



Abilene Police Department Operating Procedures

Subject:

Detention, Arrest, and Warrants

Issued:

01/26/2018

TBP:

7.02, 7.03, 7.04

Number:

D-2

Legal Temporary Detention

Where a police officer observes suspicious conduct or receives reliable information which causes the officer to reasonably believe the subject is involved in some criminal act, he may briefly detain the subject for the purpose of investigation. If an officer has reasonable suspicion based on specific facts that a subject was involved in or is wanted in connection with a criminal act, the officer may detain the person for investigation.

The detention may be based on a bulletin or information issued by another department advising that the subject is wanted for investigation. A detention may be based on information received from an unknown person if enough of the significant details provided or particular prediction of specific future activity by the suspect are corroborated by independent investigation to indicate the person is credible and the information is reliable.

To justify a legal temporary detention, an officer must have specific objective facts which, in light of their experience and personal knowledge, with rational inferences from those facts, give the officer:

- A. A reasonable suspicion some activity out of the ordinary is occurring or has occurred; and
- B. The person to be detained is connected with the unusual activity and
- C. The activity is related to a specific crime.

A stop based on a hunch is unlawful. Because the purpose of a stop is to briefly detain a suspect in order to investigate a crime in progress or a crime that has just occurred, the stop must be temporary and last no longer than necessary to accomplish its purpose.

Stop and Frisk

A stop and frisk of a subject is permitted anytime an officer is in contact with another person and can articulate reasons that he feared for his safety or the safety of others nearby. A stop and frisk is a pat down of the outer clothing of a person whom you have stopped to protect the safety of the officer or others. It is not a pretext for a search.

Stop and Frisk of Vehicle and Occupants

In the course of a vehicle stop, an officer may make a limited weapons frisk (pat down) of the suspect's area of immediate control if the officer reasonably suspects the vehicle may contain a weapon that endangers the officer or others. To be entitled to frisk a subject, the officer must reasonably believe the subject is armed, and the frisk must be limited to discovery of guns, knives, club or other hidden weapons. The purpose of a frisk is not to discover evidence of crime, but to allow the officer to pursue his/her investigation without fear of violence.



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A vehicle is subject to a stop just like a pedestrian. An officer who feels justified in stopping the occupant of a vehicle and reasonably believes, from objective facts and rational inferences, the subject is dangerous and may gain immediate control of a weapon, may search those areas of the passenger compartment in the vehicle where a weapon may be placed or hidden. If, while frisking the passenger compartment, the officer finds contraband other than weapons, it may be seized. If an officer reasonably believes the subject is armed, the frisk may extend to a purse or bag the subject was carrying at the time of the stop.

Miranda Warnings on Stop and Frisk (TBP 7.04)

If the interview remains brief, casual, relatively neutral and non-accusatory, an officer need not inform the person of their Miranda rights. However, if the interview begins to focus on the person as a suspect, the officer shall cease the questioning or inform the suspect of their Miranda rights before proceeding.

Authority to Arrest without a Warrant (TBP 7.03)

The authority to arrest without a warrant is provided in Chapter 14 of the Code of the Criminal Procedure. Arrests without a warrant are to be made only in accordance with those provisions.

Arrest without a Warrant (TBP 7.03)

An arrest without a warrant must be based on probable cause. Probable cause is defined as:

“That total set of apparent facts and circumstances based on reasonably trustworthy information which would warrant a prudent person to believe something” – for example, that a particular person has committed some offense against the law.

Non-Consensual Entry to Arrest

An officer may make a non-consensual entry, without possessing a search warrant, into a premises or vehicle in order to make an arrest under the following circumstances:

- A. The officer observes a felony offense being committed in his/her presence or view inside the premises.
- B. The officer is in fresh (hot) pursuit of a fleeing suspect.
- C. The offense involves actual or potential violence and delay would result in a risk of danger to other occupants or the officer.
- D. The premises is the residence of a suspect named in an arrest warrant for a criminal (non-traffic) offense and the officer has reason to believe the suspect is at home.
- E. The officer observes a Class A or B misdemeanor being committed in his/her presence or view inside the premises and delay in arrest would likely result in destruction or degradation of evidence.



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Prior to non-consensual entry, and within the limits allowed by the particular circumstances, the officer shall reasonably attempt to obtain consent to enter the premises or vehicle.

In regard to arrest warrants, non-consensual "forced entry" should only be conducted when the warrant is for a felony offense.

Following entry, the officer may search the premises or vehicle only to the extent necessary to make the arrest and ensure the safety of other occupants and officers.

When the arrest has been completed the officer shall secure the premises or vehicle prior to leaving either by release to a responsible person, or by making all reasonable efforts to physically secure the property if no further action is necessary inside the premises.

Should circumstances exist necessitating further investigation of the premises, the officer should "hold" the scene or obtain consent and make application for a search warrant of the premises.

As in all matters, the paramount concern of the officer should be to guard the safety of innocent citizens, officers and the suspect.

Arrest of Undocumented Immigrants without a Warrant

Undocumented immigrants may not be arrested without a warrant solely upon the suspicion they entered the country illegally. When a suspected undocumented immigrant is arrested, the Border Patrol should be notified.

Informant Information for Arrest Warrant

When an officer relies on information from an informant to establish probable cause, the officer must be able to state:

- A. Their reason(s) for believing the informant to be reliable and
- B. The underlying circumstances from which the informant concluded a particular person committed an offense.

If circumstances permit, an officer shall seek some corroboration or confirmation of the information they receive from a victim or witness.

Execution of Arrest Warrants (TBP 7.02)

An officer need not have actual physical possession of an arrest warrant in order to execute it. All warrants however, will be confirmed with the originating agency. In executing an arrest warrant, whether or not he/she has the warrant in possession, an officer shall announce to the person being arrested that the arrest is made pursuant to an arrest warrant.



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All warrants shall be confirmed with the issuing agency through the Communications Division so that a record of the confirmation can be made.

Capias Pro Fine

A Capias Pro Fine is an order of the court directing a peace officer to arrest the defendant for failing to pay a fine. It is issued only after the defendant was found guilty and a judgment was entered by the court stating the amount of the fine. When an officer contacts an individual who has an outstanding Capias Pro Fine Warrant issued by any agency (other than the City of Abilene), the officer will obtain a current home address and current business address from the individual and forward this information to the issuing agency. The individual should then be released. An arrest should be made on persons with confirmed Abilene Capias Pro Fine Warrant(s). The charge on the arrest paperwork should include the acronym "CPF" and bonds should be titled "cash bond".

Arrest Not Required

An officer does not have to make an arrest every time they have probable cause to do so. In some circumstances, and for good cause consistent with public interest, an officer may decline to arrest.

Release Not Delayed

When an arrest is made and circumstance dictate the person should be released, the release will be made without delay.

Miranda Required

If a suspect is under custodial arrest or detention (other than temporary detention), an officer cannot question the suspect without first giving the Miranda warnings.

Arrestee Taken Before Magistrate (TBP 7.02)

All arrestees shall be taken before a magistrate, if one is available. The Code of Criminal Procedure requires the person making the arrest to take the arrestee, without unnecessary delay, before the magistrate who issued the warrant or ordered the arrest or before some magistrate of the county where the arrest occurs. When an officer arrests an offender outside the City of Abilene, the officer shall take the arrestee, without unnecessary delay, before the nearest available magistrate in the county or in the county bordering the county in which the arrest was made. Arrestees should be handcuffed during their appearance before the magistrate.

An affidavit establishing probable cause (PC affidavit) will be required for all on-site Class B and above arrests. The affidavit should clearly state facts supporting all elements of each Class B and above on-site charge.



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The following warrants do not require a magistrate appearance:

- A. Parole Warrant
- B. Violation of Probation Warrant
- C. Bond Forfeiture Warrant
- D. Security Withdrawal Warrant
- E. Contempt of Court Warrant
- F. Capias Pro Fine Warrant

Arrestee's Time in Custody

It is the intent of the Department to minimize the time an arrestee spends in the custody of the Department. The Department maintains temporary custody of arrestees following their arrest until they are arraigned, transferred to the custody of the Sheriff or other law enforcement agency or released.