

 <b>El Paso Police Department Procedures Manual</b>	<b>Chapter 3: Field Operations, Custody, and Traffic Enforcement</b>
<b>305 Arrests</b>	<b>Policy Effective: 10/10/2023 Previous Version: 10/19/2022</b>

## 305 ARRESTS

Officers will code an arrest on Officers' log sheets under the following circumstances. (Refer to 340.2 of the procedures manual).

- A. Definitions.
  - 1. Non-arrest. When the facts and circumstances are such that an arrest would not be appropriate.
  - 2. Released. To be released from police custody. For example, after posting bond or instances in which a medical release is required for booking and prisoner is left at a hospital and case is filed as a non-arrest.
- B. An offender is arrested, with or without warrants, and booked.
- C. The offender is arrested and the case is declined by the District Attorney's Office.
- D. The offender is arrested and released from police custody without being booked.
- E. When an offender is indicted stemming from a non-arrest case (refer to 305.7 of the procedures manual), investigators will code it as an arrest on the investigators log sheet.

### 305.1 ADULT LIVE SCAN PROCESS

All adult arrestees, including class "C" arrests, will be processed at the Live Scan processing station. This includes persons released at the Regional Command Centers and not physically booked into the County Jail. The Live Scan requires your user name and pass code (assigned at the Command Center).

Process.

A two-finger fast ID (FID search) will initiate the search to establish positive ID. This search will reveal if the arrestee has an adult EPPD arrest package on file by replying with a HIT or NO HIT.

- A. In the case of a HIT, the Live Scan furnishes the adult EPPD number, the officer will record the number for use in completing case reports. No further Live Scan processing is required except for Class C Assaults (family violence) and the Cite and Release Program. If the HIT is a Juvenile Reference number, treat it as a "NO HIT".
- B. In the case of a NO HIT, indicating no record found, the officer will perform a "Full Process" consisting of the following:
  - 1. Complete the Live Scan procedure by entering the arrestee's information, capturing the prints, and obtaining a mug photo.
  - 2. Complete case report documentation.
  - 3. Transport the arrestee to the County Jail or release the arrestee.
- C. For any technical assistance with the Live Scan, call the Help Line number located to the left of the keyboard. This help desk is staffed twenty-four hours a day, seven days a week.
- D. Guard services personnel are required to do a full process on all offenders regardless of FID search results.

Safety.

- A. The processing officer will secure their weapons in the approved weapons receptacle. The prisoner will be leg shackled prior to processing and the removal of the prisoner's handcuffs.
- B. The officer will exercise due caution and use approved methods to prevent injury to him/herself, to prevent damages to equipment, and to prevent escape. These methods include, but are not limited to the following:
  - 1. The removal of any potential instrument that may be used as a weapon from within the arrestee's reach.
  - 2. Two-officer processing. The assisting officer will also secure their weapons prior to assisting.
  - 3. The use of any other Department approved restraining device or techniques.
- C. If the arrestee is totally uncooperative, the arrestee shall be taken to the County Jail for booking. County Jail personnel will conduct the processing of the arrestee there.
- D. The officer should make a notation on the arrest log if the prisoner was unable to be processed for any reason.

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### 305.2 MOBILE TWO-FINGER FAST ID DEVICE (RAPID)

- A. Purpose. This policy establishes uniform procedures for the use of the Mobile Two-Finger Fast ID.
- B. Scope. This policy applies to the field officers who have been trained in the use of the device.
- C. Procedures.
  - 1. These devices are made available to officers through their command or unit to establish field positive up-front identification of subjects. Devices can only be operated by trained personnel.
    - a. After a capture and transmission of the two index fingers, a return message will be received showing a HIT or NO HIT. In the case of a HIT, the device will provide pertinent demographic information and, if available, a photographic image of the subject. A NO HIT indicates the search did not locate viable candidates.
    - b. The use of the device is not a substitution for Live Scan processing of arrestees as per established policy.
    - c. For technical assistance, the operator may contact personnel in the Criminalistics Latents/AFIS section between 0800 and 1600 hrs. Mon.-Fri.

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### 305.3 ARREST WITH WARRANT

Officers who have knowledge that a warrant may exist on a subject will verify the existence of the warrant through Communications and immediately take the person into custody. Officers must verify the identity of subjects especially if they claim they are not the person named in the warrant.

- A. Local Warrants and Posting Bond.
  - 1. Once a local traffic warrant is confirmed to belong to a subject, the officer may allow the subject to post bond at an appropriate location (see policy 354 Recall and Refile).
  - 2. Prior to allowing a subject to post bond, the officer must verify that the subject has the means available to post the bond or can make arrangements to have someone bring the bond amount to the appropriate location (Municipal Court or certain Regional Command Centers).
  - 3. After making a thorough tactical assessment, the officer may allow a fully identified subject to drive their own vehicle to the appropriate location to post bond. The officer will take the subject's driver license and direct the subject to follow the officer at a safe distance and speed. The subject must be warned of the consequences of fleeing prior to allowing them to proceed to post bond. If the subject flees, the officer will not pursue.

4. The officer retains the discretion of whether to allow a subject to post bond or to book the subject. When allowing a subject to post bond for a warrant it is the officer's responsibility to notify the warrant office to pull and deactivate the warrant, since bond was posted. The officer should also complete the appropriate report recording the posting.
  5. When booking a subject, the officer will pick up the warrant from the Warrant Office.
  6. The officer will supplement the case, complete a booking supplement, and book the subject with the warrant. If no case exists, the officer will initiate a Complaint Report.
- B. Non-Local Warrant Within Texas. Wanted Subject is any person wanted by another County within the State of Texas, or Military Desertion. Officers will verify the return of the wanted subject with the originating agency. A teletype copy of the warrant will be picked up from Communications. Officers will complete a Complaint Report listing the demanding agency as VI-01.
1. Wanted Subject without local charges:
    - a. Documents will be presented to booking.
      - i. TCIC Teletype Hit (NCIC for Desertion)
      - ii. TCIC Teletype Hit Confirmation
      - iii. Magistrate's Warning
    - b. Documents scanned into the Complaint Report.
      - i. TCIC Hit
      - ii. TCIC Hit Confirmation
      - iii. Any other teletypes or documents received
  2. A Wanted Subject with local charges is to be booked on local charges only. The officer will obtain a detainer form from booking and list all the required information to include demanding agency, agency charge, and attach all teletypes.
    - a. Scan all teletypes into the case
    - b. Fax all NCIC/TCIC hits to EPSO Warrants at 546-2026
    - c. Documents to be presented to booking (attached to detainer)
      - i. NCIC Teletype Hit
      - ii. NCIC Teletype Hit Confirmation (if confirmed)
      - iii. Any local paperwork
- C. Non-Local Warrant Outside Texas. Fugitive from Justice (FFJ) is any person wanted by another state outside the State of Texas, except persons wanted by Federal agencies or the military. Officers will verify the return of the FFJ with the originating agency. A certified teletype of the warrant will be picked up from Communications. Officers will complete a Complaint Report listing the demanding agency as VI-01.
1. Fugitive from Justice
    - a. Documents to be presented to booking.
      - i. Fugitive Complaint
      - ii. Fugitive Warrant
      - iii. Magistrate's Warning
      - iv. NCIC Teletype Hit
      - v. NCIC Teletype Hit Confirmation Response
    - b. Documents to be scanned into the report
      - i. NCIC Teletype Hit
      - ii. NCIC Teletype Hit Confirmation
      - iii. Any other teletypes or documents received

2. Fugitive from Justice with Traffic/Class C warrants and no charges Class B or above.
    - a. If there are local Class C charges then Municipal Court will be listed as VI-02.
    - b. Documents to be presented to booking.
      - i. Fugitive Complaint
      - ii. Fugitive Warrant
      - iii. NCIC Teletype Hit
      - iv. NCIC Teletype Hit Confirmation
      - v. Magistrate's warning
      - vi. Class C Complaint or Citation
    - c. Documents to be scanned into the report
      - i. NCIC Teletype Hit
      - ii. NCIC Teletype Hit Confirmation
      - iii. Any other teletypes or documents received
  3. Fugitive from Justice with local charges Class B or above
    - a. A separate report is generated for the FFJ offense
    - b. A separate report is generated to document the local charges
    - c. Do not obtain FFJ warrant or warning
    - d. Scan all teletypes into case
    - e. The FFJ with local charges is to be booked on local charges only. The officer will obtain a detainer form from booking and list all the required information to include demanding agency, agency charge, and attach all teletypes.
    - f. Fax all NCIC/TCIC hits to EPSO Warrants at 546-2026
    - g. Documents to be presented to booking (attached to detainer)
      - i. NCIC Teletype Hit
      - ii. NCIC Teletype Hit Confirmation
      - iii. Any local paperwork
    - h. Documents scanned into report
      - i. NCIC Hit
      - ii. NCIC Hit Confirmation
      - iii. Any other teletypes or documents received
  4. Wanted subject and Fugitive from Justice
    - a. A complaint report is generated for the wanted subject
    - b. The out of state agency will be listed as VI-02
    - c. A detainer is placed for the out of state warrant
    - d. Documents to be presented to booking.
      - i. NCIC Teletype Hit
      - ii. NCIC Teletype Hit Confirmation
      - iii. TCIC Teletype Hit
      - iv. TCIC Teletype Hit Confirmation
      - v. Detainer for FFJ
    - e. Documents scanned into report
      - i. NCIC/TCIC Hit
      - ii. NCIC/TCIC Hit Confirmation
      - iii. Any other teletypes or documents received
      - iv. Fax all NCIC/TCIC hits to EPSO Warrant 546-2026
- D. TCIC/NCIC Hit -Unit Responsibility. The unit who is arresting/booking the subject on a TCIC/NCIC hit, regardless of how contact was made (self-initiated, dispatched, or assisting another agency), is

responsible for advising channel one that the subject is in custody. The unit is also responsible for requesting that channel one place the locate message.

#### 305.4 WARRANTLESS ARREST (DIMS)

A warrantless arrest (DIMS) may be used only when Officers have made a decision to take a person into custody on offenses Class B or above. This process will not be used for juveniles. Officers must have probable cause and meet the legal criteria for a warrantless arrest. A chart of the DIMS process is located in the reference section of the Procedures Manual.

- A. Contact DIMS. Officers will call the DIMS attorney from the scene, if possible, or from the Regional Command as soon as possible upon arrival. Officers will provide the case number, the arrestee's information and a brief description of the case.
- B. DIMS Decision. The DIMS attorney will decide whether to accept or decline the case for prosecution. Officers who are dissatisfied with a DIMS attorney decision on a particular case may notify a supervisor. The supervisor may call the DIMS attorney and brief the case again. The attorney's decision on whether to or not to prosecute will be final.
- C. Accepted Cases. If the DIMS attorney accepts the case, officers will prepare, in the Records Management System, the Complaint Report, DIMS Affidavit, Presentation Supplement, detailed narrative, Arrest Supplement and other necessary documents. All Records Management System fields related to DIMS will be completed on the incident module, presentation and the arrest card. The DIMS attorney will provide criminal history information concerning the defendant to the officer.
  1. When the case paperwork is complete, officers will call the DIMS attorney and ask for a final decision as to whether or not the case will be prosecuted. Upon being notified that the case is being accepted for prosecution, the DIMS attorney will provide a DIMS number and the officer.
  2. The officer will take the person before the jail magistrate. All bonds will be set by the jail magistrate.
  3. When a case is accepted for prosecution by the DIMS attorney, the officer will print (3) copies of the complaint affidavit containing the probable cause. The three (3) complaint affidavits will be signed and notarized. The affidavits will be distributed as follows: the original affidavit will be scanned into the Records Management System, submitted to the Records Section, and two affidavits will be submitted to the jail upon booking the arrestee. Note: The "pink" warrant form is not required in DIMS arrest cases. It is imperative that the signed and notarized PC affidavits are scanned into the Records Management System and forwarded to Records immediately after booking the arrestee. This is to ensure that strict magistrate time limits are met.
- D. Booking. Once approved and all forms are completed and notarized, the arrestee may be booked into the county jail. If the arrestee is booked under a DIMS case, then the DIMS number and the bond amount will be provided to the jail staff during booking. If the arrestee is booked on a warrant then the warrant number will be provided to the jail staff during booking.
- E. Declined Cases. Individuals will be released when cases are declined. The Complaint Report will be completed and supplemented with all applicable details. Officers will include the name of the attorney declining the case and the reason the case was declined. The DIMS attorney will provide a coded number for the reason the case was declined. Cases requiring additional information should then be presented to the appropriate investigative unit for follow up.
- F. Warrant Recommended. When a DIMS attorney recommends obtaining a warrant and the case does not fit the criteria for a warrantless arrest, the officer will book the arrestee on the warrant number instead of the DIMS number. If a DIMS number exists, it must be canceled. Officers will contact a supervisor for guidance and obtain a warrant through standard procedures.

- G. Hard Copy DIMS. When the records management system is not available, officers will prepare all paperwork on hard copy and hand carry it to the DIMS attorney on the way to booking.

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### 305.5 OBTAINING A WARRANT

This process may be used when an officer develops enough information on a case to:

- A. Constitute probable cause of an offense.
- B. Has positive identification of a victim and a subject or some reasonably definite description.
- C. Establishes that the offense occurred within the officer's jurisdiction;
- D. The subject is not in custody.
- E. The case does not fit the criteria for a warrantless arrest.
- F. Required Reports. Officers will complete a Complaint Report, all necessary supplements, an Arrest Warrant Affidavit and the Warrant.
- G. Process. All officers who obtain warrants will receive approval of the affidavit by their supervisors before presenting the affidavit to the Magistrate. Supervisors are responsible to ensure that all the elements of a crime exist in the affidavit and that the charge, probable cause and jurisdiction, is established. Officers will then take all documentation to a Magistrate who may sign the warrant and issue the bond. Officers will diligently attempt to execute the warrant before turning it in to the Warrant office. Officers will scan a copy of the affidavit into the Records Management System.

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### 305.6 ARREST/DETENTION OF FOREIGN NATIONALS

To ensure that citizens of foreign countries who are arrested/detained are fully aware of their rights under the Vienna Convention Treaty, the El Paso Police Department will comply with Articles 5, 36 and 37 of the Vienna Convention on Consular Relations when making arrests and detaining subjects who are citizens of foreign countries. Arresting officers of the El Paso Police Department will inform arrestees of their right to communicate with consular officials of their own country. Officers will notify the consulate of any country whose citizens have been arrested by the Department, when such notification has been requested, or is mandated.

- A. Procedures.
  - 1. Requirements Pertaining to Foreign Nationals
    - a. When foreign nationals are arrested or detained, they must be advised of the right to have their consular officials notified.
    - b. Consular officials are entitled to access to their nationals in detention, and are entitled to provide consular assistance.
    - c. When a government official becomes aware of the death of a foreign national, consular officials must be notified.
    - d. When guardianship or trusteeship is being considered with respect to a foreign national who is a minor or incompetent, consular officials must be notified.
    - e. When a foreign ship or aircraft wrecks or crashes, consular officials must be notified.
    - f. This procedure does not apply to a temporary investigative detention or to the issuance of a citation, as these are brief, routine detentions.
  - 2. Arrest or Detention of Foreign National
    - a. Determine the foreign national's country. In the absence of other information, this will be considered the country on whose passport or other travel document the foreign national travels.

- b. Supervisors will make certain that all officers check the Foreign National's Country of Nationality website at [CNA Process Flow Chart \(state.gov\)](#). If the foreign national's country is not on the mandatory notification list the senior arresting officer will offer, without delay, to notify the foreign national's consular officials of the arrest/detention.
- c. These are mutual obligations that also pertain to American citizens abroad. In general, you should treat a foreign national as you would want an American citizen to be treated in a similar situation in a foreign country. This means prompt, courteous notification to the foreign national of the possibility of consular assistance, and prompt, courteous notification to the foreign national's nearest consular officials so that they can provide whatever consular services they deem appropriate.

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### 305.7 NON ARREST PROCEDURES

Non-arrest procedures may be used when it serves the interests of the Complainant, the Department and sometimes even the subject not to take an individual immediately into custody.

- A. Minimum Criteria. All of the following criteria must exist to present a non-arrest case:
  - 1. Officers may use non-arrest procedures in lieu of a physical arrest on the following offenses when the level of offense falls into the listed category without enhancement:
    - a. DWLI (Driving while License Invalid)
    - b. Criminal Mischief except Graffiti (Class B Misdemeanor)
    - c. Possession of Marijuana (Class B Misdemeanor)
    - d. Theft (Class B Misdemeanor)
    - e. Theft by Check (over \$20 and under \$500)
    - f. Theft of Service (Class B Misdemeanor)
    - g. NLI (No Liability Insurance – Prior Offense)
  - 2. Violation not likely to continue.
  - 3. Non-violent offense.
  - 4. No danger of evidence being destroyed.
  - 5. The level of force used to detain the individual did not cause injury to the person.
  - 6. Person presents no danger to self or others.
  - 7. No warrant currently exists.
  - 8. The person is not intoxicated.
  - 9. The person is not a flight risk.
  - 10. The person is not already under arrest or in custody for another charge.
  - 11. The person:
    - a. Is an adult or a juvenile, who is at least 10 years of age.
    - b. Has Positive ID.
    - c. Lives or works within city limits.
    - d. Provides all required information.
- B. Process. With a supervisor's approval, officers may present the case as non-arrest. Officers will complete all necessary documents – Complaint Report, Presentation Supplement, Non-Arrest Affidavit and other documents- and present the case. All subjects of non-arrest cases must be fingerprinted (full set to include palm prints). Juveniles will be fingerprinted per established juvenile processing procedures.

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### 305.8 UNDOCUMENTED IMMIGRANTS

Officers of this Department may not arrest an individual based on their citizenship status. Probable cause for arrest must exist.

- A. Release. When officers determine, through legal means, that an individual is an undocumented immigrant, he or she will be turned over to U.S. Border Patrol.
- B. Requests for Asylum. Immigrants requesting asylum in the United States will be referred to the U.S. Department of Immigration and Customs Enforcement.