrested persons are accepted at the booking facility, their care and custody shall be the responsibility of the arresting/transporting deputies.

321.2 HANDLING PRISONERS 321 3.2.1 RESTRAINT GUIDELINES

(a) Suspects being arrested and transported in police vehicles shall be handcuffed or otherwise restrained as described below: