

Circular

Houston Police Department



October 10, 2006

NO. 06-1010-298

SUBJECT: PERSONS WHO VIOLATE CRIMINAL LAWS

The Houston Police Department routinely arrests criminal offenders without regard to citizenship status. As explained in a prior Circular, neither the City of Houston nor the Houston Police Department has a "sanctuary" policy for criminal conduct. This is, and has always been, our policy. In the interest of public safety and Homeland Security, officers are reminded to adhere to the following procedures, which become effective at 6 a.m., Wednesday, October 11, 2006:

1. Officers will NOT detain or arrest persons solely on the suspicion that they are in this country illegally.
2. Officers have the discretion to check the wanted status of anyone legally detained.
3. Officers SHALL check the wanted status of everyone that is ticketed, arrested, and/or jailed. However, if a warrant hit is made and confirmation is not received within 15 minutes, officers, with supervisor approval, may document the detained person's identification information and release him/her. Consideration should be given to the nature of the warrant and the circumstances of the detention.
4. Officers who receive an NCIC Immigration Hit (Criminal Enforcement of Administrative Warrant of Removal and/or ICE Detainer on Previously Deported Felons) will confirm the information as instructed within the NCIC Hit. Persons with confirmed hits from the Bureau of Immigration and Customs Enforcement (ICE) will be handled as a fugitive hold, with the Major Offenders Division as the concerned division. If after-hours, the Homicide Division will authorize holds for the Major Offenders Division.
 - a) Criminal charges and sanctions against these persons are authorized under Article 8 Section 1253 and 1326 of the United States Code. The U.S. Attorney for the Southern District of Texas has agreed to prosecute all previously deported felons. This will allow Houston to be the first major metropolitan region in the country where their local U.S. Attorney's Office seeks criminal charges and sanctions in these situations on a consistent and uniform basis.
 - b) The classified supervisors in our Dispatch Division will assist street officers in verifying and confirming the warrant or detainer with the appropriate federal agency.
 - c) Officers will have direct contact with the Law Enforcement Support Center (LESC) at a 1-800 number dedicated exclusively to law enforcement and advise them of the NCIC information hit. Once the identity of the person and the warrant or detainer are confirmed, ICE will be contacted for acceptance of a criminal hold on the suspect by our Dispatch and/or Jail Division.
 - d) LESL will fax an Immigration Detainer to our Jail Division where (with authority from ICE officials) the Detainer form will be stamped "Criminal."
 - e) The arrested suspect will be detained in the city jail where the suspect will be held for a maximum of 24 hours. ICE has agreed to take custody of the suspect within 2 to 12 hours in most cases and make a criminal case presentation to the U.S. Attorney for all those whose Immigration Detainers were based on an NCIC hit confirmation.
 - f) If the suspect has not been picked up by ICE within the 24-hour period the suspect will be processed on any other local charges, which may have been filed simultaneously with his/her arrest.

5. All individuals arrested and booked in the city jail without valid identification will be processed via AFIS. Officers will be required to complete an AFIS form for all persons arrested for Class C offenses and do not have any verifiable means of identification.
6. For all arrested criminal offenders that are booked in the city jail, jail personnel will be required, as part of the booking process, to ask if the person was born in the United States and if they are a United States citizen. In order to facilitate this process, officers will present a completed BOOKING BLOTTER and an ADULT-JUVENILE BOOKING DATA INFORMATION (AFIS) form to the Sally Port/Back Door Jail staff. Presently, a new form is being developed that combines the BOOKING BLOTTER and the ADULT-JUVENILE BOOKING DATA INFORMATION (AFIS) form. This will be released as soon as it has been completed and will ultimately help to reduce the number of forms an officer has to fill out, or the requirement to provide duplicate information.
7. ICE officials will be allowed full access to HPD jail facilities.
8. Members of the department routinely work with the Criminal Division of ICE when running raids or pursuing suspects wanted in connection with federal criminal investigations. These raids and investigations include criminal activities such as kidnapping, narcotics and gang related activities. Participation in such raids and/or investigations will continue to require the prior approval of an Assistant Chief.
9. Undocumented aliens are prohibited from possessing firearms and can be charged federally with a felony pursuant to Title 18, United States Code, section 922(g)(5). A conviction for this felony carries a sentence of up to 10 years imprisonment and is considered an aggravated felony under the Immigration and Nationality Act. Upon release from prison, those convicted are subject to administrative removal. Should the person return to the United States illegally, he could be criminally prosecuted for illegal reentry after deportation and be subject to a sentence of up to 20 years. The Harris County District Attorney's Office has agreed to refer these cases to the U.S. Attorney's Office for prosecution. Anyone encountering an undocumented alien in possession of a firearm should place them on hold for the Major Offenders Division so that they can be prosecuted federally.

Collectively, these procedures will help the Houston Police Department reduce the risk to public safety, enhance homeland security efforts, and our abilities to identify, arrest, and process criminal offenders. If you have any questions regarding this process, contact an on-duty Jail supervisor.

This Circular serves to clarify and supplement General Order 500-08, Required Booking Information and Hold Procedures, and will supercede only those provisions that are in direct conflict with this Circular. The procedures in this Circular along with any additional information on this subject will be incorporated into General Order 500-08 at its next issuance.


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Chief of Police

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