

TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL

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<i>Subject</i> Arrests with a Warrant					
<i>Reference</i>					
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				<i>Pages</i> 8	

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to regulate the arrest of offenders via an arrest warrant.

SECTION 2 POLICY

The administration of criminal justice consists of the identification, arrest, and prosecution of law violators. Once a crime has been committed, it is the duty of the department to initiate the criminal justice process by identifying and arresting the perpetrator, obtaining evidence, and cooperating in the prosecution of the case. It is the policy of this department to diligently strive to investigate and solve all reported crimes and to arrest offenders in accordance with all applicable laws.

SECTION 3 PROCEDURES

A. GENERAL PROCEDURES FOR ARRESTS WITH A WARRANT

Arrests with a warrant will be made pursuant to Chapter 15 of the Texas Code of Criminal Procedure.

1. Except as authorized by the Texas Code of Criminal Procedure, Chapter 14, or Section 18.16, an officer shall not arrest anyone without an arrest warrant.
2. An officer shall not alter any of the pertinent information on an arrest warrant in any manner after a magistrate has issued it
3. An officer shall presume that any arrest warrant, which appears in proper form, is valid. To be in proper form and valid on its face, an arrest warrant shall:
 - a. Issue in the name of "The State of Texas".
 - b. Specify the name of the person whose arrest is ordered, or provide a reasonable description if the name is not known.
 - c. State that the person is accused of a named offense, and

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d. Be signed by a magistrate whose office must be named.

B. CONFIRMING ARREST WARRANTS

1. An officer need not have actual physical possession of an arrest warrant in order to execute it. However, before executing a warrant not in his possession, the officer shall verify the existence, location, and validity of the warrant.
2. If an officer has any question about the validity and the existence of an arrest warrant or the identity of the person to be arrested, he must verify the information before making an arrest under authority of that warrant. The arresting officer must ensure that the dispatcher has the warrant in hand or that the dispatcher has a written confirmation from the agency that holds the warrant.
3. The person to be arrested must be identified with a high degree of certainty and their identity must match that of the person named in the warrant. In all cases, it is the arresting officer's responsibility to confirm that the person being arrested is the same person named in the warrant. The arresting officer must verify this by at least the name, gender, race, and date of birth. When there is some uncertainty then the arresting officer must enhance the certainty of a lawful arrest by matching the social security number, address, body markings, driver's license number, or other information that collectively ensures that the right person is being arrested.
4. The officer shall announce to the person being arrested that the arrest is made pursuant to an arrest warrant, and he shall advise the arrestee of the charge, bond and originating agency who issued the warrant. If the officer has the warrant in his possession, he shall show it to the arrestee.
5. If the arrest warrant lacks proper form or the identity of the person cannot be matched to the person named in the warrant with certainty, then the officer SHALL NOT execute the warrant. If the warrant is not in the proper form as required by the Code of Criminal Procedure, then the officer shall return the warrant to the magistrate who issued it.
6. Regional or statewide messages concerning warrants originating in this agency should not be sent out without the approval of the supervisor or the investigator assigned to the case.

C. ASSIGNING NEW CASE NUMBERS OR USING ORIGINAL CASE NUMBERS

1. When an officer arrests a person with warrants that have a CCN, the person shall be booked using the original CCN on the warrant.
2. When an officer arrests a person for warrants with no original CCN, the person shall be booked using a new CCN.
3. When an officer arrests someone with warrants and new "on-site" charges, the person shall be booked using a new CCN.
4. If an officer arrests a person for both misdemeanor and felony warrants, then the person shall be booked using the newest felony CCN.
5. If an officer arrests a person for misdemeanor warrants with different CCNs, then the person shall be booked using the newest CCN.

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D. JUVENILE WARRANTS

1. If an officer encounters a person who has a juvenile warrant issued by the Texarkana Texas Municipal Court and the person is now 17 years of age or older, the person is given a Personal Recognizance (PR) bond and cited back to Texarkana, Texas Municipal Court for the following Wednesday. Juvenile warrants issued out of Municipal Court will always have a JC prefix in the warrant number.
2. Any promise given as an adult (Promise to Appear in court or a court appearance when the defendant gives a Promise to Pay) will result in an adult warrant if the defendant fails to appear or pay as promised. The resulting FTA warrant or Capias Pro Fine is an adult warrant/capias. Such warrants or capiases will be served and the person will be booked into Bi-State Jail.
3. Adults, who are 17 years of age and found to have TTPD juvenile warrants for a Class B and above shall not be arrested for such warrants. The warrant should be forwarded to Investigative Services for review.

E. PROTECTIVE ORDERS AND ASSAULT WARRANTS

1. When an officer serves a warrant for some type of assault charge, it is the arresting officer's responsibility to check all pages attached to the warrant to determine if there is a Protective Order attached.
2. The arresting officer shall attach the Protective Order to the Magistrate's Warning Form to ensure that the Protective Order is served. The Magistrate's Warning Form, Protective Order, and related paperwork shall be placed with the judge's paperwork box in the Operations Sergeants' Office.
3. See also 7.03.1 for warrantless arrest and Protective Orders.

F. DIRECT BOOKING AND CUSTODY OF PRISONERS

1. Defendants who face only charges originating from Texarkana, Texas Municipal Court will be booked into Texarkana, Texas Police Department custody.
2. Generally defendants who are arrested on-site for felony offenses will be booked into the custody of TTPD to allow for TTPD detectives to interview the defendant and further the investigation. Felony on-site arrests which do not require the defendant to be interviewed by a TTPD detective (DWI, Felon in Possession of a Firearm, etc.) may be direct booked into the custody of the Bowie County Sheriff's Department. If a defendant is booked into TTPD custody for any charge and they need to be interviewed by a TTPD detective, the on call Investigative Services supervisor shall be immediately notified that the person is in custody and needs to be interviewed. A narcotics investigator shall be immediately notified of any arrest involving major narcotics violations. The narcotics investigator will make a determination regarding the appropriate booking procedure. A copy of all Arrest Reports involving a drug offense shall be placed in the Investigative Services mailbox.
3. Generally all defendants who are arrested for on-site charges or warrants which are Class A or B misdemeanors and have no charges in Texarkana, Texas Municipal Court will be booked directly into the custody of the Bowie County Sheriff's Department.

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4. A Magistrate's Warning Form is required for ALL arrests except those charges which are filed in Texarkana, Texas Municipal Court. Each charge must be listed on the Magistrate's Warning Form. Up to four charges may be included on a single Magistrate's Warning Form.

G. WARRANTS FROM OTHER TEXAS JURISDICTIONS

1. If an officer has knowledge that another Texas law enforcement agency holds a valid arrest warrant for a particular person, the officer may arrest that person.
2. If an officer makes an arrest on a warrant from another Texas law enforcement agency, the officer shall:
 - a. Arrest the defendant and book the defendant directly into the custody of the Bowie County Sheriff's Department (BCSO) unless there is some compelling reason that the defendant needs to be interviewed by Texarkana, Texas Police Department investigators.
 - b. Enter the phrase, "Hold for Other Agency" on the Arrest Report during the CJIS entry process and note the agency, warrant number, and the charge.
 - c. Notify the agency via Dispatch holding the warrant that this department executed the warrant and give the location of the arrestee.
 - d. Make certain that Investigative Services is notified if the defendant is booked in TTPD custody so that the defendant can appear before a magistrate within 24 hours of the arrest.
 - e. The Department shall hold the arrestee as the magistrate prescribes, until releasing the arrestee to the custody of the department holding the warrant or until transferring the person to the custody of the Bowie County Sheriff's Department.
3. An officer shall also execute an arrest warrant telegraphed under the authority of a Texas magistrate.

H. WARRANTS FROM OTHER STATES / FUGITIVE FROM JUSTICE

1. Whenever any officer has probable cause to believe that a person stands charged of a felony in another state, the officer shall:
 - a. Arrest the person only after the warrant has been confirmed using accepted methods of warrant confirmation. This arrest is made under the authority granted to Peace Officers in the Texas Code of Criminal Procedure, Chapter 51, Fugitives from Justice.
 - b. Book the arrested person directly into the custody of the Bowie County Sheriff's Department unless the arrested person is to be interviewed by Texarkana, Texas Police Department investigators.
 - c. The arrested person must be brought before a magistrate of the county where he was arrested with all practical speed.
 - d. If the arrested person is not direct booked into the custody of the Bowie County Sheriff's Department, then they should be turned to the custody of the Bowie County Sheriff's Department as soon as practical.

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2. The existence of a warrant from another state does not provide officers the authority to enter a third person's residence to make the arrest. Officers may only enter a third person's residence in the following circumstances:
 - a. With consent to search from the resident or person having control of the property, or
 - b. With a search warrant for that residence in order to enter and make the arrest, or
 - c. While in fresh pursuit of the wanted person.

I. CHANCE ENCOUNTERS

1. Whenever an officer lawfully stops or otherwise detains and identifies a person, he may concurrently initiate a records check to determine whether any arrest warrant is outstanding against that person.
2. To conduct a records check, an officer may detain a person who he has lawfully stopped for a reasonable period of time. For a routine records check by radio, telephone, teletype, or computer terminal, the detention should not exceed a reasonable amount of time. However, detention may be extended, but no longer than necessary, if the officer has a reasonable suspicion that a warrant is outstanding.
3. An officer may prevent a person detained for a warrant check from leaving the officer's presence.
 - a. The person may be required to wait in the officer's vehicle, in his own vehicle, or in some other convenient place.
 - b. The person may be frisked if the officer reasonably suspects that he may be armed.

J. PLANNED EXECUTIONS OF ARREST WARRANTS

1. Prior to executing an arrest warrant, the officer in charge shall notify his chain of command.
2. The time of day for executing the arrest warrant shall be based on the following rules:
 - a. Execute during daylight, unless circumstances make this dangerous or impractical.
 - b. Execute when the person named in the warrant is most likely to be present.
 - c. Execute when resistance is least expected and best controlled.
 - d. Minimize the inconvenience to other persons who may be on the premises, unless other circumstances make this impractical.
 - e. Balance officer safety, effectiveness, and convenience.
3. An officer may serve the warrant at any place, public or private, where the individual named is reasonably believed to be located.

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4. Officers need not execute the warrant at the first possible opportunity to do so, but may choose the time and place in accordance with these rules. However, an officer shall not select the time and place of arrest solely to embarrass, oppress, or inconvenience the arrestee.
5. An officer shall not use force to enter private premises to execute a misdemeanor arrest warrant.
6. In general, when seeking to enter a private premise for the purpose of serving a misdemeanor warrant, an officer shall ring the doorbell or knock on the door, announce his intentions and purpose, and request that the defendant exit the residence. If the defendant will not exit the residence, an officer must obtain a WRITTEN permission to search the residence before entering. This permission must be given / signed by an adult who has care, custody, and control of the household.
7. Generally when executing a felony arrest warrant an officer should announce his intention and purpose before entering a private premises unless doing so would compromise the safety of the officers.
8. If an officer must make a forcible entry, the officer shall enter the premises by the least forceful means possible under the circumstances. Although entry may necessarily include breaking a door or window, an officer must strive to inflict as little damage as possible to the premises.
9. Whenever an officer must forcibly enter private premises to execute a felony arrest warrant, the officer in charge of the operation shall have enough officers present, and take other appropriate measures to protect the safety and security of all persons present. To identify the group as officers, at least one fully uniformed officer should lead the entry into the premises.
10. After forcibly entering private premises to execute a felony arrest warrant, officers shall immediately secure the premises by locating and controlling the movement of all persons who reasonably appear to present a threat to the safety of the officers. Officers shall also control any object that may be used as a weapon. An officer may frisk any person who the officer reasonably suspects may have a weapon concealed upon his person.
11. Any detention, warrantless arrest, frisk, search, seizure, or use of force conducted in conjunction with the execution of an arrest warrant shall conform to the rules governing such activities.
12. An officer shall leave the premises at least as secure as when he entered by leaving it in the hands of a responsible person or by locking all doors and windows.

K. EXECUTION OF LOCAL WARRANTS BY OTHER DEPARTMENTS

1. Whenever another law enforcement agency within Texas holds a prisoner on a warrant from this department, this department shall either pick up the prisoner within twenty-four (24) hours or notify the holding agency to release him.
2. Whenever an out-of-state department notifies this department that the out-of-state department has executed a felony arrest warrant held by this department, and is holding the person arrested, this department shall immediately pursue extradition proceedings.
3. Generally it is the responsibility of Investigative Services to transport and/or handle extradition proceedings.

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L. NO BOOK WARRANT SERVICE PROCEDURES

1. An officer may allow a violator to pay their fines in full rather than booking the violator into the Bi-State Jail for Class C warrants issued out of the City of Texarkana, Texas Municipal Court when the defendant has the money, or a MasterCard credit card in some cases, immediately available.
2. Officers who wish to serve Class C municipal warrants without booking the defendant into Bi-State Jail should follow these procedures:
 - a. Confirm that the warrant matches the identity of the person detained as described in Section B above.
 - b. Confirm that the defendant has a sufficient amount of cash to pay the full amount of the fine(s) or he/she can obtain the cash quickly. Payment in the form of a MasterCard charge can be accepted at the Municipal Court pay fine window during business hours.
 - c. If the defendant has a MasterCard credit card that they desire to use, the cash necessary or can obtain the cash quickly, the officer should follow the defendant to the Municipal Court pay fine window. If it is after business hours or on the weekend, the officer should follow the defendant to the front window of Central Records and Communications (CRC) where the only option available is a cash payment.
 - d. If the defendant has no transportation and has to be handcuffed and transported to the building, an arrest report is necessary even if the defendant is not booked into jail.
 - e. If the defendant is paying during business hours, they should be escorted to the Municipal Court pay fine window, and the Municipal Court will take the cash or credit card payment, retrieve the warrant, and handle all other aspects of the process.
 - f. If the defendant is paying after business hours, he should be escorted to the front window of Central Records and Communications (CRC). Upon arrival at CRC, the clerk at the front window will collect the money and issue a receipt to the defendant. **Officers are prohibited from handling any of the cash during any part of this transaction.** The officer must do a handwritten Arrest Report, complete the officer's return on the warrant, and attach the warrant to the Arrest Report to be turned to the shift supervisor.
 - g. If defendant is unable to pay the fine after a reasonable time has elapsed as determined by the officer or the officer's supervisor, the defendant should be booked into the Bi-State Jail and the standard warrant service procedure will be followed.
 - h. The officer should turn in the Arrest Report and the original warrant to the supervisor. Supervisors will forward the warrant the Operations Services Division Secretary who will deliver the warrant to the municipal court for a final disposition and removal from the local warrant database.

M. OUT OF COUNTY ARREST REQUIREMENTS

1. All officers serving warrants in counties other than Bowie are required by Article 15.16 of the Code of Criminal Procedure to have the arrestee arraigned in the county of arrest prior to returning to Bowie County. However, Article 15.17 allows for the arraignment in a "county bordering the county of arrest" to expedite the magistrate's warning.

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2. In arrests in those counties bordering Bowie County, the arresting officer may have the arrestee sign a Waiver of Magistrate's Hearing for the county of arrest, and proceed immediately to Bowie County. However, it will be imperative that the arrestee be arraigned before a magistrate in Bowie County.

N. ARRESTING UNDOCUMENTED CITIZENS / ILLEGAL ALIENS

1. When an officer legally takes a person into custody, and the officer suspects that the arrested person may be in this country illegally, the officer will contact the United States Immigration and Customs Enforcement (ICE). The Dallas Duty Agent for ICE can be reached 24-hours a day through the ICE dispatch office at 1-800-973-2867. Officers are encouraged to contact ICE any time questions arise concerning an arrest of any person who is suspected of being an illegal alien.
2. When a person who is a citizen of another country is arrested, then it is the responsibility of the arresting officer to check the list of countries to determine the proper procedure for Consular notification. Some countries have mandatory notification and some countries require that you ask the arrestee if he/she wishes to have their Consular notified. The Consular Notification and Access list is prominently posted on the board in the patrol room.
3. The jail registration card will indicate that the suspect is to be held for the Immigration and Customs Enforcement. The form must have the authorizing agent's name entered as the detaining authority.
4. It is the policy of this Department to hold persons suspected of being undocumented aliens for a period not to exceed 48 hours. If, after this period of time, all other charges have been disposed of and the Immigration and Customs Enforcement has not taken custody of these persons, they will be released. However, if it can be satisfactorily shown that the Immigration and Customs Enforcement will take custody of these persons in a reasonable length of time, they may be detained an additional 24 hours with approval of the Chief of Police. Under no circumstances will these persons be detained longer than 72 hours from the time they are booked into jail.

O. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.