

# Exhibit 1

**From:** [Houston, Charles - LGL](#)  
**To:** [Dempsey, Kelly - LGL](#); [Chauvin, Suzanne - LGL](#); [Azadeh, Melissa - LGL](#)  
**Cc:** [Penny, Deidra - LGL](#); [Jones, Shirley - LGL](#)  
**Subject:** FW: Bay Area v Paxton 4:20-CV-03081 -- Motion to Extend Time to File Answer  
**Date:** Thursday, October 21, 2021 4:51:16 PM  
**Attachments:** [image002.png](#)  
[image004.png](#)  
[image001.png](#)

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See below. Thanks

**From:** Taylor, Charlotte H. <[ctaylor@jonesday.com](mailto:ctaylor@jonesday.com)>

**Sent:** Thursday, October 21, 2021 2:26 PM

**To:** Gassama, Moustapha (CAO) <[Moustapha.Gassama@cao.hctx.net](mailto:Moustapha.Gassama@cao.hctx.net)>; Britton, Tiffany <[Tiffany.Britton@lewisbrisbois.com](mailto:Tiffany.Britton@lewisbrisbois.com)>; Taylor, William R. <[wrtaylor@JonesDay.com](mailto:wrtaylor@JonesDay.com)>; Canfield, Peter C. <[pcanfield@jonesday.com](mailto:pcanfield@jonesday.com)>; rgerber@everytown.org; alefkowitz@everytown.org; Beeler, Christina (CAO) <[Christina.Beeler@cao.hctx.net](mailto:Christina.Beeler@cao.hctx.net)>; Houston, Charles - LGL <[Charles.Houston@houstontx.gov](mailto:Charles.Houston@houstontx.gov)>

**Cc:** Helfand, Bill <[Bill.Helfand@lewisbrisbois.com](mailto:Bill.Helfand@lewisbrisbois.com)>

**Subject:** RE: Bay Area v Paxton 4:20-CV-03081 -- Motion to Extend Time to File Answer  
[Message Came from Outside the City of Houston Mail System]

Thank you, Moustapha. As stated in my previous email, Plaintiffs consent to a 14-day extension of time for all Defendants to file their answers. To the extent you are requesting an extension for any other filing besides the answer of the Harris County defendants, please clarify so we can consider that request.

Charlotte H. Taylor

Partner

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**From:** Gassama, Moustapha (CAO) <[Moustapha.Gassama@cao.hctx.net](mailto:Moustapha.Gassama@cao.hctx.net)>

**Sent:** Thursday, October 21, 2021 2:12 PM

**To:** Taylor, Charlotte H. <[ctaylor@jonesday.com](mailto:ctaylor@jonesday.com)>; Britton, Tiffany <[Tiffany.Britton@lewisbrisbois.com](mailto:Tiffany.Britton@lewisbrisbois.com)>; Taylor, William R. <[wrtaylor@JonesDay.com](mailto:wrtaylor@JonesDay.com)>; Canfield, Peter C. <[pcanfield@jonesday.com](mailto:pcanfield@jonesday.com)>; rgerber@everytown.org; alefkowitz@everytown.org; Beeler, Christina (CAO) <[Christina.Beeler@cao.hctx.net](mailto:Christina.Beeler@cao.hctx.net)>; Houston, Charles - LGL <[Charles.Houston@houstontx.gov](mailto:Charles.Houston@houstontx.gov)>

**Cc:** Helfand, Bill <[Bill.Helfand@lewisbrisbois.com](mailto:Bill.Helfand@lewisbrisbois.com)>

**Subject:** RE: Bay Area v Paxton 4:20-CV-03081 -- Motion to Extend Time to File Answer

**\*\* External mail \*\***

Charlotte,

In Plaintiffs' initial request, Plaintiffs agreed to delay amending the complaint pending the outcome of the motions to dismiss in exchange for Defendants agreeing to waive any arguments of prejudice by the delay in the amendment. In an extended email chain, Harris County agreed with Todd Dickerson, counsel for the State, and agreed to waive any argument regarding prejudice resulting from the delay. Todd's email specifically states:

"Defendants are not agreeing that a second amended complaint is warranted and are not waiving other arguments against this hypothetical amendment (such as good cause, futility, prejudice for reasons other than passage of time, etc.)."

Harris County never committed itself to not filing a second motion to dismiss. Any insinuation that Harris County misled the parties to this lawsuit is incorrect and unfounded.

Furthermore, Plaintiffs' dismissal of the State defendants is a significant development that warrants a new motion to dismiss. As Plaintiffs are aware, Harris County does not view the lawsuit as meritorious. A new motion to dismiss is not duplicative, as Plaintiffs dismissed the only Defendants that could provide appropriate relief. Harris County Defendants will not prioritize Plaintiffs' agenda over their best interests.

Finally, Harris County will also file a motion to extend. We believe a 14-day extension is acceptable. Please let us know whether you are opposed.

Moustapha Gassama

Assistant County Attorney

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**From:** Taylor, Charlotte H. <[ctaylor@jonesday.com](mailto:ctaylor@jonesday.com)>

**Sent:** Thursday, October 21, 2021 9:17 AM

**To:** Britton, Tiffany <[Tiffany.Britton@lewisbrisbois.com](mailto:Tiffany.Britton@lewisbrisbois.com)>; Taylor, William R. <[wrtaylor@JonesDay.com](mailto:wrtaylor@JonesDay.com)>; Canfield, Peter C. <[pcanfield@jonesday.com](mailto:pcanfield@jonesday.com)>; [rgerber@everytown.org](mailto:rgerber@everytown.org); [alefkowitz@everytown.org](mailto:alefkowitz@everytown.org); Gassama, Moustapha (CAO) <[Moustapha.Gassama@cao.hctx.net](mailto:Moustapha.Gassama@cao.hctx.net)>; Beeler, Christina (CAO) <[Christina.Beeler@cao.hctx.net](mailto:Christina.Beeler@cao.hctx.net)>; Houston, Charles - LGL <[Charles.Houston@houstontx.gov](mailto:Charles.Houston@houstontx.gov)>

**Cc:** Helfand, Bill <[Bill.Helfand@lewisbrisbois.com](mailto:Bill.Helfand@lewisbrisbois.com)>

**Subject:** RE: Bay Area v Paxton 4:20-CV-03081 -- Motion to Extend Time to File Answer

Thank you for your message, Tiffany. Plaintiffs will oppose an indefinite extension of the City of Webster's time to answer the complaint. That would amount to agreeing to a stay of proceedings pending the district court's disposition of the 1292(b) motions. Even if those motions were granted, defendants would still have to demonstrate their entitlement to a stay pending resolution of an interlocutory appeal; and as Defendants are aware, we do not view the 1292(b) motions as meritorious.

However, we are willing to agree to a 14-day extension of the current deadline for all Defendants to file their answers.

Although the parties had previously discussed streamlined proceedings for Plaintiffs' proposed amendment of their complaint in order to avoid duplicative motion to dismiss briefing, the Harris County Defendants have now informed us that if an amended complaint is filed, they will file a second motion to dismiss.

We are consulting with our clients and have not made a final decision, but in light of this, and to avoid unnecessarily complicating and delaying this case, Plaintiffs may not seek leave to file an amended complaint. We hope to update you by the end of this week. In order to accommodate this change of plans, we think a finite extension of 2 weeks makes sense.

Charlotte H. Taylor

Partner

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**From:** Britton, Tiffany <[Tiffany.Britton@lewisbrisbois.com](mailto:Tiffany.Britton@lewisbrisbois.com)>

**Sent:** Wednesday, October 20, 2021 5:52 PM

**To:** Taylor, William R. <[wrtaylor@JonesDay.com](mailto:wrtaylor@JonesDay.com)>; Taylor, Charlotte H. <[ctaylor@jonesday.com](mailto:ctaylor@jonesday.com)>; Canfield, Peter C. <[pcanfield@jonesday.com](mailto:pcanfield@jonesday.com)>; [rgerber@everytown.org](mailto:rgerber@everytown.org); [alefkowitz@everytown.org](mailto:alefkowitz@everytown.org)

**Cc:** Helfand, Bill <[Bill.Helfand@lewisbrisbois.com](mailto:Bill.Helfand@lewisbrisbois.com)>; Britton, Tiffany <[Tiffany.Britton@lewisbrisbois.com](mailto:Tiffany.Britton@lewisbrisbois.com)>

**Subject:** Bay Area v Paxton 4:20-CV-03081 -- Motion to Extend Time to File Answer

**\*\* External mail \*\***

Good afternoon,

The City of Webster will be filing a Motion to Extend Time to File Answer. The motion is necessary as there is a pending 1292 (b) that has yet to be addressed.

Please indicate if you are opposed or unopposed to this motion being filed.

Sincerely,

Tiffany C. Britton

**Attorney**

Houston

713.342.0109



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## Exhibit 2

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BAY AREA UNITARIAN )  
UNIVERSALIST CHURCH; DRINK )  
HOUSTON BETTER, LLC d/b/a )  
ANTIDOTE COFFEE; PERK YOU )  
LATER, LLC )  
)  
VS. ) CIVIL ACTION NO:  
) 4:20-cv-3081  
)  
KIM OGG, District Attorney for )  
Harris County, in her official )  
capacity; ED GONZALEZ, County )  
Sheriff for Harris County, in )  
his official capacity; PETE )  
BACON, Acting Chief of Police )  
for the Webster Police )  
Department, in his official )  
Capacity; TROY FINNER, Chief )  
of the Houston Police )  
Department, in his official )  
capacity )

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION

ISAAC J. DUPLCHAIN

AUGUST 31, 2022

VOLUME 1

(REPORTED REMOTELY)

\*\*\*\*\*

1 ORAL AND VIDEOTAPED DEPOSITION of ISAAC J. DUPLECHAIN,  
2 produced as a witness at the instance of the Plaintiffs, and  
3 duly sworn, was taken in the above-styled and numbered cause on  
4 the 31st day of August, 2022, from 10:05 a.m. to 1:16 p.m.,  
5 before Rhonda K. Ashman, CSR, RPR, in and for the State of  
6 Texas, reported by stenographic means via Zoom, at City of  
7 Houston Legal Department, 900 Bagby Street, Houston, Texas,  
8 pursuant to the Federal Rules of Civil Procedure and the  
9 provisions or agreements, if any, as stated on the record or  
10 attached hereto.

11  
12 A P P E A R A N C E S

13 FOR THE PLAINTIFFS:

14 Ms. Calland Ferraro, Esq.

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18 - and -

19 Ms. Lesley Roe, Esq.

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22 DEPARTMENT:  
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ALSO PRESENT:  
Pete Jennings, Videographer

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1       **says, The role of the police is to resolve problems through the**  
2       **enforcement of laws.**

3                       **Did I read that correctly?**

4                       **MS. AZADEH:** Objection, form.

5           A.     Yes, that's what it says.

6           **Q.     (BY MS. FERRARO)   So is one of the roles of the**  
7       **Houston Police Department to enforce the law?**

8                       **MS. AZADEH:** Objection. Exceeds the scope of  
9       the topics noticed. And any answer should not be considered on  
10      behalf of the City.

11                      **MS. FERRARO:** And we object to that objection.

12           **Q.     (BY MS. FERRARO)   You can answer.**

13           A.     Again, I think we're going to have to discuss the  
14      meaning of the word "enforce." In a colloquial sense, this  
15      being law enforcement, the role of the police is to resolve  
16      problems through the enforcement of law.

17                      However, in the legally-operative sense, we are  
18      not the ones that enforce it, per se. We are actually -- if we  
19      were to be a little more precise with this language, we would  
20      be saying that we investigate, resolve problems through the  
21      investigations of laws, the detention of persons, and then the  
22      bringing them to the proper parties for, per se, enforcement.

23           **Q.     So when you say the detention of parties, what do you**  
24       **mean?**

25           A.     As part of an investigation into potential violation

1           A.     Again, using the colloquial term of arrest, yes, the  
2     Texas Constitution for -- sorry -- the United States  
3     Constitution Fourth Amendment does require probable cause for  
4     warrant -- for all searches and seizures, including warrantless  
5     searches and seizures.

6           **Q.     (BY MS. FERRARO)   So what must an officer do to**  
7     **assess whether someone has violated the law?**

8           **MS. AZADEH:**   Objection, form.

9           A.     Well, every case is different.   Every case depends on  
10    the context of all of the various factors.   So an officer, when  
11    investigating a potential violation of Texas law, would look at  
12    all of the circumstances, look at the conduct, behavior, the  
13    credibility to an extent of the various parties to try to  
14    determine what precisely it was that happened, compare that to  
15    the various elements of the law, and then contact the District  
16    Attorney's Office for the possibility of charges against that  
17    person.

18          **Q.     (BY MS. FERRARO)   So you mentioned -- you mentioned**  
19    **the various elements of the law.   Does that -- so must an**  
20    **office -- does that mean that an officer must assess what the**  
21    **various elements of the law are?**

22          **MS. AZADEH:**   Objection, form.

23          A.     At the investigative stage, they are, simply put,  
24    investigating.   They are looking at the possible violation.  
25    And only when they have all the facts would they then compare

1     them to the elements of the law to determine -- and then  
2     consult with an attorney from the District Attorney's Office to  
3     determine whether or not there is a chargeable violation.

4           **Q.     (BY MS. FERRARO)   So even before a chargeable**  
5     **violation -- I'm just asking about the initial arrest, the**  
6     **detention as we've used in the colloquial sense -- would a**  
7     **police officer have to evaluate the elements of a crime in**  
8     **order to detain that person for a violation of that crime?**

9           **MS. AZADEH:**   Objection, form.

10          A.     An officer is expected to investigate the case fully  
11     and completely and thoroughly determine to the best of their  
12     ability at the time what occurred and then compare those facts  
13     to any possible violation of Texas law as they understand it.

14           However, to actually complete the arrest  
15     process, to be considered, quote, under arrest fully, you have  
16     to then -- you, I say the officer, has to contact the District  
17     Attorney's Office, present the facts of the case. And they're  
18     the ones that actually do the element-by-element comparison.

19          **Q.     (BY MS. FERRARO)   So are you telling me that you have**  
20     **to -- that a police officer has to call the District Attorney's**  
21     **Office before they can even detain someone for a violation of**  
22     **the crime?**

23          **MS. AZADEH:**   Objection, form.

24          A.     Again, you can detain someone. But going any --  
25     beyond the investigative detention step to the point where they

1 would have -- they would potentially be charged with a crime, a  
2 violation of the Texas Penal Code or other statute, does  
3 require consultation and authority from the District Attorney's  
4 Office.

5 **Q. (BY MS. FERRARO) So when you mentioned the**  
6 **investigative detention step, what do you mean?**

7 A. There's a point in which you're conducting an  
8 investigation -- and I say you, I mean officers in the general  
9 sense -- in which the officer is conducting the investigation  
10 trying to determine what happened. At that point, the  
11 potential suspect is still that, potential suspect. But he's  
12 also not free to go. And so we have the authority to  
13 temporarily detain people during this process with the  
14 possibility that that may turn into a formal arrest.

15 **Q. And during a detention, as you've -- you're -- as**  
16 **you're talking about it, is a person free to leave?**

17 **MS. AZADEH:** Objection, form.

18 A. Again, it always depends on the context. If there is  
19 sufficient cause to detain them and hold them for the full  
20 violation in the consultation with the District Attorney's  
21 Office, then, yes, they're not free to leave.

22 **Q. (BY MS. FERRARO) So you just mentioned sufficient**  
23 **cause. What does that mean?**

24 **MS. AZADEH:** Objection, form.

25 A. Sufficient cause is -- is probable cause to believe

1 that a violation did occur; that that person is the one that  
2 committed the violation, and that it's more likely than not  
3 that these -- those are what happened.

4 Q. (BY MS. FERRARO) And so you mentioned probable cause  
5 to believe that the offense did occur. Does that require  
6 probable cause that each element of the offense occurred?

7 MS. AZADEH: Objection, form.

8 A. Again, to be specific about the sequence of events,  
9 the comparison from -- of elements of the crime does not occur  
10 until the point in which the officer calls and consults with an  
11 attorney. Everything prior to that, you should have probable  
12 cause to believe that a violation has occurred, but not  
13 necessarily that -- that each and every element has been  
14 independently satisfied to the satisfaction of a -- of the  
15 consulting attorney. Because there are circumstances in which  
16 you call and they say that they are not going to accept charges  
17 even if you have someone under investigative detention.

18 Q. (BY MS. FERRARO) Okay. So we'll get in -- back into  
19 that later. But let's look -- let's look at some documents  
20 first. So if we could turn to Tab 5, what we can mark as  
21 Exhibit 5 for purposes of this deposition.

22 This is another General Order like the one we --  
23 like the ones we talked about before, correct?

24 A. Yes.

25 Q. Okay. And the title of this document is Filing

## E X A M I N A T I O N

BY MS. AZADEH:

**Q. Commander, irrespective of what an investigation may reveal to an officer or the ADA that he contacts to consult, if the DA refuses to accept charges, does a -- does a Houston police officer have any authority to arrest or charge that person?**

A. We do not. At best, we would be able to refer it to -- for further investigation at which point another investigator may contact the District Attorney's Office again to make a second attempt to get charges on someone with new information.

However, if the -- without the authorization of the District Attorney's Office, we have no ability to move forward in the criminal justice process.

**Q. Okay. And then if an officer is unsure of whether any offense has been committed or -- or any specific offense -- or doesn't have any specific offense in mind, does he have discretion to not call the DA regarding possible charges?**

A. The only time you would not call the District Attorney's Office for possible charges is if it's crystal clear that there have -- that there was no violation, that there's no allegation by any party that there was a violation of law. If it is even remotely possible there was a violation of law, then the officer is to contact the District Attorney's Office for

1 presentation of those facts in consultation about whether or  
2 not the DA's office will file the charges.

3 Q. And if -- for any -- any charge, if the -- if the ADA  
4 has confirmed and accepted charges, does an officer have  
5 discretion not to make the arrest or pursue the charge?

6 A. No. It is the decision of the prosecutor, the  
7 representative from Harris County District Attorney's Office,  
8 to make the determination as to whether or not there will be  
9 charges. If they say yes, even if an officer believes that  
10 charges are not appropriate somehow, they still have to go  
11 forward with -- with their job of presenting the facts of the  
12 case in the probable cause statement that becomes the  
13 affidavit.

14 Q. Thank you. Sorry, I'm just trying to find that  
15 exhibit. My documents are not working well.

16 I'm gonna go back to an exhibit you've already  
17 discussed partially. It's Tab 12.

18 A. All right.

19 Q. Now, at -- if you could look at page 2. You looked  
20 at -- you went through a few of these rows. I just wanted you  
21 to look at the row that starts with, "A business that  
22 receives."

23 A. This is the fifth row?

24 Q. One, two, three, four -- yes. And that -- it says, A  
25 business that receives 51 percent or more of its income from

1 the service of alcohol for consumption on premises, and then in  
2 the columns below that it indicates that no firearms are  
3 allowed on that property without any signage; is that correct?

4 A. That is correct. A business that receives 51 percent  
5 or more of its income from the service of alcohol for  
6 consumption on premises, none of the four types of firearms,  
7 whether that's permitless handgun, permitless long gun, or  
8 handgun with license to carry, whether concealed or open, under  
9 none of those circumstances is it permissible to carry.

10 Q. Okay. Thank you. And then on the following page,  
11 again, I just wanted to clarify that there was sign examples.  
12 And you went through a few of them. And on the right-hand  
13 column in the middle, do you see where it says, Texas  
14 Government Code 411.204, Notice prohibits license holders from  
15 carrying handguns in alcohol beverage establishments? Do you  
16 see that?

17 A. Yes, I see it.

18 Q. Are you familiar with that sign?

19 A. Yes.

20 Q. And what is your understanding of what the -- what  
21 that sign means?

22 A. That sign satisfies the statutory requirements  
23 necessary to provide a violation of the Penal Code for that  
24 specific statute.

25 Q. Okay. And do you know if that's a sign that's

1 required by the TABC under certain circumstances?

2 A. The TABC does require it to be posted as part of  
3 their -- their application and permitting rules. It is one of  
4 the items that they mandate as being present just like any  
5 other permitting signs required by the City and State.

6 Q. Thank you. I guess I just had one more  
7 clarification. You discussed General Order 500-7, which is  
8 regarding filing proper charges that were effective in 2012.  
9 Have there -- as far as you know, have there been any revisions  
10 of that General Order?

11 MS. FERRARO: Counsel, can you identify the --  
12 the tab number of that?

13 MS. AZADEH: Yeah. I think it's Tab 5. Yes.

14 A. I believe that it is been revised in 2017. Seeing  
15 that this is more than ten years old, I do not believe we  
16 have -- we have any at the moment that are ten years old or  
17 more in General Orders, so this one would have had to have been  
18 revised. But I do believe that it was revised in most recently  
19 2017. And it's actually currently under revision again right  
20 now and will presumably go up the -- the chain of command and  
21 be reviewed and be published somewhere in the next six months.

22 MS. AZADEH: Okay. Thank you. I pass the  
23 witness and reserve the remainder of our questions.

24 MS. FERRARO: I just have a few follow-up  
25 questions, if you don't mind.

1 STATE OF TEXAS )

2 I, Rhonda K. Ashman, Certified Shorthand Reporter in and  
3 for the State of Texas, do hereby certify that, pursuant to the  
4 agreement hereinbefore set forth, there came before me on the  
5 31st day of August, A.D., 2022 at 10:05 a.m., at City of  
6 Houston Legal Department, 900 Bagby Street, in the City of  
7 Houston, County of Harris, and State of Texas, the following  
8 named person to-wit: ISAAC J. DUPLCHAIN, who was by me duly  
9 sworn to testify the truth and nothing but the truth of his  
10 knowledge touching and concerning the matters in controversy in  
11 this cause; and that he was thereupon carefully examined upon  
12 his oath and his examination reduced to writing under my  
13 supervision; that the deposition is a true record of the  
14 testimony given by the witness, same to be sworn to and  
15 subscribed by said witness before any Notary Public, pursuant  
16 to the agreement of the parties; and that the amount of time  
17 used by each party at the deposition is as follows:

18 Ms. Calland Ferraro - 2:46

Ms. Melissa Azadeh - 00:08

19 Mr. Justin C. Pfeiffer - 00:00

Ms. Heena Kepadia - 00:00

20  
21 I further certify that I am neither attorney or counsel  
22 for, nor related to or employed by, any of the parties to the  
23 action in which this deposition is taken, and further that I am  
24 not a relative or employee of any attorney or counsel by the  
25 parties hereto, or financially interested in the action.

1 I further certify that before the completion of the  
2 deposition, the Deponent, and/or the Plaintiff/Defendant did  
3 request to review the transcript.

4 Certified to by me this \_\_\_\_\_ day of  
5 \_\_\_\_\_, A.D., 2022.

6  
7  
8 Rhonda Kay Ashman  
9



RHONDA K. ASHMAN, RPR, Texas CSR 5259

10 Expiration Date: 10/31/2022

11 WORLDWIDE COURT REPORTERS, INC.

Firm Registration No. 223

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13 Houston, Texas 77027

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25

# Exhibit 3

# General Order

## Houston Police Department



ISSUE DATE:

May 10, 2017

NO.

500-07

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 500-07, dated January 20, 2012

SUBJECT: FILING PROPER CHARGES

### POLICY

The Houston Police Department shall work cooperatively with the District Attorney's Office to help reduce the number of cases dismissed. Proper documentation of the facts and supervisory review should help reduce incidents when charges are dismissed as well as protect officers from frivolous Internal Affairs complaints.

Effective law enforcement requires cooperation between police officers and members of the District Attorney's Office. This General Order outlines procedural guidelines for officers and supervisors to use when consulting with the Harris County District Attorney's Office regarding the filing of charges.

Officers shall refer to General Order 500-01, **Effecting Arrests and Searches**, for filing procedures in Fort Bend or Montgomery counties.

This General Order applies to all classified employees.

### 1 CONSULTATION WITH AN ASSISTANT DISTRICT ATTORNEY

Before filing any charges with the Harris County District Attorney's Office, the officer filing the charges shall speak with an assistant district attorney to ensure that the charges will be accepted.

During the consultation, the officer shall provide the elements of the offense, sufficient details to show that probable cause existed to arrest the person, and evidence that the person being charged did in fact commit the offense. These probable cause details shall be included in the charges filed via the District Attorney Intake Management System (DIMS).

It is important that a thorough probable cause statement be contained in the warrant because this is sometimes the only information available to the assistant district attorney when the defendant is arraigned before a magistrate during a probable cause hearing. It is also imperative that the officer filing charges document the exact time of arrest.

An assistant district attorney also shall be consulted before the simultaneous filing of both county and municipal charges against one suspect if these charges are based on the same set of circumstances or the same criminal action. This consultation eliminates the possibility of a case being dismissed because of noncompliance with the Speedy Trial Act or because of violations of legal restraints against placing a defendant in double jeopardy.

Whenever an officer is unsure of the elements of a particular case, he shall discuss the matter with his immediate supervisor or contact the District Attorney's Office.

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**General Order #500-07****ISSUE DATE:** May 10, 2017**PAGE: #2**

Under no circumstances shall a lesser charge be filed merely as a matter of convenience. For example, a charge of Public Intoxication shall not be filed if the actual offense was Driving While Intoxicated. Appropriate charges shall be filed according to the elements of the offense.

## **2 REJECTION OF CHARGES BY ASSISTANT DISTRICT ATTORNEYS**

If an officer tries to file charges through the District Attorney's Intake Office and these charges are rejected, the officer shall include all of the following information in the original or supplemental incident report:

- a. Time and date the officer spoke with the assistant district attorney about filing charges in the case.
- b. Name of the assistant district attorney who rejected the charges.
- c. Reasons given by the assistant district attorney for rejecting the charges.

If the officer feels that the appropriate charge was not accepted by an assistant district attorney, then the officer shall notify a supervisor. If the supervisor finds mishandling on the part of the officer, the supervisor shall instruct the officer on policy and proper procedures to avert recurrences.

## **3 DEPARTMENT OF PUBLIC SAFETY DRIVING WHILE LICENSE INVALID**

Texas driver license suspensions shall be verified through Vehicular Crimes Division. The Vehicular Crimes Division shall accept holds for persons charged with Class B or greater Driving While License Invalid (DWLI). A license is considered invalid if it is confirmed to be suspended, revoked, cancelled, non-renewed, or expired. A DWLI first offense is a Class C misdemeanor. DWLI becomes a Class B misdemeanor if the person has a previous conviction for DWLI or was previously suspended as the result of an offense involving the operation of a motor vehicle while intoxicated.

## **4 RESISTING ARREST, SEARCH, OR TRANSPORTATION; EVADING ARREST OR DETENTION; AND INTERFERENCE WITH PUBLIC DUTIES**

Officers shall use their training and experience in evaluating the totality of the circumstances when assessing whether charges should be pursued. If an event warrants an officer making an arrest of a person for Resisting Arrest, Search, or Transportation; Evading Arrest or Detention; or Interference with Public Duties, the arresting officer shall immediately notify a supervisor of the arrest and request his presence at the scene.

The arresting officer shall have a supervisor present prior to contacting the District Attorney's Office.

A supervisor shall check by on all scenes involving any of the above incidents. Once at the scene, the supervisor shall also do all of the following:

COH\_BAY AREA\_000002

**General Order #500-07****ISSUE DATE:** May 10, 2017**PAGE: #3**

- a. Observe the suspect's physical condition, if possible.
- b. Ensure the suspect receives medical attention if injured.
- c. Speak with all officers at the scene and review the facts with them.
- d. Review all the facts with the arresting officer and discuss with the arresting officer the range of charges that may be applicable.
- e. Ensure any response to resistance is properly documented.

Only after the supervisor has completed the above requirements shall the officer contact the District Attorney's Office to determine if criminal charges will be accepted.

In addition to the above listed requirements, the supervisor shall do all of the following:

- f. Take and maintain accurate field notes related to the incident.
- g. Review the officer's incident report to ascertain that sufficient details of the incident are documented to support the arrest charge.

After the officer speaks with the District Attorney's Office, the officer shall immediately notify the scene supervisor of the assistant district attorney's decision.

The officer shall also document in the incident report the name of the supervisor that checked by on the scene and reviewed the facts with the officer.

Officers shall ensure that all elements of the offense and sufficient details are included in the charge filed via the DIMS or Juvenile Offender Tracking System (JOTS). Details of the offense need to show that probable cause existed to arrest the person and that there was evidence to prove that the person being charged did in fact commit the offense.

It is imperative that there is a compelling probable cause statement in the charge details, given that this may be the only information available to the assistant district attorney when the defendant is arraigned before a magistrate during a probable cause hearing.

## **5 FILING CHARGES ON PRISONERS FOR CLASS "B" OR GREATER OFFENSES**

When officers are required to file Class B or greater charges on suspects placed on "hold" by any investigative division, upon Jail Division personnel accepting the prisoner, the officer shall do all of the following:

- a. Complete a General Person's Inquiry on the prisoner.
- b. Complete any required report and related paperwork.

Officers shall refer to General Orders 500-08, **Required Booking Information and Hold Procedures** and 800-07, **Criteria for Submitting Incident Reports**, for further information.

**General Order #500-07**

**ISSUE DATE:** May 10, 2017

**PAGE: #4**

- c. Enter charges in DIMS or JOTS, as applicable. Officers shall not delay entering the charge documents in order to wait for an Automated Fingerprint Identification System (AFIS) number.
- d. Contact the division that authorized the hold and provide them with the incident report number.

Upon completion of charges being filed and after any required information and paperwork has been provided to and accepted by the division that authorized the hold, officers shall return to service.

The investigative division authorizing the hold shall be responsible for contacting the Jail Division to obtain the AFIS number and finalize the transmitting of the charges.

The division authorizing the hold shall ensure that charges are completed in a timely manner.

The officer transmitting the charges via DIMS shall confirm with District Attorney (DA) Intake that they have received all necessary information.

## **6 MUNICIPAL COMPLAINTS**

Municipal complaints are used to file Class C misdemeanor charges against a defendant.

The affiant on the complaint may be either the officer or the complainant, and the complaint shall be sworn to before a notary public.

The complaint shall be completed in the presence of the notary public. All officers booking prisoners for Class C violations shall properly fill out all portions of the citation and/or complaint.

## **7 USE OF RETAIL VALUE**

The value of items in theft cases shall be determined by the retail value of the stolen goods.

## **8 RELATED GENERAL ORDERS**

500-01, Effecting Arrests and Searches

500-08, Required Booking Information and Hold Procedures

600-17 Response to Resistance

800-07 Criteria for Submitting Incident Reports

  
Art Acevedo  
Chief of Police

COH\_BAY AREA\_000004

# General Order

## Houston Police Department



ISSUE DATE:

January 20, 2012

NO.

500-07

**REFERENCE:** Supersedes all prior conflicting Circulars and Directives, and General Order 500-07, dated January 1, 1987

**SUBJECT: FILING PROPER CHARGES**

### POLICY

The Houston Police Department shall work cooperatively with the District Attorney's Office to help reduce the number of cases dismissed. Proper documentation of the facts and supervisory review should help reduce incidents when charges are dismissed as well as protect officers from frivolous Internal Affairs complaints.

Effective law enforcement requires cooperation between police officers and members of the District Attorney's Office. This General Order outlines procedural guidelines for officers and supervisors to use when consulting with the Harris County District Attorney's Office regarding the filing of charges.

Officers shall refer to General Order 500-01, **Effecting Arrests and Searches**, for filing procedures in Fort Bend or Montgomery counties.

### **1 CONSULTATION WITH AN ASSISTANT DISTRICT ATTORNEY**

Before filing any charges with the Harris County District Attorney's Office, the officer filing the charges must speak with an assistant district attorney to ensure that the charges shall be accepted.

During the consultation, the officer shall provide the elements of the offense, sufficient details to show that probable cause existed to arrest the person and evidence that the person being charged did in fact commit the offense. These probable cause details shall be included in the charges filed via the District Attorney Intake Management System (DIMS).

It is important that a thorough probable cause statement be contained in the warrant because this is sometimes the only information available to the assistant district attorney when the defendant is arraigned before a magistrate during a probable cause hearing. It is also imperative that the officer filing charges document the exact time of arrest.

An assistant district attorney also shall be consulted before the simultaneous filing of both county and municipal charges against one suspect if these charges are based on the same set of circumstances or the same criminal action. This consultation eliminates the possibility of a case being dismissed because of noncompliance with the Speedy Trial Act or because of violations of legal restraints against placing a defendant in double jeopardy.

Whenever an officer is unsure of the elements of a particular case, he shall discuss the matter with his immediate supervisor or contact the District Attorney's Office.

Under no circumstances shall a lesser charge be filed merely as a matter of convenience. For example, a charge of Public Intoxication shall not be filed if the actual offense was Driving While Intoxicated. Appropriate charges shall be filed according to the elements of the offense.

### **2 REJECTION OF CHARGES BY ASSISTANT DISTRICT ATTORNEYS**

If an officer tries to file charges through the District Attorney's Intake Office and these charges are rejected, the officer shall include all of the following information in the original or supplemental incident report:

**COH\_BAY AREA\_000549**

General Order #500-07

ISSUE DATE: January 20, 2012

PAGE: #2

- a. Time and date the officer spoke with the assistant district attorney about filing charges in the case.
- b. Name of the assistant district attorney who rejected the charges.
- c. Reasons given by the assistant district attorney for rejecting the charges.

If the officer feels that the appropriate charge was not accepted by an assistant district attorney, then the officer shall notify a supervisor. If the supervisor finds mishandling on the part of the officer, the supervisor shall instruct the officer on policy and proper procedures to avert recurrences.

### **3 DEPARTMENT OF PUBLIC SAFETY DRIVING WHILE LICENSE INVALID**

Texas driver license suspensions should be verified through Vehicular Crimes Division. The Vehicular Crimes Division shall accept holds for persons charged with Class B or higher Driving While License Invalid (DWLI). A license is considered invalid if it is confirmed to be suspended, revoked, cancelled, non-renewed, or expired. A DWLI first offense is a Class C misdemeanor. DWLI becomes a Class B misdemeanor if the person has a previous conviction for DWLI or was previously suspended as the result of an offense involving the operation of a motor vehicle while intoxicated.

### **4 RESISTING ARREST, SEARCH, OR TRANSPORTATION, EVADING ARREST OR DETENTION AND INTERFERENCE WITH PUBLIC DUTIES**

Officers should use their training and experience in evaluating the totality of the circumstances when assessing whether charges should be pursued. If an event

warrants an officer to make an arrest of a person for Resisting Arrest, Search, or Transportation, Evading Arrest, Detention, or Interference With Public Duties, the arresting officer must immediately notify a supervisor of the arrest and request his presence at the scene.

The arresting officer must have a supervisor present prior to contacting the District Attorney's Office.

A supervisor must check by on all scenes involving any of the above incidents. Once at the scene, the supervisor must also do all of the following:

- a. Observe the suspect's physical condition if possible.
- b. Speak with all officers at the scene and review the facts with them.
- c. Review all the facts with the arresting officer and discuss with the arresting officer the range of charges that may be applicable.
- d. Ensure any use of force is properly documented.
- e. Ensure the suspect receives medical attention if injured.

Only after the supervisor has completed the above requirements shall the officer contact the District Attorney's Office to determine if criminal charges shall be accepted.

In addition to the above listed requirements, the supervisor must do all of the following:

- f. Take and maintain accurate field notes related to the incident.
- g. Review the officer's incident report to ascertain that sufficient details of the incident are documented to support the arrest charge.

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ISSUE DATE: January 20, 2012

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After the officer speaks with the District Attorney's Office, the officer must immediately notify the scene supervisor of the assistant district attorney's decision.

The officer must also document in the incident report the name of the supervisor that checked by on the scene and reviewed the facts with the officer.

Officers shall ensure that all elements of the offense and sufficient details are included in the charge filed via the DIMS or Juvenile Offender Tracking System (JOTS). Details of the offense need to show that probable cause existed to arrest the person and that there was evidence to prove that the person being charged did in fact commit the offense.

It is imperative that there is a compelling probable cause statement in the charge details, given that this may be the only information available to the assistant district attorney when the defendant is arraigned before a magistrate during a probable cause hearing.

## 5 FILING CHARGES ON CLASS "B" OR ABOVE PRISONERS

When officers are required to file Class B or above charges on suspects placed on "hold" by any investigative division, upon Jail Division personnel accepting the prisoner, the officer shall do all of the following:

- a. Complete a General Person's (F-6) Inquiry on the prisoner.
- b. Complete any required report and related paperwork.

(Officers shall refer to General Orders 500-08, **Required Booking Information and Hold Procedures** and 800-07, **Criteria for Submitting Incident Reports**, for further information.)

- c. Enter charges in DIMS and obtain a transaction number. Officers shall not delay entering the charge documents in order to wait for an Automated Fingerprint Identification System (AFIS) number.
- d. Contact the division that authorized the hold and provide them with the incident report and DIMS transaction numbers.

Upon completion of charges being filed and after any required information and paperwork has been provided to and accepted by the division that authorized the hold, officers shall return to service.

The investigative division authorizing the hold shall be responsible for contacting the Jail Division to obtain the AFIS number and finalize the transmitting of the charges.

The division authorizing the hold shall ensure that charges are completed in a timely manner.

The officer transmitting the charges via DIMS shall confirm with District Attorney (DA) Intake that they have received all necessary information.

## 6 MUNICIPAL COMPLAINTS

Municipal complaints are used to file Class C misdemeanor charges against a defendant.

The affiant on the complaint may be either the officer or the complainant, and the complaint must be sworn to before a notary public.

The complaint shall be completed in the presence of the notary public. All officers booking prisoners for Class C violations shall properly fill out all portions of the ticket and/or complaint.

General Order #500-07

ISSUE DATE: January 20, 2012

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**7 USE OF RETAIL VALUE**

The value of items in theft cases shall be determined by the retail value of the stolen goods.

**8 RELATED GENERAL ORDERS**

500-01, Effecting Arrests and Searches  
500-08, Required Booking Information  
and Hold Procedures  
800-07 Criteria for Submitting Incident  
Reports



Charles A. McClelland, Jr.  
Chief of Police

COH\_BAY AREA\_000552

# Exhibit 4

# General Order

## Houston Police Department



ISSUE DATE:

March 7, 2012

NO.

800-07

**REFERENCE:** Supersedes all prior conflicting Circulars and Directives, and General Order 800-07, dated June 12, 2007

### SUBJECT: CRITERIA FOR SUBMITTING INCIDENT REPORTS

#### POLICY

Incident reports shall be completed when an officer on-views or becomes aware of any activity that may indicate the occurrence of a crime or becomes aware of a suspicious incident with a potential terrorism connection.

Incident reports shall be completed and submitted for review prior to the end of each shift.

This General Order applies to all employees.

Teleserve Unit eligible calls include:

- Telephone Harrassment / No Threat
- Theft – lost or stolen under \$10,000
- Theft of Service
- Theft from Motor Vehicle
- Criminal Mischief
- Burglary of Motor Vehicle
- Burglary of Coin Operated Machine
- Auto Theft / LoJack
- Auto Theft / Investigation Auto Theft
- Forgery / Investigation Forgery
- Out of Jurisdiction / Long Distance

Under most circumstances, officers are not required to generate an incident report regarding civil matters. A first-line supervisor shall be contacted in all cases in which there is disagreement between a citizen and an officer regarding the generation of a report.

With the exception of City property, fire-arms, explosives, or circumstances addressed in section 5, *Suspicious Activity*, of this General Order, generating Lost or Stolen Property reports for items believed to be lost rather than stolen, shall be left to the discretion of the officer.

When a loss involves credit cards, banking checkbooks, Automated Teller Machine (ATM) cards, pagers, keys, or other items that can be devalued by closing accounts, discontinuing service, or changing locks, complainants shall be directed to notify the respective company or financial institution. When a wireless device is stolen, officers shall contact the relevant investigative division prior to advising the complainant to shut off the device.

Nothing prohibits completing a Lost or Stolen Property report if the officer feels the circumstances surrounding the loss support

#### 1 EXCEPTIONS

Exceptions to this policy include certain misdemeanor thefts or criminal mischief incidents. Officers who receive a call to a misdemeanor theft or criminal mischief case having no solvability factors (e.g., suspect, witness, or physical evidence), may request that the police dispatcher redirect the call either to the Teleserve Unit or to the "Online Police Report" via the department's Web site. The police dispatcher shall examine the queue for the Teleserve Unit and if possible, redirect the call. The dispatcher shall be the final authority regarding these matters.

The primary duty of the Teleserve Unit is to take preliminary incident reports by telephone, which allows patrol units to be available for response to higher priority calls for service. Teleserve services "delayed report" calls which deal with lost or stolen property or willful damage to property, in which there is no evidence to gather and there are no witnesses able to identify possible suspects. Teleserve shall not handle "In Progress" calls for service.

COH\_BAY AREA\_000007

General Order #800-07

ISSUE DATE: March 7, 2012

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generating an incident report (e.g., sensitive documents, expensive items, driver licenses, and social security cards).

public service transportation shall be completed and entered before leaving the Juvenile Division.

## 2 ONLINE POLICE REPORTS

WebCop is an online-based self-reporting incident report writing system which allows citizens to file their own police reports for minor crimes with low solvability, no evidence, no witnesses, and no possible suspects. With this criterion in place, WebCop serves to help increase the efficiency of patrol and investigative operations by allowing officers more time to respond to and investigate higher priority incidents. WebCop eligible calls are limited to theft and criminal mischief reports where the loss is less than \$5000.

Online police reporting is intended as a convenience for citizens who wish to use the Internet to report certain crimes. Officers shall not direct citizens to the online police reporting application as a substitute for taking a report call or as a substitute for a walk-in transaction at a police facility.

## 3 SITUATIONS THAT ALWAYS REQUIRE AN INCIDENT REPORT

The following situations always require the creation and submission of an incident report:

- a. Felony or Class A or B misdemeanor.
- b. Family Violence (see General Order 600-06, **Family Violence**).
- c. Hate crime (see General Order 600-37, **Hate Crimes**).
- d. Home invasion.
- e. Class C misdemeanors of assault, trespassing, or loitering on school property.
- f. Juvenile involvement of any type. Reports concerning a juvenile in custody or

- g. Threat of or actual bodily injury sustained by a citizen, suspect, or a police officer.
- h. Tagged property.
- i. Death of a person.
- j. Stolen vehicle.
- k. Use of force by an employee, (see General Order 600-17, **Use of Force**).
- l. Display of any weapon necessitating a police response.
- m. Rejection of a prisoner by the Jail Division for medical reasons.
- n. Suspicious activity, as listed in section 5 of this General Order.
- o. Contact with a diplomatic representative of a foreign government, (see General Order 500-15, **Contact with Representatives of Foreign Governments**).
- p. All incidents involving persons suspected of mental illness. If a mentally ill citizen has been handled more than once in any given calendar year for emergency detention, officers may supplement the original report if one exists.
- q. Lost firearms or explosives.
- r. Lost, stolen, or damaged City property (see General Order 400-18, **Responsibility for City Property**).
- s. Trafficking of Persons. All incidents involving cases where persons have been found and it is reported they were smuggled or trafficked shall generate a report titled "Trafficking of Persons."

COH\_BAY AREA\_000008

**4 TEXAS ALCOHOLIC BEVERAGE COMMISSION (TABC) ESTABLISHMENTS**

Incidents involving a shooting, stabbing, or other public disturbance on the premises of an establishment holding a (TABC) license or permit, shall require officers to submit a copy of the incident report to the Vice Division for transmittal to the TABC.

**5 SUSPICIOUS ACTIVITY**

In order to ensure appropriate review and analysis of suspicious incidents with a potential terrorism connection, all officers shall complete an "Investigation Criminal Intelligence Division (CID)" report concerning any of the below listed suspicious activities. When a suspect is in custody or suspicious circumstances require additional investigative assistance, all officers shall contact the Command Center and Crime Analysis Division who will in turn contact the on-call Joint Terrorism Task Force (JTTF) supervisor or the Houston Regional Intelligence Service-Fusion Center (HRISC) supervisor.

- a. **Surveillance:** Suspicious persons, vehicles, or activities involved in videotaping, photographing, sketching or drawing, obtaining global positioning satellite (GPS) information, or asking detailed questions regarding buildings, chemical or petroleum facilities, the ship channel, water treatment facilities, mass transit, public events, or government or medical facilities.
- b. **Weapons of Mass Destruction:** Any person or suspicious event associated with the theft or detection of poisons, toxins, nerve gas, anthrax, or radiological, nuclear, chemical, biological or explosive materials that could produce mass casualties.
- c. **Aviation:** Any suspicious event or person associated with aviation. This includes passengers, pilots, aircraft, airports, aviation schools, aviation

equipment, or aviation licensing. Also, any person or suspicious event associated with the passenger "no-fly" lists, unusual flight training requests, or uncommon modifications to radio controlled aircraft.

- d. **Terrorism Contributor:** Any person or event associated with suspicious possession of almanacs, GPS devices, surveillance equipment, short-wave transmitter radios, unauthorized uniforms, or suspicious posters, fliers, or other publications.
- e. **Documents, Passports, and Credit Cards:** Any suspicious theft or event associated with altered, counterfeit, or stolen documents, passports, or passport history.
- f. **Official Identification/Uniforms:** Any loss or theft involving law enforcement, government, military, or other official document, facility access card, specialized equipment, or uniform depicting an official government or private industry badge or logo that would permit specific privileges or access.
- g. **Theft of Government Vehicles:** Any missing or stolen vehicle or license plate that could be used to gain access to a secured facility.
- h. **Theft of Cargo/Tanker/Delivery Vehicles:** Any missing or stolen vehicle large enough to be used as a terrorist weapon (e.g., truck bombs, gasoline, or diesel).
- i. **Protests/Demonstrations and Consulate Activity:** Any protest or demonstration associated with threats of terrorism, or threats relative to area consulates and foreign diplomatic venues.
- j. **Hate Crimes:** Any hate crime, harassment, threat, vandalism, or graffiti directed at persons or ethnic groups as a result of issues related to terrorism.

General Order #800-07

ISSUE DATE: March 7, 2012


PAGE: #4

- k. **Residences/Hotels:** Individuals who keep minimal standards of living (e.g., bed and table), vacate residences abruptly and leave possessions behind, or make unusual hotel requests (e.g., refusing maid service or asking for a specific view of bridges, infrastructure, or airports).
- l. **Marine Shops and Schools:** Individuals who request specific training or make odd inquiries inconsistent with recreational diving. Training conducted in remote or atypical locations, or restricted areas. Individuals who purchase excessive gear or advanced gear inconsistent with the stated use or purpose.
- m. **NCIC/Violent Gang Terrorist Organization File (VGTOF) Hits:** Any person or license plate "hit" on the VGTOF database.

- n. **Miscellaneous:** Any suspicious person or event not listed in the above categories but determined as suspicious or worthy of reporting by an officer or supervisor.

## 6 RELATED GENERAL ORDERS

- 400-18, **Responsibility for City Property**
- 400-19, **Microcomputer Regulations**
- 400-21, **Mobile Data Terminals**
- 400-22, **Keys and Passwords**
- 500-12, **Persons Suspected of Mental Illness**
- 500-15, **Contact with Representatives of Foreign Governments**
- 600-06, **Family Violence**
- 600-17, **Use of Force**
- 600-37, **Hate Crimes**
- 800-08, **Auto Theft Reports**

  
Charles A. McClelland, Jr.  
Chief of Police

# General Order

## Houston Police Department

**ISSUE DATE:**

June 19, 2018

**NO.**

800-07

**REFERENCE:** Supersedes all prior conflicting Circulars and Directives, and General Order 800-07, dated April 25, 2017**SUBJECT: CRITERIA FOR SUBMITTING INCIDENT REPORTS****POLICY**

Incident reports shall be completed when an officer views or becomes aware of any activity that may indicate the occurrence of a crime or becomes aware of a suspicious incident with a potential terrorism connection. Incident reports shall be completed and submitted for review prior to the end of each shift.

This General Order applies to all employees.

**1 EXCEPTIONS**

Exceptions to this policy include certain misdemeanor thefts or criminal mischief incidents. Prior to arrival, officers who receive a call to a misdemeanor theft or criminal mischief case having no solvability factors (e.g., suspect, witness, or physical evidence), may request that the police dispatcher redirect the call either to the Teleserve Unit or to the "Online Police Report" via the department's website, if eligible. The police dispatcher shall examine the queue for the Teleserve Unit and if possible, redirect the call. The dispatcher shall be the final authority regarding these matters.

The primary duty of the Teleserve Unit is to take preliminary incident reports by telephone, which allows patrol units to be available for response to higher priority calls for service. Teleserve services "delayed report" calls that deal with lost or stolen property or willful damage to property in which there is no evidence to gather and there are no witnesses able to identify possible suspects. Teleserve shall not handle "In Progress" calls for service. Teleserve Unit eligible calls include:

- a. Telephone Harassment / No Threat
- b. Theft – Lost or Stolen Under \$10,000
- c. Theft of Service
- d. Theft from Motor Vehicle
- e. Criminal Mischief
- f. Burglary of Motor Vehicle
- g. Burglary of Coin Operated Machine
- h. Auto Theft / LoJack
- i. Auto Theft / Investigation Auto Theft

**General Order #800-07****ISSUE DATE:** June 19, 2018**PAGE: #2**

j. Forgery / Investigation Forgery

k. Out of Jurisdiction / Long Distance

Under most circumstances, officers are not required to generate an incident report regarding civil matters. A first-line supervisor shall be contacted in all cases in which there is disagreement between a citizen and an officer regarding the generation of a report.

With the exception of City property, firearms, explosives, or circumstances addressed in section 6, *Suspicious Activity*, of this General Order, generating lost or stolen property reports for items believed to be lost rather than stolen, shall be left to the discretion of the officer.

When a loss involves credit cards, banking checkbooks, automated teller machine (ATM) cards, pagers, keys, or other items that can be devalued by closing accounts, discontinuing service, or changing locks, complainants shall be directed to notify the concerned company or financial institution. When a wireless device is stolen, officers shall contact the relevant investigative division prior to advising the complainant to terminate services associated with the device.

Nothing prohibits completing a lost or stolen property report if the officer feels the circumstances surrounding the loss support generating an incident report (e.g., sensitive documents, expensive items, driver licenses, or social security cards).

## **2 ONLINE POLICE REPORTS**

WebCop is an online based self-reporting incident report writing system that allows citizens to file their own police reports for minor crimes with low solvability and without any evidence, witnesses, or possible suspects. With these criteria in place, WebCop serves to help increase the efficiency of patrol and investigative operations by allowing officers more time to respond to and investigate higher priority incidents. WebCop eligible incidents are limited to theft and criminal mischief reports for which the loss is less than \$5,000 in value.

Online police reporting is intended as a convenience for citizens who wish to use the Internet to report certain crimes. Officers shall not direct citizens to the online police reporting application as a substitute for taking a report call or as a substitute for a walk-in transaction at a police facility.

## **3 SITUATIONS THAT ALWAYS REQUIRE AN INCIDENT REPORT**

The following situations always require the creation and submission of an incident report:

- a. Felony or Class A or B misdemeanor.
- b. Family violence (see General Order 600-06, **Family Violence**).
- c. Hate crime (see General Order 600-37, **Hate Crimes**).
- d. Home invasion.

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- e. Class C misdemeanor assault, trespassing, or trespassing on school property.
- f. Juvenile involvement of any type. Reports concerning a juvenile in custody or public service transportation shall be completed and entered before leaving the Juvenile Division.
- g. Threat of or actual bodily injury sustained by a citizen, suspect, or a police employee.
- h. Tagged property, including video evidence.
- i. Death of a person.
- j. Stolen vehicle.
- k. Response to resistance by an employee, (see General Order 600-17, **Response to Resistance**).
- l. Display of any weapon necessitating a police response.
- m. Rejection of a prisoner by jail personnel for medical reasons.
- n. Suspicious activity, as listed in section 6 of this General Order.
- o. Contact with a diplomatic representative of a foreign government (see General Order 500-15, **Contact with Representatives of Foreign Governments**).
- p. Any incident involving a person suspected of mental illness. If a mentally ill citizen has been handled more than once in any given *calendar* year for emergency detention and an original report exists, officers may supplement the original report.
- q. Lost firearms or explosives.
- r. Lost, stolen, or damaged City property (see General Order 400-18, **Responsibility for City and Other Government Property**).
- s. Trafficking of persons. When a person has been found and it is reported they were smuggled or trafficked, officers shall generate a report titled "Trafficking of Persons."
- t. Documentation of an offender in the Misdemeanor Marijuana Diversion Program.

#### **4 REPORTS AND APPROVAL IN THE RECORDS MANAGEMENT SYSTEM**

##### **Incident Report Approval Time Frames (Patrol and Investigations)**

Anytime an original or supplement incident report is created in the department's records management system (RMS), the owner of that report shall complete and Owner Approve (OA) the report by the end of the shift, with the exception of high priority reports (e.g., stolen or recovered vehicles, stolen or recovered license plates), which shall be Owner Approved immediately. Once an original or supplement incident report is Owner Approved, RMS automatically places the report in Supervisor Approved status. The Records Division shall leave

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the report in Supervisor Approved status for three *calendar* days to allow supervisors time to review the reports. Supervisors shall be responsible for the quality of work performed by their subordinates.

After a report has been OA and it is determined that corrections or modifications need to be made, the officer or supervisor can reopen the report for the modifications if it has not been frozen by Records Division. The system will allow a supervisor to send a follow-up request, if necessary. In this case, the supervisor would reopen the report for the user and send the user a follow-up request. If the supervisor does this, the recipient's employee number shall be entered on the form to ensure the author of the report receives the request.

After the initial three-*calendar*-day period, the report shall be frozen and transferred to RMS by the Records Division. Once the report has been frozen and transferred, it shall not be reopened and all changes or corrections shall then be done through a supplement.

#### **Unapproved Reports and Corrections**

All employees who enter incident reports in RMS shall log into the system daily to obtain any notification (e.g., follow-up requests) regarding their reports. If an employee receives notification that a report has been unapproved by either a supervisor or the Records Division, the report shall be corrected and OA by the end of the employee's shift, regardless of the due date listed on the follow-up request. Corrected and OA reports shall be frozen after three *calendar* days following the date the report was OA.

#### **Reports Created in Error**

If an incident report was created in error (e.g., incorrect incident number was used), whether it is an original or a supplement, then the report shall be titled: "Report Created in Error." If a supplement report was created under the wrong incident number, with no original report entered, then an original report shall be created under the same incident number in order for the supplement report to be OA and transferred into RMS. If an employee finds that a correct incident number was previously used in error for another report, then a new incident number can be requested for the same location in order to complete a report.

#### **Homicide Reports**

When a Homicide investigator responds to a scene, the Homicide hold desk personnel shall be responsible for completing, at a minimum, the Incident Tab of the original incident report with the primary investigator entered as the primary officer. The Homicide hold desk personnel shall also OA the report so that supplement reports can move through the approval process within the time frame described above. Patrol personnel shall not write an original report when a Homicide investigator is responding to the scene. Patrol officers shall generate only supplement reports for such incidents.

#### **Extra Employment**

All incident reports created while working extra employment shall be OA on the officer's own time by the end of the extra employment hours. See General Order 300-14, **Extra Employment**.

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**5 TEXAS ALCOHOLIC BEVERAGE COMMISSION (TABC) ESTABLISHMENTS**

Incidents involving a shooting, stabbing, or other public disturbance on the premises of an establishment holding a TABC license or permit shall require officers to submit a copy of the incident report to the Vice Division for transmittal to the TABC.

**6 SUSPICIOUS ACTIVITY**

Suspicious activity is defined as observed behavior reasonably indicative of pre-operational planning associated with terrorism or other criminal activity. While a single instance of suspicious activity may not be a precursor to terrorist or criminal activity, other factors and circumstances may be present that cause concern and require additional investigation. If there is a criminal offense associated with the incident, officers shall utilize the appropriate criminal offense title and indicate the Criminal Intelligence Division (CID) as the secondary concerned division.

When a suspect is in custody or suspicious circumstances require additional investigative assistance, officers shall contact the Houston Regional Intelligence Service Center (HRISC) supervisor. After business hours officers shall contact the on-call CID homeland security supervisor via the Command Center.

In order to ensure appropriate review and analysis of suspicious incidents with a potential terrorism connection, officers shall complete an "Investigation Criminal Intelligence" report concerning any of the suspicious activities listed below:

- a. **Terrorist Watch List Encounters:** Incidents when an officer receives an NCIC "hit" from the Terrorist Screening Center (TSC) on a suspect or license plate. Officers shall first follow the instructions from the TSC on how to proceed with the encounter. Additionally, if a positive identification is made, officers shall contact the HRISC during business hours, or the on-call CID homeland security supervisor via the Command Center at all other times.
- b. **Materials Acquisition or Storage, Weapons Collection or Discovery:** Incidents involving suspicious events or persons associated with weapons that would arouse suspicion of terrorism. This includes incidents involving weapons of mass destruction (chemical, biological, radiological, nuclear, or explosive) or the discovery of unusual amounts or types of weapons, explosives, chemicals, or other destructive material.
- c. **Violent Extremism and Radicalization:** Incidents that involve suspicious persons that glorify violent, extremist acts or persons who express support for or inspire violence.
- d. **Photography:** Incidents of a person taking photographs or video of a facility, critical infrastructure, or a secured, protected site in an unusual or surreptitious manner that would arouse suspicion of terrorism. This could include, but is not limited to, taking photographs or video of infrequently used access points, the superstructure of a bridge, personnel performing security functions (e.g., patrols, badge/vehicle checking), or security-related equipment (e.g., perimeter fencing, security cameras).
- e. **Observation/Surveillance:** Incidents involving unusual or prolonged interest in facilities, buildings, or infrastructure beyond casual or professional interest that would arouse

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suspicion of terrorism. Examples include marking or noting distances, taking detailed notes, or making diagrams.

- f. **Aviation Activity:** Incidents involving suspicious events or persons associated with aviation that would arouse suspicion of terrorism. This could include interfering with the operations of an aircraft, disturbances at an airport, violating flight restrictions, pointing a laser beam at an aircraft, or flying a drone in a suspicious manner over a facility or infrastructure without consent of the owner.
- g. **Misrepresentation, Eliciting Information, Testing or Probing Security, Breach, or Attempted Intrusion:** Incidents involving suspicious events or persons associated with the security of a facility, infrastructure, or secured, protected site that would arouse suspicion of terrorism. This could include presenting false documents, credentials, or badges or donning uniforms in order to gain entrance; or a person asking probing questions beyond mere curiosity about a building's purpose, operations, or security procedures; or a person who deliberately challenges the physical security or security systems of a facility; or a person who attempts or actually breaches a restricted area.
- h. **Theft/Loss/Diversions:** The theft of badges, uniforms, identification, or emergency vehicles associated with a facility, infrastructure, or secured, protected site.
- i. **Sabotage/Tampering/Vandalism:** Incidents involving the damaging, defacing, or destroying any part of a critical infrastructure. Critical infrastructure includes, but is not limited to, the chemical and petrochemical sector, government and emergency services sector, sporting venues and malls, energy and water facilities.
- j. **Miscellaneous Activity:** Incidents of suspicious events or persons that cannot be vetted and based on additional factors continue to arouse suspicion of terrorism or criminal activity.

## 7 RELATED GENERAL ORDERS

300-14, Extra Employment  
 400-18, Responsibility for City and Other Government Property  
 400-19, Microcomputer Regulations  
 400-21, Mobile Computing Devices  
 400-22, Keys, Passwords, and Personal Identification Numbers  
 500-12, Handling Persons Exhibiting Mental Health Crisis  
 500-15, Contact with Representatives of Foreign Governments  
 600-06, Family Violence  
 600-17, Response to Resistance  
 600-37, Hate Crimes  
 800-08, Auto Theft Reports

  
 Art Acevedo  
 Chief of Police

COH\_BAY AREA\_000127

# General Order

## Houston Police Department



ISSUE DATE:

September 13, 2016

NO.

800-07

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 800-07, dated March 7, 2012

### SUBJECT: CRITERIA FOR SUBMITTING INCIDENT REPORTS

#### POLICY

Incident reports shall be completed when an officer views or becomes aware of any activity that may indicate the occurrence of a crime or becomes aware of a suspicious incident with a potential terrorism connection.

Incident reports shall be completed and submitted for review prior to the end of each shift.

This General Order applies to all employees.

#### **1** EXCEPTIONS

Exceptions to this policy include certain misdemeanor thefts or criminal mischief incidents. Prior to arrival, officers who receive a call to a misdemeanor theft or criminal mischief case having no solvability factors (e.g., suspect, witness, or physical evidence), may request that the police dispatcher redirect the call either to the Teleserve Unit or to the "Online Police Report" via the department's Web site, if eligible. The police dispatcher shall examine the queue for the Teleserve Unit and if possible, redirect the call. The dispatcher shall be the final authority regarding these matters.

The primary duty of the Teleserve Unit is to take preliminary incident reports by telephone, which allows patrol units to be available for response to higher priority calls for service. Teleserve services "delayed report" calls that deal with lost or stolen property or willful damage to property in which there is no evidence to gather and there are no witnesses able to identify possible suspects. Teleserve shall not handle "In Progress" calls for service.

Teleserve Unit eligible calls include:

- a. Telephone Harassment / No Threat
- b. Theft – lost or stolen under \$10,000
- c. Theft of Service
- d. Theft from Motor Vehicle
- e. Criminal Mischief
- f. Burglary of Motor Vehicle
- g. Burglary of Coin Operated Machine
- h. Auto Theft / LoJack
- i. Auto Theft / Investigation Auto Theft
- j. Forgery / Investigation Forgery
- k. Out of Jurisdiction / Long Distance

Under most circumstances, officers are not required to generate an incident report regarding civil matters. A first-line supervisor shall be contacted in all cases in which there is disagreement between a citizen and an officer regarding the generation of a report.

With the exception of City property, firearms, explosives, or circumstances addressed in section 6, *Suspicious Activity*, of this General Order, generating lost or stolen property reports for items believed to be lost rather than stolen, shall be left to the discretion of the officer.

When a loss involves credit cards, banking checkbooks, automated teller machine (ATM) cards, pagers, keys, or other items that can be devalued by closing accounts,

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discontinuing service, or changing locks, complainants shall be directed to notify the concerned company or financial institution. When a wireless device is stolen, officers shall contact the relevant investigative division prior to advising the complainant to terminate services associated with the device.

Nothing prohibits completing a lost or stolen property report if the officer feels the circumstances surrounding the loss support generating an incident report (e.g., sensitive documents, expensive items, driver licenses, or social security cards).

## **2 ONLINE POLICE REPORTS**

WebCop is an online based self-reporting incident report writing system that allows citizens to file their own police reports for minor crimes with low solvability, no evidence, no witnesses, and no possible suspects. With this criterion in place, WebCop serves to help increase the efficiency of patrol and investigative operations by allowing officers more time to respond to and investigate higher priority incidents. WebCop eligible calls are limited to theft and criminal mischief reports for which the loss is less than \$5,000 in value.

Online police reporting is intended as a convenience for citizens who wish to use the Internet to report certain crimes. Officers shall not direct citizens to the online police reporting application as a substitute for taking a report call or as a substitute for a walk-in transaction at a police facility.

## **3 SITUATIONS THAT ALWAYS REQUIRE AN INCIDENT REPORT**

The following situations always require the creation and submission of an incident report:

- a. Felony or Class A or B misdemeanor.
- b. Family violence (see General Order 600-06, **Family Violence**).
- c. Hate crime (see General Order 600-37, **Hate Crimes**).
- d. Home invasion.
- e. Class C misdemeanor assault, trespassing, or trespassing on school property.
- f. Juvenile involvement of any type. Reports concerning a juvenile in custody or public service transportation shall be completed and entered before leaving the Juvenile Division.
- g. Threat of or actual bodily injury sustained by a citizen, suspect, or a police employee.
- h. Tagged property.
- i. Death of a person.
- j. Stolen vehicle.
- k. Use of force by an employee, (see General Order 600-17, **Use of Force**).
- l. Display of any weapon necessitating a police response.
- m. Rejection of a prisoner by the Jail Division for medical reasons.
- n. Suspicious activity, as listed in section 6 of this General Order.
- o. Contact with a diplomatic representative of a foreign government, (see General Order 500-15, **Contact with Representatives of Foreign Governments**).
- p. All incidents involving persons suspected of mental illness. If a mentally ill citizen has been handled more than once in any given *calendar* year for emergency detention, officers may supplement the original report if one exists.

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- q. Lost firearms or explosives.
- r. Lost, stolen, or damaged City property (see General Order 400-18, **Responsibility for City and Other Government Property**).
- s. Trafficking of Persons. For all incidents involving cases in which persons have been found and it is reported they were smuggled or trafficked, officers shall generate a report titled "Trafficking of Persons."

#### **4 REPORTS AND APPROVAL IN THE RECORDS MANAGEMENT SYSTEM**

##### **Incident Report Approval Timelines (Patrol and Investigations)**

Anytime an original or supplement incident report is created in the department's records management system (RMS), the owner of that report shall complete and Owner Approve (OA) the report by the end of the shift, with the exception of high priority reports (e.g., stolen or recovered vehicles, stolen or recovered license plates), which shall be Owner Approved immediately.

Once an original or supplement incident report is Owner Approved, RMS automatically places the report in Supervisor Approved status. The Records Division shall leave the report in Supervisor Approved status for three *calendar* days to allow supervisors time to review the reports. Supervisors shall be responsible for the quality of work performed by their subordinates.

After a report has been OA and it is determined that corrections or modifications need to be made, the officer or supervisor can reopen the report for the modifications if it has not been frozen (FR) by Records Division. The system will allow a supervisor to send a follow-up request, if necessary. In this case, the supervisor would reopen the report for the user and send the user a fol-

low-up request. If the supervisor does this, the recipient's employee number shall be entered on the form to ensure the author of the report receives the request.

After the initial three-*calendar*-day period, the report shall be frozen and transferred to RMS by the Records Division. Once the report has been frozen and transferred, it shall not be reopened and all changes or corrections shall then be done through a supplement.

##### **Unapproved Reports and Corrections**

All employees who enter incident reports in RMS shall log into the system daily to obtain any notification (e.g., follow-up requests) regarding their reports. If an employee receives notification that a report has been unapproved by either a supervisor or the Records Division, the report shall be corrected and OA by the end of the employee's shift, regardless of the due date listed on the follow-up request. Corrected and OA reports shall be frozen after three *calendar* days following the date the report was OA.

##### **Reports Created in Error**

If an incident report was created in error (e.g., incorrect incident number was used), whether it is an original or a supplement, then the report shall be titled: "Report Created in Error." If a supplement report was created under the wrong incident number, with no original report entered, then an original report shall be created under the same incident number in order for the supplement report to be OA and transferred. If an employee finds that a correct incident number was previously used in error for another report, then a new incident number can be requested for the same location in order for a report to be completed.

##### **Homicide Reports**

When a Homicide investigator responds to a scene, the Homicide hold desk personnel

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shall be responsible for completing, at a minimum, the Incident Tab of the original incident report with the primary investigator entered as the primary officer. The Homicide hold desk personnel shall also OA the report so that supplement reports can move through the approval process within the time frame described above. Patrol personnel shall not write an original report when a Homicide investigator is responding to the scene. Patrol officers shall generate only supplement reports for such incidents.

#### **Extra Employment**

All incident reports created while working extra employment shall be OA on the officer's own time by the end of the extra employment hours. See General Order 300-14, **Extra Employment**.

### **5 TEXAS ALCOHOLIC BEVERAGE COMMISSION (TABC) ESTABLISHMENTS**

Incidents involving a shooting, stabbing, or other public disturbance on the premises of an establishment holding a TABC license or permit shall require officers to submit a copy of the incident report to the Vice Division for transmittal to the TABC.

### **6 SUSPICIOUS ACTIVITY**

Suspicious activity is defined as observed behavior reasonably indicative of pre-operational planning associated with terrorism or other criminal activity. While a single instance of suspicious activity may not be a precursor to terrorist or criminal activity, other factors and circumstances may be present that cause concern and require additional investigation. If there is a criminal offense associated with the incident, officers shall utilize the appropriate criminal offense title and indicate the Criminal Intelligence Division (CID) as the secondary concerned division.

When a suspect is in custody or suspicious circumstances require additional investigative assistance, officers shall contact the Houston Regional Intelligence Service Center (HRISC) supervisor. After business hours officers shall contact the on-call CID homeland security supervisor via the Crime Analysis and Command Center.

In order to ensure appropriate review and analysis of suspicious incidents with a potential terrorism connection, officers shall complete an "Investigation Criminal Intelligence" report concerning any of the suspicious activities listed below:

- a. **Terrorist Watchlist Encounters:** Incidents when an officer receives an NCIC "hit" from the Terrorist Screening Center (TSC) on a suspect or license plate. Officers shall first follow the instructions from the TSC on how to proceed with the encounter. Additionally, if a positive identification is made, officers shall contact the HRISC during business hours, or the on-call CID homeland security supervisor via the Command Center at all other times.
- b. **Materials Acquisition or Storage, Weapons Collection or Discovery:** Incidents involving suspicious events or persons associated with weapons that would arouse suspicion of terrorism. This includes incidents involving weapons of mass destruction (chemical, biological, radiological, nuclear, or explosive) or the discovery of unusual amounts or types of weapons, explosives, chemicals, or other destructive material.
- c. **Violent Extremism and Radicalization:** Incidents that involve suspicious persons that glorify violent, extremist acts, or persons who express support for or inspire violence.
- d. **Photography:** Incidents of a person(s) taking photographs or video of a facility,

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critical infrastructure, or a secured, protected site in an unusual or surreptitious manner that would arouse suspicion of terrorism. This could include, but is not limited to, taking photographs or video of infrequently used access points, the superstructure of a bridge, personnel performing security functions (e.g., patrols, badge/vehicle checking), or security-related equipment (e.g., perimeter fencing, security cameras).


- e. **Observation/Surveillance:** Incidents involving unusual or prolonged interest in facilities, buildings, or infrastructure beyond casual or professional interest that would arouse suspicion of terrorism. Examples include marking or noting distances, taking detailed notes, or making diagrams.
- f. **Aviation Activity:** Incidents involving suspicious events or persons associated with aviation that would arouse suspicion of terrorism. This could include interfering with the operations of an aircraft, disturbances at an airport, violating flight restrictions, pointing a laser beam at an aircraft, or flying a drone in a suspicious manner over a facility or infrastructure without consent of the owner.
- g. **Misrepresentation, Eliciting Information, Testing or Probing Security, Breach, or Attempted Intrusion:** Incidents involving suspicious events or persons associated with the security of a facility, infrastructure, or secured, protected site that would arouse suspicion of terrorism. This could include presenting false documents, credentials, or badges or donning uniforms in order to gain entrance; or a person asking probing questions beyond mere curiosity about a building's purpose, operations, or security procedures; or a person who deliberately challenges the physical security or security systems of a facility; or

a person who attempts or actually breaches a restricted area.

- h. **Theft/Loss/Diversions:** The theft of badges, uniforms, identification, or emergency vehicles associated with a facility, infrastructure, or secured, protected site.
- i. **Sabotage/Tampering/Vandalism:** Incidents involving the damaging, defacing, or destroying any part of a critical infrastructure. Critical infrastructure includes, but is not limited to, the chemical and petrochemical sector, government and emergency services sector, sporting venues and malls, energy and water facilities.
- j. **Miscellaneous Activity:** Incidents of suspicious events or persons that cannot be vetted and based on additional factors continue to arouse suspicion of terrorism or criminal activity.

## **7 RELATED GENERAL ORDERS**

- 300-14, **Extra Employment**
- 400-18, **Responsibility for City and Other Government Property**
- 400-19, **Microcomputer Regulations**
- 400-21, **Mobile Computing Devices**
- 400-22, **Keys, Passwords, and Personal Identification Numbers**
- 500-12, **Handling Persons Exhibiting Mental Health Crisis**
- 500-15, **Contact with Representatives of Foreign Governments**
- 600-06, **Family Violence**
- 600-17, **Use of Force**
- 600-37, **Hate Crimes**
- 800-08, **Auto Theft Reports**

  
**Martha I. Montalvo**  
 Acting Chief of Police

COH\_BAY AREA\_000564

# General Order

## Houston Police Department



ISSUE DATE:

April 25, 2017

NO.

800-07

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 800-07, dated September 13, 2016

### SUBJECT: CRITERIA FOR SUBMITTING INCIDENT REPORTS

#### POLICY

Incident reports shall be completed when an officer views or becomes aware of any activity that may indicate the occurrence of a crime or becomes aware of a suspicious incident with a potential terrorism connection. Incident reports shall be completed and submitted for review prior to the end of each shift.

This General Order applies to all employees.

#### **1 EXCEPTIONS**

Exceptions to this policy include certain misdemeanor thefts or criminal mischief incidents. Prior to arrival, officers who receive a call to a misdemeanor theft or criminal mischief case having no solvability factors (e.g., suspect, witness, or physical evidence), may request that the police dispatcher redirect the call either to the Teleserve Unit or to the "Online Police Report" via the department's website, if eligible. The police dispatcher shall examine the queue for the Teleserve Unit and if possible, redirect the call. The dispatcher shall be the final authority regarding these matters.

The primary duty of the Teleserve Unit is to take preliminary incident reports by telephone, which allows patrol units to be available for response to higher priority calls for service. Teleserve services "delayed report" calls that deal with lost or stolen property or willful damage to property in which there is no evidence to gather and there are no witnesses able to identify possible suspects. Teleserve shall not handle "In Progress" calls for service.

Teleserve Unit eligible calls include:

- a. Telephone Harassment / No Threat
- b. Theft – lost or stolen under \$10,000
- c. Theft of Service
- d. Theft from Motor Vehicle
- e. Criminal Mischief
- f. Burglary of Motor Vehicle
- g. Burglary of Coin Operated Machine
- h. Auto Theft / LoJack
- i. Auto Theft / Investigation Auto Theft

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j. Forgery / Investigation Forgery

k. Out of Jurisdiction / Long Distance

Under most circumstances, officers are not required to generate an incident report regarding civil matters. A first-line supervisor shall be contacted in all cases in which there is disagreement between a citizen and an officer regarding the generation of a report.

With the exception of City property, firearms, explosives, or circumstances addressed in section 6, *Suspicious Activity*, of this General Order, generating lost or stolen property reports for items believed to be lost rather than stolen, shall be left to the discretion of the officer.

When a loss involves credit cards, banking checkbooks, automated teller machine (ATM) cards, pagers, keys, or other items that can be devalued by closing accounts, discontinuing service, or changing locks, complainants shall be directed to notify the concerned company or financial institution. When a wireless device is stolen, officers shall contact the relevant investigative division prior to advising the complainant to terminate services associated with the device.

Nothing prohibits completing a lost or stolen property report if the officer feels the circumstances surrounding the loss support generating an incident report (e.g., sensitive documents, expensive items, driver licenses, or social security cards).

## **2 ONLINE POLICE REPORTS**

WebCop is an online based self-reporting incident report writing system that allows citizens to file their own police reports for minor crimes with low solvability, no evidence, no witnesses, and no possible suspects. With this criterion in place, WebCop serves to help increase the efficiency of patrol and investigative operations by allowing officers more time to respond to and investigate higher priority incidents. WebCop eligible calls are limited to theft and criminal mischief reports for which the loss is less than \$5,000 in value.

Online police reporting is intended as a convenience for citizens who wish to use the Internet to report certain crimes. Officers shall not direct citizens to the online police reporting application as a substitute for taking a report call or as a substitute for a walk-in transaction at a police facility.

## **3 SITUATIONS THAT ALWAYS REQUIRE AN INCIDENT REPORT**

The following situations always require the creation and submission of an incident report:

- a. Felony or Class A or B misdemeanor.
- b. Family violence (see General Order 600-06, **Family Violence**).
- c. Hate crime (see General Order 600-37, **Hate Crimes**).
- d. Home invasion.

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- e. Class C misdemeanor assault, trespassing, or trespassing on school property.
- f. Juvenile involvement of any type. Reports concerning a juvenile in custody or public service transportation shall be completed and entered before leaving the Juvenile Division.
- g. Threat of or actual bodily injury sustained by a citizen, suspect, or a police employee.
- h. Tagged property.
- i. Death of a person.
- j. Stolen vehicle.
- k. Response to resistance by an employee, (see General Order 600-17, **Response to Resistance**).
- l. Display of any weapon necessitating a police response.
- m. Rejection of a prisoner by the Jail Division for medical reasons.
- n. Suspicious activity, as listed in section 6 of this General Order.
- o. Contact with a diplomatic representative of a foreign government, (see General Order 500-15, **Contact with Representatives of Foreign Governments**).
- p. All incidents involving persons suspected of mental illness. If a mentally ill citizen has been handled more than once in any given *calendar* year for emergency detention, officers may supplement the original report if one exists.
- q. Lost firearms or explosives.
- r. Lost, stolen, or damaged City property (see General Order 400-18, **Responsibility for City and Other Government Property**).
- s. Trafficking of persons. For all incidents involving cases in which persons have been found and it is reported they were smuggled or trafficked, officers shall generate a report titled "Trafficking of Persons."

#### **4 REPORTS AND APPROVAL IN THE RECORDS MANAGEMENT SYSTEM**

##### **Incident Report Approval Time Frames (Patrol and Investigations)**

Anytime an original or supplement incident report is created in the department's records management system (RMS), the owner of that report shall complete and Owner Approve (OA) the report by the end of the shift, with the exception of high priority reports (e.g., stolen or recovered vehicles, stolen or recovered license plates), which shall be Owner Approved immediately. Once an original or supplement incident report is Owner Approved, RMS automatically places the report in Supervisor Approved status. The Records Division shall leave the report in Supervisor Approved status for three *calendar* days to allow supervisors time to

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review the reports. Supervisors shall be responsible for the quality of work performed by their subordinates.

After a report has been OA and it is determined that corrections or modifications need to be made, the officer or supervisor can reopen the report for the modifications if it has not been frozen (FR) by Records Division. The system will allow a supervisor to send a follow-up request, if necessary. In this case, the supervisor would reopen the report for the user and send the user a follow-up request. If the supervisor does this, the recipient's employee number shall be entered on the form to ensure the author of the report receives the request.

After the initial three-*calendar*-day period, the report shall be frozen and transferred to RMS by the Records Division. Once the report has been frozen and transferred, it shall not be reopened and all changes or corrections shall then be done through a supplement.

#### **Unapproved Reports and Corrections**

All employees who enter incident reports in RMS shall log into the system daily to obtain any notification (e.g., follow-up requests) regarding their reports. If an employee receives notification that a report has been unapproved by either a supervisor or the Records Division, the report shall be corrected and OA by the end of the employee's shift, regardless of the due date listed on the follow-up request. Corrected and OA reports shall be frozen after three *calendar* days following the date the report was OA.

#### **Reports Created in Error**

If an incident report was created in error (e.g., incorrect incident number was used), whether it is an original or a supplement, then the report shall be titled: "Report Created in Error." If a supplement report was created under the wrong incident number, with no original report entered, then an original report shall be created under the same incident number in order for the supplement report to be OA and transferred. If an employee finds that a correct incident number was previously used in error for another report, then a new incident number can be requested for the same location in order for a report to be completed.

#### **Homicide Reports**

When a Homicide investigator responds to a scene, the Homicide hold desk personnel shall be responsible for completing, at a minimum, the Incident Tab of the original incident report with the primary investigator entered as the primary officer. The Homicide hold desk personnel shall also OA the report so that supplement reports can move through the approval process within the time frame described above. Patrol personnel shall not write an original report when a Homicide investigator is responding to the scene. Patrol officers shall generate only supplement reports for such incidents.

#### **Extra Employment**

All incident reports created while working extra employment shall be OA on the officer's own time by the end of the extra employment hours. See General Order 300-14, **Extra Employment**.

**General Order #800-07****ISSUE DATE:** April 25, 2017**PAGE: #5****5 TEXAS ALCOHOLIC BEVERAGE COMMISSION (TABC) ESTABLISHMENTS**

Incidents involving a shooting, stabbing, or other public disturbance on the premises of an establishment holding a TABC license or permit shall require officers to submit a copy of the incident report to the Vice Division for transmittal to the TABC.

**6 SUSPICIOUS ACTIVITY**

Suspicious activity is defined as observed behavior reasonably indicative of pre-operational planning associated with terrorism or other criminal activity. While a single instance of suspicious activity may not be a precursor to terrorist or criminal activity, other factors and circumstances may be present that cause concern and require additional investigation. If there is a criminal offense associated with the incident, officers shall utilize the appropriate criminal offense title and indicate the Criminal Intelligence Division (CID) as the secondary concerned division.

When a suspect is in custody or suspicious circumstances require additional investigative assistance, officers shall contact the Houston Regional Intelligence Service Center (HRISC) supervisor. After business hours officers shall contact the on-call CID homeland security supervisor via the Crime Analysis and Command Center Division.

In order to ensure appropriate review and analysis of suspicious incidents with a potential terrorism connection, officers shall complete an "Investigation Criminal Intelligence" report concerning any of the suspicious activities listed below:

- a. **Terrorist Watchlist Encounters:** Incidents when an officer receives an NCIC "hit" from the Terrorist Screening Center (TSC) on a suspect or license plate. Officers shall first follow the instructions from the TSC on how to proceed with the encounter. Additionally, if a positive identification is made, officers shall contact the HRISC during business hours, or the on-call CID homeland security supervisor via the Command Center at all other times.
- b. **Materials Acquisition or Storage, Weapons Collection or Discovery:** Incidents involving suspicious events or persons associated with weapons that would arouse suspicion of terrorism. This includes incidents involving weapons of mass destruction (chemical, biological, radiological, nuclear, or explosive) or the discovery of unusual amounts or types of weapons, explosives, chemicals, or other destructive material.
- c. **Violent Extremism and Radicalization:** Incidents that involve suspicious persons that glorify violent, extremist acts, or persons who express support for or inspire violence.
- d. **Photography:** Incidents of a person(s) taking photographs or video of a facility, critical infrastructure, or a secured, protected site in an unusual or surreptitious manner that would arouse suspicion of terrorism. This could include, but is not limited to, taking photographs or video of infrequently used access points, the superstructure of a bridge, personnel performing security functions (e.g., patrols, badge/vehicle checking), or security-related equipment (e.g., perimeter fencing, security cameras).
- e. **Observation/Surveillance:** Incidents involving unusual or prolonged interest in facilities, buildings, or infrastructure beyond casual or professional interest that would arouse

**COH\_BAY AREA\_000569**

**General Order #800-07****ISSUE DATE:** April 25, 2017**PAGE: #6**

suspicion of terrorism. Examples include marking or noting distances, taking detailed notes, or making diagrams.

- f. **Aviation Activity:** Incidents involving suspicious events or persons associated with aviation that would arouse suspicion of terrorism. This could include interfering with the operations of an aircraft, disturbances at an airport, violating flight restrictions, pointing a laser beam at an aircraft, or flying a drone in a suspicious manner over a facility or infrastructure without consent of the owner.
- g. **Misrepresentation, Eliciting Information, Testing or Probing Security, Breach, or Attempted Intrusion:** Incidents involving suspicious events or persons associated with the security of a facility, infrastructure, or secured, protected site that would arouse suspicion of terrorism. This could include presenting false documents, credentials, or badges or donning uniforms in order to gain entrance; or a person asking probing questions beyond mere curiosity about a building's purpose, operations, or security procedures; or a person who deliberately challenges the physical security or security systems of a facility; or a person who attempts or actually breaches a restricted area.
- h. **Theft/Loss/Diversions:** The theft of badges, uniforms, identification, or emergency vehicles associated with a facility, infrastructure, or secured, protected site.
- i. **Sabotage/Tampering/Vandalism:** Incidents involving the damaging, defacing, or destroying any part of a critical infrastructure. Critical infrastructure includes, but is not limited to, the chemical and petrochemical sector, government and emergency services sector, sporting venues and malls, energy and water facilities.
- j. **Miscellaneous Activity:** Incidents of suspicious events or persons that cannot be vetted and based on additional factors continue to arouse suspicion of terrorism or criminal activity.

## **7 RELATED GENERAL ORDERS**

300-14, **Extra Employment**  
 400-18, **Responsibility for City and Other Government Property**  
 400-19, **Microcomputer Regulations**  
 400-21, **Mobile Computing Devices**  
 400-22, **Keys, Passwords, and Personal Identification Numbers**  
 500-12, **Handling Persons Exhibiting Mental Health Crisis**  
 500-15, **Contact with Representatives of Foreign Governments**  
 600-06, **Family Violence**  
 600-17, **Response to Resistance**  
 600-37, **Hate Crimes**  
 800-08, **Auto Theft Reports**

  
 Art Acevedo  
 Chief of Police

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# Exhibit 5



## STANDARD OPERATING PROCEDURES

### PATROL OPERATIONS COMMAND

CATEGORY: <b>PATROL</b>	DATE ISSUED: <b>12-31-08</b>	EFFECTIVE DATE: <b>12-31-08</b>	PROCEDURE NUMBER <b>200/2.09</b>
SECTION: <b>ARREST AND APPREHENSION</b>	DATE OF REVISION:	REVISION NUMBER:	PAGE NUMBER: <b>1 of 2</b>
SUBJECT/EVENT: <b>D. A. INTAKE</b>			

**RESPONSIBILITY:** To provide guidelines for properly filing charges with the District Attorney's office.

- TASKS:**
- I. To determine the type and level of charges the arresting officer will contact the District Attorney Intake office at (713) 755-5895.
    - A. Give a detailed account of the criminal incident the suspect is responsible, making sure to give witness statements.
    - B. If charges are accepted the officer will document the name of the charge, the level of the charge, and the full name of the Assistant District Attorney giving the authorized charges.
  - II. Once charges are accepted and the prisoner is booked into the jail facility the arresting officer will begin entering the charges into the computer system.
    - A. Log onto the Harris County system type M4P2. From the blank screen type "logon JUD01 (thru JUD75)" then Xmit. Then type in the password "charge" then hit Xmit. When the cursor appears at bottom of screen hit Xmit. Select #10 (Officers Info) and Xmit. Begin entering the Forms.
    - B. The following identifying numbers must be in the charges: SPN#, HCSO#, HPD#, and FBI#. If any of these numbers are not available, the officer will list the numbers unavailable and why, in the charge narrative and the offense report narrative.

#### **REFERENCES:**

General Order 500-07

<b>SUBJECT/EVENT:</b> <b>DA INTAKE</b>	<b>PROCEDURE</b> <b>NUMBER:</b> <b>200/2.09</b>	<b>PAGE NUMBER:</b> <b>2 of 2</b>
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- C. Save each screen by hitting “enter”, before moving to the next screen.
  - D. The charge narrative needs to be detailed and precise regarding the elements of crime, and the suspect should be referred as the Defendant.
  - E. After completion of the charges they should be sent to the DA’s office by function 6 labeled “Send to DA”.
  - F. After sending the charges in, the officer will call DA Intake and get confirmation that the charges were received.
- III. Charges accepted on a suspect not in custody **(2B Warrant)**
- A. When arresting officer calls DA Intake for charges explain that the charges will be filed “To Be”.
  - B. Enter charges normally except you will place an “N” for suspect in custody and for suspect identified by prints.
  - C. Send to the DA’s office.
  - D. Complete a Probable Cause statement in Microsoft Word and save to a portable disk or flash drive.
  - E. Bring the Probable Cause disk and a copy of the DIMS charges to the DA Prosecutor, who will assist in creation and notarizing the probable cause for the warrant.
  - F. Take the warrant to the District Clerk who will enter the new warrant into the system and give is a cause number and assign it to a court.
  - G. Escort the warrant to the Magistrate on duty and have him sign the warrant.
  - H. Return the signed warrant to the district clerk, who will give you a formal copy of the new To Be Warrant.

# Exhibit 6



## STANDARD OPERATING PROCEDURES

### PATROL OPERATIONS COMMAND

CATEGORY: <b>OPERATIONS</b>	DATE ISSUED: 12-31-08	EFFECTIVE DATE: 12-31-08	PROCEDURE NUMBER <b>200/2.10</b>
SECTION: <b>ARREST AND APPREHENSION</b>	DATE OF REVISION:	REVISION NUMBER:	PAGE NUMBER: <b>1</b>
SUBJECT/EVENT: <b>D. A. REFUSES CHARGES</b>			

**PURPOSE:** To properly record information regarding rejecting charges, and to provide for notification of officer's immediate supervisor.

- RESPONSIBILITY:**
- I. The arresting officer will include the following in his original or supplement offense report when charges are rejected by the District Attorney's Intake Office.
    - A. The Time and Date the officer spoke with the assistant district attorney regarding filing charges in the case.
    - B. The name of the assistant district attorney who rejected the charges.
    - C. Reasons given by the assistant district attorney for rejecting the charges.
    - D. The above steps do not apply in instances when the assistant D. A. files charges, when another assistant D. A. accepts charges, or when the assistant D. A. files other charges.

#### **REFERENCES:**

General Order 500-07

# Exhibit 7

# General Order

## Houston Police Department



ISSUE DATE:

July 25, 2016

NO.

500-14

**REFERENCE:** Supersedes all prior conflicting Circulars and Directives, and General Order 500-14, dated February 18, 2005

**SUBJECT: CLASS C MISDEMEANORS**

### POLICY

Unless otherwise directed by policy, persons who commit serious Class C misdemeanors (e.g., offenses involving or related to violence, narcotics, vice, breaches of the peace, or criminal mischief) shall normally be incarcerated. If extenuating circumstances make incarceration unwarranted, officers shall seek approval from a field or station supervisor before issuing a citation to a serious Class C violator.

Persons who commit less serious Class C misdemeanors (e.g., traffic violations and regulatory offenses) shall normally be issued citations. In some circumstances, it may be necessary to incarcerate a violator to accomplish the police mission. Any decision to do so shall be consistent with the department's values and principles. For department policies and procedures regarding parking violations, see General Order 600-29, **Parking Citations**.

This General Order applies to classified employees only.

### DEFINITIONS

**Abbreviated Incident Report.** An incident report that lacks property information and a narrative and that is entered into the automated reporting system for statistical or historical data purposes or for capturing an incident in the department's uniform crime reporting information. An abbreviated incident report shall be generated instead of a complete incident report only for certain incidents specified by the department.

**Citation.** A ticket issued for a Class C misdemeanor.

**Citation Book.** A book containing Class C misdemeanor citation forms.

**Citation Pack.** A correspondence package for dismissing a citation and that contains the following:

- a. A letter addressed to the Chief of Police from an officer requesting a citation dismissal.
- b. A letter written by a requesting officer addressed to the Municipal Courts Chief Prosecutor for the Chief of Police's signature.
- c. A copy of the pertinent citation.

**E-Citation.** A citation issued for a Class C misdemeanor generated on an electronic citation writing machine. To book an arrestee in jail on a new Class C municipal charge the e-citation must be used.

**Identifying Information.** Data useful in identifying and locating an individual:

- a. Name
- b. Date of birth
- c. Social security number
- d. Driver license number
- e. Addresses: home and work
- f. Telephone numbers: home, other
- g. Any other pertinent information that would help to identify and locate an individual

**Ticket Supply.** The Ticket Supply Office of the City's Municipal Courts Department.

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## 1 CITATIONS

Except as otherwise noted herein, officers may issue citations by using either a citation book or an electronic citation machine.

When using a citation book, officers shall print all information on citations completely and accurately to ensure their names and employee numbers are legible on the court's copies of the citations. All blank lines on the citation form shall have the appropriate information entered on them.

Officers shall ensure the incident number, any complainant and witness *identifying information*, and any other information necessary to process a municipal complaint is documented on the *front* of the court's copy utilizing all available blank spacing on the citation when possible. Only then can any remaining information be placed on the back of the citation.

Officers shall submit all citations to their immediate supervisor at the end of their shift.

### Citation Books

Officers shall complete a checkout slip for each citation book they obtain. Officers shall return the checkout slip to Ticket Supply or to the designated location in their division. All citations in a book shall be issued or returned to Ticket Supply within three months.

Officers who lose, damage, or misplace any part of a citation book shall write a letter via their chain of command explaining the circumstances. Procedures outlined in the *Houston Police Department Corrective Action Manual* shall be followed.

Civilians shall not check out or use Class C misdemeanor citation books.

### Traffic Citations

Violators who agree to sign the citation and who are operating a Texas licensed vehicle

shall not be booked on a speeding charge if it is the only violation for which they are charged. Violators who agree to sign the citation and who are operating a Texas licensed vehicle shall not be booked on a failure to show proof of financial responsibility charge if it is the only violation for which they are charged.

Violators charged only with speeding and whose state of residence is part of the Non-resident Violator Compact of 1977 shall not be booked on the charge.

Violators charged with both speeding and failure to show proof of financial responsibility or other violations, regardless of residence, may be booked on the charges in accordance with section 4 of this General Order.

Violators driving another state's licensed vehicle, or a resident of another state that is not participating in the Nonresident Violator Compact of 1977 may be booked on any citation in accordance with section 4 of this General Order.

Officers writing citations within the incorporated areas of Houston, but outside of Harris County, shall place the name of the county in which the violation occurred in parentheses on the same line as the location of the violation.

### Refused or Unable to Sign

Officers shall advise violators who refuse to sign a citation that signing the citation is not an admission of guilt, but rather an acknowledgment of receiving a citation and a promise to appear in court at the designated time.

If a violator still refuses to sign the citation, the officer shall print *Refused to Sign* on the line set aside for the violator's signature. Refusal to sign a citation shall not be a basis for taking a violator into custody. The officer shall release the violator if there are no other charges.

After releasing the violator, the officer shall complete a *Refused/Unable to Sign Affidavit* form and attach it to the citation. The affidavit is available on the department's Intranet Portal. The affidavit must be notarized immediately. The citation and affidavit shall be forwarded to the officer's immediate supervisor for review by the end of the officer's shift.

If a violator is unable to sign a citation as a result of severe injury, the officer shall print *Unable to Sign Due to Injury* on the line provided for the violator's signature. The officer shall complete a *Refused/Unable to Sign Affidavit* form and attach it to the citation. The affidavit must be notarized immediately. The citation and affidavit shall be forwarded to the officer's immediate supervisor for review by the end of the officer's shift.

### **Class C Theft Citations**

Citations shall be issued for Class C theft cases (including, but not limited to, shoplifting incidents) when the value of the stolen items is under \$100 and when the suspect's identity is verifiable (e.g., valid identification). Arrests for thefts under \$100 shall be made only with proper supervisory authorization.

When issuing a citation for Class C theft, officers shall document the following information on the e-citation or on the *front* of the court's copy of the citation form in accordance with section 1, paragraph 3 of this General Order.

- a. Incident number
- b. All stolen items – listed on the citation directly after where the violation is written
- c. Complainant and witness *identifying information*
- d. Who has care, custody, and control of the stolen items

e. Who initially detained the suspect

f. Retail value of the stolen items

Officers are required to conduct a federated query in the department's records management system (RMS) on all suspects prior to issuing a citation or generating an incident report. Any data returned from the query on the suspect will also be available for import into the automated reporting system (ARS).

In addition to the citation, officers shall complete an *abbreviated incident report* so the theft can be included in the department's statistical and historical data and uniform crime reporting (UCR) information. It is not necessary to enter property or a narrative in an *abbreviated incident report*. When entering an *abbreviated incident report*, officers shall adhere to the following procedures:

- g. Complete the *Incident* tab. If it is a shoplifting incident, use the report title "Theft-Shoplifting (Cited & Released)."
- h. Complete the *Persons* tab. For the suspect, use involvement "CIT" to indicate cited and released. For a business complainant, use involvement "CAB."
- i. Complete the *Modus Operandi* tab.
- j. Complete the *RCS* tab to owner approve the report.

Complete incident reports shall continue to be generated for theft cases for which no citation is issued.

In cases of shoplifting, officers are also to document whether or not a trespass warning was given to the suspect by the place of business. This may be documented in the complete incident report if one is generated, or it may be documented in the call slip when only an *abbreviated incident report* is generated.

**2 VOIDING OR DISMISSING CITATIONS**

Citations may be voided or dismissed. Requests for citations to be voided or dismissed shall be allowed only for one or more of the following reasons:

- a. Error in writing the citation
- b. Other charges filed in county or district court
- c. Inappropriate charge

**Voiding Citations**

To void a citation (except parking citations), all copies of the citation must be gathered and the word *VOID* shall be written across the entire front of all copies. The issuing officer shall write the reasons for voiding the citation on the back of the number 2 copy and then place it on the bottom of all gathered copies. The issuing officer and each supervisor in the officer's chain of command through the assistant chief shall sign the number 2 copy. The assistant chief's office shall send all copies of voided Class C citations to Ticket Supply for filing.

For procedures regarding voiding parking citations, see General Order 600-29, **Parking Citations**.

**Dismissing Citations**

A citation (except parking citations), that has been forwarded to Municipal Courts cannot be voided and may be dismissed only by an official request from the Chief of Police and agreement of the Municipal Courts Chief Prosecutor or by other process of law.

The officer requesting the dismissal shall complete a *citation pack* and forward it to the Chief of Police through the requesting officer's chain of command. Letters for dismissal of citations shall include:

- a. Violator's name

- b. Citation number

- c. Docket number

- d. Court number

- e. Appearance date and time

The letter from the Chief of Police shall conclude by requesting the Municipal Courts Chief Prosecutor to make a recommendation to the court for dismissal of the citation.

Upon the determination of the Chief of Police that the dismissal is justified, the citation pack shall be sent to the Municipal Courts Chief Prosecutor.

**3 SPECIAL SITUATIONS****Trespassing on School Property**

Unless otherwise authorized by a supervisor, officers shall handle trespassing on school property incidents by incarcerating the violator and filing the appropriate trespassing complaint. Officers shall include the complete name and address of the school as well as the complainant and witness *identifying information* in the detail or notes section of the complaint. Officers shall initiate an incident report and list the incident number on the e-citation.

If a supervisor authorizes an officer to write a citation for trespassing on school property without making an arrest, the officer shall list the incident number and complainant and witness *identifying information* on the e-citation or on the *front* of the court's copy of the citation in accordance with section 1, paragraph 3 of this General Order.

For all trespassing on school property citations, the name of the school shall be listed on the citation following the appropriate charge (e.g., Trespassing on school property – Smith Elementary School).

**Towing Vehicles When Drivers Fail to Produce a Driver License**

If an officer determines a vehicle should be towed and the sole reason is that the driver does not have a driver license, the officer shall seek a supervisor's permission prior to towing the vehicle. Officers are not required to tow a vehicle if the sole reason for the tow is that the driver does not have a driver license and the officer is not making a custodial arrest. The officer's decision to seek a supervisor's permission to tow a vehicle in situations described above shall be reasonable and based on the principles of sound judgment, taking into consideration whether further operation of the vehicle would constitute a danger to the public to warrant towing the vehicle.

**Municipal Courts Houston Homeless Court (HHC) Program**

Officers shall not arrest individuals participating in the Houston Homeless Court (HHC) program solely for their outstanding municipal warrants. An individual claiming to be a participant in the HHC program should possess and provide officers with appropriate documentation. Individuals should at least possess a *Promise to Appear* form or officers can confirm their participation by calling the Coalition for the Homeless of Houston/Harris County at 713-739-7514.

**4 AUTHORIZATION FOR INCARCERATION**

Field supervisors, when present at an arrest scene, shall review the arrest of a violator who has committed a less serious Class C misdemeanor. Except as noted below, if a field supervisor is not at the arrest scene, a supervisor from the arresting officer's division shall, prior to booking, review the arrest of a violator who has committed a less serious Class C misdemeanor.

Officers shall obtain the authorization of a supervisor prior to booking a person who

has committed a less serious Class C misdemeanor unless one or more of the following circumstances exist. The violator:

- a. Does not possess sufficient identification.
- b. Has outstanding warrants.
- c. Shall be charged with more serious offenses.

In all cases, jail supervisors have the authority to divert officers and their prisoners to other locations due to the medical condition of the prisoners or jail overcrowding. Officers shall generate an incident report if the Jail Division rejects a suspect for medical reasons.

A supervisor's review and approval is not required to incarcerate a person who commits a serious Class C misdemeanor. If extenuating circumstances make incarceration unwarranted, officers shall seek approval from a field or station supervisor before issuing a citation to a serious Class C violator.

The following options are available to supervisors when considering officers' requests to book or charge a violator:

- d. Approve the request for incarceration.
- e. Order a citation issued to the violator.
- f. Order the violator released without action being taken.

**5 ENFORCEMENT OF TEXAS EDUCATION CODE**

The Texas Education Code grants broad powers to local school district trustees to establish rules and regulations that address disruptive behavior in schools. However, under no circumstances shall officers issue a citation for disruption of classes, disruptive activities, or possession of paging devices using the Texas Education Code as

the basis for the complaint. This policy does not preclude officers from enforcing other applicable laws or ordinances.

## 6 ARRESTING VIOLATORS FOR NEW CLASS C MUNICIPAL CHARGES

To book an arrestee in jail on a new Class C municipal charge the e-citation must be used following the below procedures.

- a. The arresting officer or transporting officer shall fill out the e-citation on his assigned electronic citation machine or one of the machines located at the jail or police station lockup facility.
- b. A "Y" shall be placed in the *In Custody Box* and the jail initialized booking number must be entered in the incident blank prior to docking the machine.
- c. The completed e-citation shall be given to the jail or police station lockup facility personnel to review and dock prior to the officer leaving the facility.

## 7 MUNICIPAL WARRANTS

To check whether a person has a municipal warrant, officers shall provide all of the following information to the Municipal Courts, Warrants/Jail Booking Section:

- a. Whether or not the person is in custody.
- b. The person's name, race, sex, date of birth, and driver license number.

The Warrants/Jail Booking Section will advise the officer if there are any outstanding warrants on the person in question and the number of such warrants. Docket numbers and the amount of bond will not be given over the telephone.

If it is determined that a person has a municipal warrant, officers shall record this in-

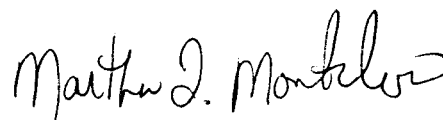
formation in RMS during the "jail initialization" process by indicating the municipal warrant in the charge section. Additionally, officers must document this information on the handwritten *Houston Police Department Jail Booking Blotter* (also known as booking blotter), provided by the Jail Division.

## 8 JAIL INITIALIZATION

The arrested person's *identifying information* must be entered into RMS and "jail initialized" to be transmitted to the jail. Once confirmed, the transporting officers shall fill out a half-page booking blotter and place the booking number on the blotter and deliver it with the prisoner to any jail facility.

## 9 RELATED GENERAL ORDERS AND REFERENCE MATERIAL

- 500-01, Effecting Arrests and Searches
  - 500-02, Handling and Transporting Prisoners and Other Persons
  - 500-06, Disposition of Arrested Juveniles
  - 500-11, Handling Publicly Intoxicated Persons
  - 500-15, Contact with Representatives of Foreign Governments
  - 500-17, Booking Prisoners and Transferring Prisoners in the Field
  - 500-18, Traffic Violations by Legislators and Military Personnel
  - 600-10, Towing
  - 600-29, Parking Citations
  - 700-01, Property/Evidence Control Regulations
  - 800-07, Criteria for Submitting Incident Reports
- Houston Police Department Corrective Action Manual*



**Martha I. Montalvo**  
Acting Chief of Police

# General Order

## Houston Police Department


**ISSUE DATE:**

February 18, 2005

**NO.****500-14**
**REFERENCE:** Supersedes General Order 500-14,  
dated September 14, 1998
**SUBJECT: CLASS C MISDEMEANORS****POLICY**

Persons who commit serious Class C misdemeanors (e.g., offenses involving or related to violence, narcotics, vice, breaches of the peace, thefts, or criminal mischief) will normally be incarcerated. If extenuating circumstances make incarceration unwarranted, officers will seek approval from a field or station supervisor before issuing a citation to a serious Class C violator.

Persons who commit less serious Class C misdemeanors (e.g., traffic violations and regulatory offenses) will normally be issued citations. In some circumstances, it may be necessary to incarcerate a violator to accomplish the police mission. Any decision to do so will be consistent with the department's values and principles.

This General Order applies to classified employees only.

**DEFINITIONS**

**Citation.** A ticket issued for a Class C misdemeanor.

**Citation Book.** A book containing Class C misdemeanor citation forms.

**Citation Pack.** A correspondence package containing the following information:

- a. A letter addressed to the Chief of Police from the officer requesting a citation dismissal.

- b. A letter written by the requesting officer addressed to the Municipal Court Chief Prosecutor for the Chief of Police's signature.

- c. A copy of the pertinent citation.

**Information.** Data useful in identifying and locating an individual:

- Name.
- Date of birth.
- Social security number.
- Driver license number.
- Addresses - home and work.
- Telephone numbers - home and work.
- Any other pertinent information that would help to identify and locate an individual.

**Ticket Supply.** The Ticket Supply Office of the Municipal Courts Department.

**1 MUNICIPAL COMPLAINTS**

Municipal complaints are used to file Class C misdemeanor charges against a defendant. The affiant on the complaint may be either the officer or the complainant. The complaint will be sworn to before a notary public.

The arresting officer will place the following information in the appropriate spaces on the front of the municipal complaint:

- a. Officer's name and employee number.
- b. Complainant and witness information.

**General Order #500-14**

**ISSUE DATE:** February 18, 2005

**PAGE: #2**

## **2 CITATION BOOKS**

Officers will complete a checkout slip for each citation book that they obtain. Officers will return the checkout slip to Ticket Supply or to the designated location in their division. All citations in the book will be issued or returned to Ticket Supply within three months.

Officers who lose, damage, or misplace any part of the citation book will write a letter via their chain of command explaining the circumstances. Procedures outlined in the **Corrective Action Manual** will be followed.

Civilians will not check out or use Class C misdemeanor citation books.

## **3 AUTHORIZATION FOR INCARCERATION**

Field supervisors, when present at an arrest scene, will review the arrest of a violator who has committed a less serious Class C misdemeanor.

If a field supervisor is not at the arrest scene, a supervisor from the arresting officer's division will review, prior to booking, the arrest of a violator who has committed a less serious Class C misdemeanor.

In both circumstances, officers will get the authorization of a supervisor prior to booking a person who has committed a less serious Class C misdemeanor unless one or more of the following circumstances exist. The violator:

- a. Does not possess sufficient identification.

- b. Has outstanding traffic warrants.

- c. Will be charged with more serious offenses.

In all cases, jail supervisors have the authority to divert officers and their prisoners to other locations due to the medical condition of the prisoners or jail overcrowding.

Officers will generate an offense report if the Jail Division rejects a suspect for medical reasons.

A supervisor's review and approval is not required to incarcerate a person who commits serious Class C misdemeanors. If extenuating circumstances do not warrant incarceration, a supervisor must approve a citation issued to a serious Class C violator.

The following options are available to supervisors when considering officers' requests to book or charge a violator:

- a. Approve the request for incarceration.
- b. Order a citation be issued to the violator.
- c. Order the violator released without action being taken.

## **4 CITATION CONSIDERATIONS**

Officers will print all information on citations completely and accurately. All blank lines on the citation form will have the appropriate information entered on them.

Officers will turn all citations in to their immediate supervisor at the end of their shift.

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**General Order #500-14****ISSUE DATE:** February 18, 2005 **PAGE: #3****Class C Citations**

Officers writing citations within the incorporated areas of Houston, but outside of Harris County, will place the name of the county in which the violation occurred in parentheses on the same line as the location of the violation.

**Traffic Citations**

Violators who agree to sign the citation and who are operating a Texas licensed vehicle will not be booked on a speeding charge if it is the only violation they are charged with. Violators who agree to sign the citation and who are operating a Texas licensed vehicle will not be booked on a *failure to show proof of financial responsibility* charge if it is the only violation for which they are charged.

Violators charged only with speeding and whose state of residence is part of the Nonresident Violator Compact of 1977 will not be booked on the charge. Violators charged with both speeding and failure to show proof of financial responsibility or other violations, regardless of residence, may be booked on the charges in accordance with section 3 of this General Order.

Violators driving another state's licensed vehicle, or a resident of another state that is not participating in the Nonresident Violator Compact of 1977 may be booked on any citation in accordance with section 3 of this General Order.

**5 REFUSAL OR UNABLE TO SIGN A CITATION**

Officers will advise violators who refuse to sign a citation that signing the citation is not an admission of guilt, but rather an

acknowledgment of receiving a citation and a promise to appear in court at the designated time.

If the violator still refuses to sign the citation, the officer will print *Refused To Sign* on the line set aside for the violator's signature. Refusal to sign the citation will not be a basis for taking a violator into custody. The officer will release the violator if there are no other charges.

After releasing the violator, the officer will complete the *Refused/Unable to Sign Affidavit* form and attach it to the citation. The affidavit will be notarized immediately. The citation and affidavit will be forwarded to the officer's immediate supervisor for review by the end of the officer's tour of duty.

If a violator is unable to sign a citation as a result of severe injury, the officer will print *Unable To Sign Due To Injury* on the line provided for the violator's signature. The officer will complete the *Refused/Unable to Sign Affidavit* form and attach it to the citation. The affidavit will be notarized immediately. The citation and affidavit will be forwarded to the officer's immediate supervisor for review by the end of the officer's tour of duty.

**6 VOIDING/DISMISSING CITATIONS**

Citations may be voided or dismissed. Requests for citations to be voided or dismissed will only be allowed for one of the following reasons:

- a. Errors in writing the citation.
- b. Other charges filed in county or district court.
- c. Inappropriate charge.

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**Voiding Citations**

To void a citation, all copies of the citation must be gathered and the word *VOID* will be written across the entire front of all copies. The issuing officer will write the reasons for voiding the citation on the back of the No. 2 copy and then place it on the bottom of all gathered copies. The issuing officer and each supervisor in the officer's chain of command, through the assistant chief, will sign the No. 2 copy.

The assistant chief's office will send all copies of voided Class C citations to Ticket Supply for filing.

**Dismissing Citations**

A citation that has been forwarded to Municipal Court cannot be voided and will only be dismissed by an official request from the Chief of Police and by agreement of the Municipal Court Chief Prosecutor, or other process of law.

The officer requesting the dismissal will complete a citation pack and forward it to the Chief of Police through the requesting officer's chain of command.

Upon the determination of the Chief of Police that the dismissal is justified, the citation pack will be sent to the Municipal Court Chief Prosecutor.

Letters for dismissal of citations will include:

- a. Violator's name.
- b. Citation number.
- c. Docket number.
- d. Court number.
- e. Appearance date and time.

The letter from the Chief of Police will conclude by requesting the Municipal Court Chief Prosecutor to make a recommendation to the court for dismissal of the citation.

**7 MUNICIPAL WARRANTS**

Officers will check whether a person has municipal warrants by giving all of the following information to the Municipal Courts Delinquent Complaints Section:

- a. Whether or not the person is in custody.
- b. The person's name, race, sex, date of birth, and driver license number.

The Delinquent Complaints Section will advise the officer if there are any outstanding warrants on the person in question and the number of such warrants. Docket numbers and the amount of bond will not be given over the telephone.

**8 SPECIAL SITUATIONS**

**Trespassing or Loitering on School Property**

Officers will handle trespassing or loitering on school property incidents by incarcerating the violator and filing the appropriate complaint listed below:

- Trespassing on School Property.
- Loitering on School Property.

Officers will include the complete name and address of the school as well as the complainant and witness information in

**General Order #500-14**

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the detail section on the back of the complaint.

Officers will initiate an incident report and list the report number on the officer's copy and the court's copy of the citation.

Officers authorized by a supervisor to write a citation for trespassing or loitering on school property will list the incident report number, complainant, and witness information on the back of the No. 1 copy. The name of the school will be listed on the front of the citation following the appropriate charge (e.g., Loitering on School Property — Smith Elementary School).

#### **Enforcement of Texas Education Code**

The Texas Education Code grants broad powers to local school district trustees to establish rules and regulations that address disruptive behavior in schools. However, under no circumstances will officers issue a citation for *Disruption Of Classes, Disruptive Activities, or Possession Of Paging Devices* using the Texas Education Code as the basis for the complaint.

#### **Class C Theft Citations**

Officers will complete the following information when authorized by a supervisor to write a citation for Class C theft:

- a. All stolen items will be listed on the citation directly after where the violation is written.

- b. The following information will be listed on the back of the court's copy and the officer's copy of the citation:

1. Complainant and witness information.
2. Indication of who has care, custody, and control of the stolen item.
3. Indication of who made the actual arrest in the store.
4. Retail value of the stolen item.

#### **9 RELATED GENERAL ORDERS**

500-01, **Effecting Arrests and Searches**

500-02, **Handling and Transporting**

**Prisoners**

500-06, **Disposition of Arrested Juveniles**

500-15, **Contact with Representatives of Foreign Governments**

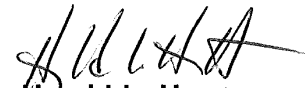
500-17, **Booking Prisoners and Transferring Prisoners in the Field**

500-18, **Traffic Violations by Legislators and Military Personnel**

600-29, **Parking Tickets**

700-01, **Property/Evidence Control Regulations**

800-07, **Criteria for Submitting Incident Reports**

  
**Harold L. Hurtt**  
**Chief of Police**

**COH\_BAY AREA\_000557**

# Exhibit 8

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BAY AREA UNITARIAN	:	
UNIVERSALIST CHURCH;	:	
DRINK HOUSTON BETTER,	:	
L.L.C., d/b/a ANTIDOTE	:	
COFFEE; PERK YOU	:	
LATER, L.L.C.,	:	
	:	
Plaintiffs,	:	
	:	
VS.	:	CIVIL ACTION NO. 4:20-cv-3081
	:	
KIM OGG, District	:	
Attorney for Harris	:	
County, in her official:	:	
capacity; ED GONZALEZ,	:	
County Sheriff for	:	
Harris County, in his	:	
official capacity; PETE:	:	
BACON, Acting Chief of	:	
Police for the Webster	:	
Police Department, in	:	
his official capacity;	:	
TROY FINNER, Chief of	:	
the Houston Police	:	
Department, in his	:	
official capacity,	:	
	:	
Defendants.	:	

\*\*\*\*\*  
ORAL AND 30(b)(6) DEPOSITION OF  
HARRIS COUNTY  
BY AND THROUGH  
MICHELLE WILHELM  
AUGUST 24, 2022  
\*\*\*\*\*

ORAL AND 30(b)(6) DEPOSITION OF HARRIS COUNTY  
BY AND THROUGH OF MICHELLE WILHELM, produced as a  
witness at the instance of the Plaintiffs, and duly

1 sworn, was taken in the above-styled and numbered cause  
2 on August 24, 2022, from 9:09 a.m. to 11:43 a.m., via  
3 Zoom videoconference, before PHYLLIS WALTZ, RMR, CRR,  
4 CRC, Texas CSR, TCRR, Louisiana CCR, in and for the  
5 State of Texas, recorded by machine shorthand, pursuant  
6 to the Federal Rules of Civil Procedure and the  
7 provisions stated on the record or attached hereto; that  
8 the deposition shall be read and signed before any  
9 Notary Public.

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Mr. Zach Thetford

ALSO PRESENT:

Mr. Pete Bacon

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1 years as an Assistant District Attorney. And then what  
2 was your next role or what -- what happened when you  
3 left that role?

4 A. I left the office, and then I returned and  
09:21 5 then in my current assignment.

6 Q. And what is your current position at the  
7 Harris District Attorney's office --

8 A. I'm --

9 Q. -- Harris County District Attorney's Office?

09:21 10 A. Sorry. I'm an Assistant District Attorney in  
11 the intake division.

12 Q. And that's the position that you've held since  
13 you returned to the office until now?

14 A. It is.

09:22 15 Q. And what year did you return to the office,  
16 precisely?

17 A. January of 2010.

18 Q. What are your job responsibilities in your  
19 current role?

09:22 20 A. I -- as an intake employee, I assist law  
21 enforcement personnel in their investigations, and I  
22 process criminal complaints, just secure charging  
23 documents. I prepare the associated necessary motions,  
24 and I evaluate evidence presented by law enforcement,  
09:22 25 using my prosecutorial discretion to make a

1 determination as to whether the facts are sufficient to  
2 support probable cause and prosecution. I assist the  
3 bureau chief of my division and the D.A., as requested.

4 Q. So returning to -- or a little bit more about  
09:23 5 this evaluation of the evidence presented by law  
6 enforcement in order to determine, you know, whether the  
7 facts are sufficient to a -- for a prosecution. Could  
8 you describe, how does that process of working with law  
9 enforcement typically begin in an individual case?

09:23 10 A. The intake division is staffed by six, seven,  
11 eight attorneys, 24 hours a day, and we take phone calls  
12 from law enforcement at the scene of a crime, relaying  
13 to us the evidence as they are made aware of it. And we  
14 may assist in questions, we may assist with subpoenas,  
09:24 15 we may assist with search warrants, to enable the  
16 investigation to proceed and develop evidence. Once  
17 that phone call is completed, the law enforcement  
18 personnel prepare information that's sent to us that  
19 then we are able to review and double-check and process  
09:24 20 into a criminal charge. We may decline a charge based  
21 on the -- the call. We may ask for additional evidence.  
22 Or we may proceed with charges. That's one way that it  
23 can happen.

24 Another way would be -- that's where,  
09:25 25 typically, they're at the scene and they may have a

1 person in custody. There is a second method that's  
2 called a 2B, which is you -- typically a follow-up  
3 investigation, where no person is in custody, where they  
4 then present the facts and a warrant is issued, if we  
09:25 5 determine that probable cause exists and charges are  
6 warranted.

7 **Q. And what factors go into your decision that**  
8 **you mentioned when you determine whether to move forward**  
9 **or to decline charges?**

09:25 10 A. An evidence-based analysis as applied to the  
11 existing law.

12 **Q. Okay. We'll return to that subsequently.**

13 **In your current role, do you have any training**  
14 **responsibilities for employees?**

09:26 15 A. I do provide training upon request from our  
16 bureau chief or the District Attorney and have presented  
17 some trainings.

18 **Q. What topics have you presented trainings on?**

19 A. Again, probable cause and on -- most recently,  
09:26 20 it would be on gun laws and the September '21 gun law  
21 changes for the office personnel.

22 **Q. Any other topics on which you've presented**  
23 **trainings?**

24 A. To the office?

09:26 25 **Q. Yes, sorry, to the office.**

1 individuals for violation of any particular law under  
2 the Texas Penal Code?

3 MR. MILLER: Objection; form.

4 MS. TAYLOR: I'll restate.

09:42 5 Q. (BY MS. TAYLOR) Are there any crimes defined  
6 in the Texas Penal Code that it is the policy of the  
7 Harris County District Attorney's Office to refuse to  
8 prosecute?

9 A. The Harris County District Attorney's Office  
09:42 10 prosecutes all misdemeanor and felony crimes wherein  
11 there is sufficient evidence as applied to the law using  
12 prosecutorial discretion.

13 Q. So there are no crimes in the Texas Penal Code  
14 that are singled out for different treatment, as a  
09:42 15 matter of policy?

16 MR. MILLER: Objection; form.

17 A. And --

18 Q. (BY MS. TAYLOR) I'll restate the question,  
19 sorry. The Harris -- does the Harris County District  
09:43 20 Attorney's Office have a policy of treating any  
21 particular crime in the Texas code, penal code  
22 differently?

23 MR. MILLER: Objection; form.

24 A. I'm not sure I understand what you mean by  
09:43 25 "differently."

1 Office have any policy exceptions to that approach?

2 MR. MILLER: Objection; form.

3 Q. (BY MS. TAYLOR) I'll state it more simply.

4 Are there any exceptions to that approach?

09:45 5 MR. MILLER: Objection; form.

6 Q. (BY MS. TAYLOR) Is it the policy of the  
7 Harris County District Attorney's Office to refuse to  
8 prosecute individuals for a violation of any particular  
9 law under the Texas Penal Code?

09:46 10 A. A policy to refuse to prosecute, is that the  
11 question?

12 Q. That's the question.

13 A. And by "prosecute," you mean what?

14 Q. By prosecute, I would say, when there's --  
09:46 15 let's say to refuse to prosecute would mean when there  
16 is evidence to support a charge under the Texas Penal  
17 Code a policy nevertheless to not prosecute that  
18 particular time?

19 MR. MILLER: Objection; form.

09:47 20 You can answer.

21 A. There may be diversion programs. That would  
22 still be a case that would be handled. So I'm not sure  
23 if that falls under your definition of prosecute, but  
24 there may be programs to divert certain charges low  
09:47 25 level, non-violent charges in the office.

1 Q. (BY MS. TAYLOR) And the memo that you  
2 previously described, for example, about mental health  
3 diversion programs, is that an example --

4 A. It is.

09:47 5 Q. -- of such a policy?

6 A. It is.

7 Q. And where there is such a diversion program,  
8 do prosecutors still exercise their discretion as to  
9 whether to divert an individual to that program or move  
09:48 10 forward with charges?

11 A. Yes.

12 Q. Okay. Does the Harris County District  
13 Attorney's Office have a practice of refusing to  
14 prosecute individuals for violation of any particular  
09:48 15 law under the Texas Penal Code?

16 A. Not that I can think of.

17 Q. Okay. Thank you.

18 Let's turn more specifically to the Texas  
19 Penal Code Sections 30.05, 30.06, and 30.07. These  
09:49 20 sections relate to the trime -- crime of trespass; is  
21 that correct?

22 A. Yes.

23 Q. Would Section 30.05 be a crime that the Harris  
24 County District Attorney's Office prosecutes?

09:49 25 A. It is.

1 Q. Would Section 30.06 be one of the crimes that  
2 the Harris County District Attorney's Office prosecutes?

3 A. It is qualifying, if sufficient evidence  
4 exists based on the analysis, subject to prosecutorial  
09:49 5 discretion and applying the law.

6 Q. But would -- those qualifications would apply  
7 equally to any provision of the Texas Penal Code; is  
8 that correct?

9 A. Correct.

09:49 10 Q. So Section 30.06 is not treated any  
11 differently than any other provision in the Texas Penal  
12 Code; is that correct?

13 A. Correct.

14 Q. And is Section 30.07 one of the crimes that  
09:50 15 the Harris County District Attorney's Office prosecutes?

16 A. It is.

17 Q. Okay. And, again, is Section 30.07, as a  
18 matter of policy of the office, treated any differently  
19 from other crimes in the Texas Penal Code?

09:50 20 MR. MILLER: Objection; form.

21 Q. (BY MS. TAYLOR) Does the Harris County  
22 District Attorney's Office treat prosecutions under  
23 Section 30.07 any differently than other crimes in the  
24 Texas Penal Code?

09:50 25 A. Subject to the qualifications so stated, it --

1 Q. It has to be --

2 A. -- would be treated the same.

3 Q. I apologize for speaking over you. Go ahead  
4 and finish your --

09:50 5 A. It -- it would be treated the same.

6 Q. Thank you. We'll talk more again about  
7 this -- the general policy that you have been referring  
8 to.

9 So does the Harris -- Harris County District  
09:51 10 Attorney's Office have a general policy related to  
11 bringing charges for crimes under the Texas Penal Code?

12 A. Just as so stated. All -- all prosecutions  
13 are brought based on an evidence-based analysis as  
14 applied to the law, to determine if probable cause  
09:51 15 exists sufficient for the arrest and prosecution of an  
16 accused and subject to prosecutorial discretion.

17 Q. Does this policy have a name or number?

18 A. I would have to reflect -- I would have to  
19 review the office manual specifically to determine  
09:52 20 whether or not there would be any cite associated.

21 Q. But regardless of whether there is a specific  
22 name or number, that is the policy of the District  
23 Attorney's office?

24 A. It is.

09:52 25 Q. And I apologize if this is a little bit

1       repetitive. In what circumstances is a prosecutor  
2       within the Harris County District Attorney's Office  
3       permitted to charge an individual for a violation of the  
4       Texas Penal Code?

09:52 5           A. When sufficient facts are presented and  
6       evidence exists, when analyzed against the law to  
7       determine that probable cause exists for the arrest and  
8       the prosecution of an accused, subject to prosecutorial  
9       discretion.

09:52 10          Q. Is the prosecutorial discretion within the  
11       exercise solely by an individual Assistant District  
12       Attorney?

13           A. An individual Assistant District Attorney can  
14       use their prosecutorial discretion in their analysis of  
09:53 15       the evidence and the law and in determining whether or  
16       not the evidence is sufficient for the arrest and  
17       prosecution of an individual in the best interest of  
18       justice.

19           Q. Thank you. We touched initially on how the  
09:53 20       intake process works. I want to revisit that again  
21       here. You described that law enforcement generally will  
22       initiate an individual case by coming to the intake  
23       division making a phone call. When did they  
24       typically -- you know, is that typically when you first  
09:54 25       hear about a case from law enforcement?

1 MS. AZADEH: Objection; form.

2 Q. (BY MS. TAYLOR) Okay. How does the case --  
3 the case intake process get started?

4 A. It would be by a communication from law  
09:54 5 enforcement, primarily.

6 Q. And when law enforcement communicates, they --  
7 you mentioned that -- sorry, let me start that question  
8 again.

9 What is the content of an initial  
09:55 10 communication from law enforcement, as a general matter?

11 A. It would --

12 MR. MILLER: Objection; form.

13 Q. (BY MS. TAYLOR) Can you describe a typical  
14 example of an initial communication to the intake  
09:55 15 department from law enforcement?

16 A. It would vary, depending on the nature of the  
17 call; but, typically, it would be a phone call, as I  
18 described earlier, one of two ways, either on scene or  
19 follow-up investigation call to present the facts to us  
09:56 20 as the law enforcement personnel has been made aware or  
21 developed the evidence in a conversation to us about  
22 what evidence they've gathered.

23 Q. And what analysis would the Harris County  
24 District Attorney's Office perform on the evidence that  
09:56 25 have been gathered?

1           A.    Hypothetically, give -- in -- in a phone call  
2           wherein an officer presents facts to us, then our  
3           determination would be whether or not those facts are  
4           sufficient to meet the elements of an offense and  
09:56 5           whether or not it -- that evidence rises to the level  
6           sufficient for the arrest and prosecution of an accused,  
7           using our prosecutorial discretion.

8           **Q.    What do you mean by the term elements of the**  
9           **offense?**

09:57 10          A.    Every offense has criteria that must be met in  
11          order to be prosecuted, in order to be met, and so that  
12          you'd have to prove in a prosecution in court, and so  
13          each of those elements must have sufficient evidence for  
14          us to be able to prove in court. And as an officer  
09:57 15          relays evidence to us, we go down a checklist in our  
16          mind, given whatever hypothetical offense they're  
17          calling about.

18          **Q.    And if there -- the officer did not convey to**  
19          **you evidence that would meet one of those elements, what**  
09:58 20          **would the next step be?**

21          A.    In a hypothetical situation, it may be a  
22          conversation about what other evidence we would need,  
23          where they're falling short in their presentation.  
24          Sometimes it's just a conversation and they have that  
09:58 25          evidence and they didn't relay it in the initial recount

1 of what evidence they have. It may be what -- a  
2 conversation about what can be done to develop that  
3 evidence. Maybe they need a subpoena for something,  
4 they need a search warrant for something, they need to  
09:58 5 conduct more investigation. And we will direct that or  
6 suggest that as alternatives and in a determination of  
7 whether or not they can meet that element of proof.

8 **Q. And if there was sufficient evidence on every**  
9 **element, then what would the next step be?**

09:59 10 A. In a hypothetical, the next step would be we  
11 would make a determination as applied to the law whether  
12 or not, using our prosecutorial discretion, a charge is  
13 warranted, and we would accept that charge; and the  
14 officer would then proceed with the filing of that  
09:59 15 charge.

16 **Q. So any prosecutor in your office must**  
17 **understand the elements of crimes in Texas, correct?**

18 A. Every prosecutor in the office must meet their  
19 burden of proof in prosecuting a crime sufficient so  
10:00 20 that evidence exists for each and every element.

21 **Q. To perform -- an Assistant District Attorney**  
22 **working in the intake process must understand the**  
23 **elements of the crimes that -- you know, the crime that**  
24 **they are considering charging; is that correct?**

10:00 25 A. You may review a crime in the penal code and

1 understand what elements are required and apply the  
2 facts as presented to those elements.

3 Q. And so let's walk through an example of a  
4 crime, and this can be less abstract. If you could turn  
10:01 5 to Tab 6 in your binder.

6 A. Okay.

7 Q. It's an excerpt from the Texas Penal Code.  
8 And this, I think, would be Deposition Exhibit 2.

9 We're going to look at Section 30.04 of the  
10:01 10 Texas Penal Code, which is titled "BURGLARY OF  
11 VEHICLES."

12 A. Okay.

13 Q. Does your office ever charge people for  
14 burglary of vehicles?

10:02 15 A. Yes, when sufficient evidence exists.

16 Q. Let's look at Section 30.04, and this is on  
17 Page 3 of that exhibit. Where do you see the definition  
18 of the crime burglary of a vehicle? And you can take  
19 your time looking.

10:02 20 A. Followed by (a) "A person commits an offense  
21 if, without the consent of the owner, he breaks into or  
22 enters a vehicle or any part of a vehicle with intent to  
23 commit any felony or theft."

24 Q. And what would you say are the elements of the  
10:02 25 crime of a burglary of a vehicle?

1           A.    Well, if -- I don't know dimension, but I also  
2   don't know if you're showing me this -- I mean, it  
3   doesn't appear to be in con- -- different colors. I  
4   didn't know if this is just a black and white, you know.

10:50 5           **Q.    Right.**

6           A.    If -- if you're purporting that it has colors  
7   or, just looking at it, it doesn't appear to be in two  
8   different colors.

9           **Q.    Right.**

10:50 10          A.    Contrasting colors.

11          **Q.    So it would be required to have the letters be**  
12 **one inch high and appear in contrasting colors; is that**  
13 **correct?**

14          A.    Right.

10:50 15          **Q.    Thank you.**

16                Okay. I want to move on to training. Can you  
17 **explain the type of training that employees -- sorry,**  
18 **let me restate that.**

19                Can you explain the type of training that  
10:51 20 **prosecutors in your office receive with respect to their**  
21 **duties?**

22          A.    That seems to be broad, as it relates to  
23 what -- what -- what function of their duties are.

24          **Q.    That's fair. Why don't we focus more narrowly**  
10:51 25 **on charging decisions. What types of training do**

1 **employees in your office receive with respect to**  
2 **charging decisions?**

3 A. I think that the training is the mandate that  
4 you use your prosecutorial discretion and conduct an  
10:52 5 evidence-based analysis of case specific facts as  
6 applied to the law to determine if PC exists sufficient  
7 for the arrest and prosecution of an accused. There...

8 **Q. Is that training delivered one on one?**

9 A. Are you asking as it relates to intake  
10:52 10 prosecutors?

11 **Q. Yes, I'm asking as relates to intake**  
12 **prosecutors.**

13 A. As it relates to intake prosecutors, they  
14 undergo a initial training period where they sit with a  
10:53 15 supervisor and review some training, generalized  
16 training materials and shadow a prosecutor for a period  
17 of time to understand the processes here in Harris  
18 County.

19 **Q. Do you ever personally train employees in your**  
10:53 20 **office?**

21 A. I have acted as the person who the trainee  
22 would shadow.

23 **Q. And what type of training have you personally**  
24 **received?**

10:54 25 A. As it relates to what?

1           **Q.    Let's see, what type of training on intake**  
2           **procedures have you personally received?**

3           A.    There may be from time to time special  
4           trainings or talks as we implement, for instance, the  
10:54 5           mental health diversion program, where that would be  
6           explained to intake personnel, how it works and what the  
7           processes would be.   That would be one.

8                     There may be training related to street  
9           overtaking as that became a more frequent thing and how  
10:55 10          we can prosecute that and the dangers of that reckless  
11          driving, street overtaking.   It's -- as issues arise,  
12          they may be addressed in that manner.

13           **Q.    So it's fair to say that as issues arise that**  
14           **are of concern, the office may provide a specific**  
10:55 15           **training on that topic?**

16           A.    Yes.   It -- the office may provide it, or it  
17           may be provided to us.

18           **Q.    Who would provide it to the office?**

19           A.    For example, specifically as it relates to the  
10:56 20          street overtaking, law enforcement came in to explain  
21          that, the dangers of it, show us videos of that, so that  
22          we would have a better understanding, as they're out on  
23          the scene and we aren't, so that we understand the  
24          nature of that offense.

10:56 25           **Q.    Are you aware of the Texas Commission on Law**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BAY AREA UNITARIAN :  
UNIVERSALIST CHURCH; :  
DRINK HOUSTON BETTER, :  
L.L.C., d/b/a ANTIDOTE :  
COFFEE; PERK YOU :  
LATER, L.L.C., :

Plaintiffs, :

VS. : CIVIL ACTION NO. 4:20-cv-3081

KIM OGG, District :  
Attorney for Harris :  
County, in her official :  
capacity; ED GONZALEZ, :  
County Sheriff for :  
Harris County, in his :  
official capacity; PETE :  
BACON, Acting Chief of :  
Police for the Webster :  
Police Department, in :  
his official capacity; :  
TROY FINNER, Chief of :  
the Houston Police :  
Department, in his :  
official capacity, :

Defendants. :

I, PHYLLIS WALTZ, a Texas Certified Shorthand  
Reporter, Texas Certified Realtime Reporter, Louisiana  
Certified Court Reporter, Registered Merit Reporter,  
Certified Realtime Reporter, and Certified Realtime  
Captioner, in and for the State of Texas, do hereby  
certify the following:

That the witness, MICHELLE WILHELM, was duly  
sworn by the officer and that the transcript of the oral

1 deposition is a true record of the testimony given by  
2 the witness;

3 I further certify that pursuant to FRCP Rule  
4 30(e)(1) that the signature of the deponent:

5   X   was requested by the deponent or a party  
6 before the completion of the deposition and is to be  
7 returned within 30 days from the date of receipt of the  
8 transcript. If returned, the attached Changes and  
9 Signature Page contains any changes and the reasons  
10 therefor;

11            was not requested by the deponent or a  
12 party before the completion of the deposition.

13 I further certify that I am neither counsel  
14 for, related to, nor employed by any of the parties or  
15 attorneys to the action in which this proceeding was  
16 taken. Further, I am not a relative or employee of any  
17 attorney of record in this cause, nor am I financially  
18 or otherwise interested in the outcome of the action.  
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1 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on  
2 this, the 8TH day of SEPTEMBER, 2022.



3  
4  
5 Phyllis Waltz

PHYLLIS WALTZ, RMR, CRR, CRC

6 Expiration Date: 12/31/22

TEXAS CSR, TCRR NO. 6813

7 Expiration Date: 10/31/22

LOUISIANA CCR NO. 2011010

8 Expiration Date: 12/31/22  
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# Exhibit 9

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BAY AREA UNITARIAN )  
UNIVERSALIST CHURCH, et al )  
Plaintiffs )  
vs. ) Civil Action No. 4:20-cv-03081  
 )  
PETE BACON, Acting Chief )  
of Police for the Webster )  
Police Department, et al )  
Defendants )

ORAL VIDEOTAPED DEPOSITION

VOLUME 1 OF 1 VOLUME

SHARLENE ROCHEN

March 23, 2022

ORAL VIDEOTAPED DEPOSITION OF SHARLENE ROCHEN,  
produced as a witness at the instance of the Defendant  
Pete Bacon and duly sworn, was taken in the above-styled  
and numbered cause on the 23rd day of March, 2022 , from  
10:04 a.m. to 12:38 p.m., before Gina Bench, Certified  
Shorthand Reporter in and for the State of Texas,  
reported by computerized stenotype machine at the  
offices of Jones Day Law Firm, 717 Texas Street, Suite  
3300, Houston, Texas 77002, pursuant to the Federal  
Rules of Civil Procedure and the provisions stated on  
the record or attached hereto.

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BAY AREA UNITARIAN )  
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vs. ) Civil Action No. 4:20-cv-03081  
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1 District Attorney Ogg and her office?

2 A No.

3 Q So to be clear, you're not alleging that DA  
4 Ogg or her office have done or not done anything at all  
5 to violate your rights or the rights of the church at  
6 this point?

7 A Yes, I'm not alleging anything at all.

8 Q And to your knowledge, has DA Ogg violated the  
9 rights of anyone at the church?

10 MR. NELLIS: Object to form.

11 A To my knowledge -- can you say that one more  
12 time?

13 Q (BY MS. BEELER) Yeah. I'm just going to  
14 strike that. I'm just going to strike. I don't need  
15 that.

16 MS. BEELER: Okay. I'm -- I'm finished,  
17 though. I pass the witness and reserve the rest of my  
18 questions for the time of trial.

19 TIME: 12:21 p.m.

20 EXAMINATION

21 Q (BY MS. AZADEH) Good afternoon. I represent  
22 the Houston Police Chief. And are you aware of who the  
23 police chief is of Houston?

24 A I don't know who the new police chief is.

25 Q All right.

1 A I've seen him, I think, on TV.

2 Q Yes, ma'am. State the address of your church.

3 A It's 17503 El Camino Real.

4 Q And you've already stated that you -- the  
5 church owns the property that is located on it. Who  
6 handles the property taxes?

7 A We don't. We're a church. We don't have  
8 property taxes.

9 Q And the deed for the church is in whose name  
10 or what --

11 A I believe it's in Bay Area Fellowship or  
12 Unitarian Universalist. They used to call it  
13 Fellowship.

14 Q Do you know what city or cities the church is  
15 located in?

16 A I think they are in Webster and Houston, I  
17 think. I have heard that. I don't know that for sure,  
18 but I've heard that our property line -- or our property  
19 is both in Webster and in Houston.

20 Q Do you remember who -- who you heard that  
21 from?

22 A No, not really.

23 Q Of all the calls for service or assistance you  
24 discussed today at this deposition, did any of them  
25 involve a call placed to a Houston Police Department

1 phone number?

2 A I don't think so. They -- I don't think so.

3 Q What is the dispatch number you use to contact  
4 the police?

5 A I always use Webster dispatch number.

6 Q Do you know the phone number?

7 A Not off the top of my head.

8 Q And are you aware of any calls placed by  
9 anyone else for assistance on church property that you  
10 use other than the Web -- Webster Police Department  
11 dispatch number?

12 A I -- yeah, I don't know.

13 Q Now, the complaint mentioned you have greeters  
14 present during services at your church; is that correct?

15 A We do have greeters during the church --  
16 during church service.

17 Q And do you give them any advice on how to  
18 handle problems or concerns that may require police  
19 assistance?

20 A I do not give them advice, no.

21 Q Who gives them that advice?

22 A I don't know that anyone does, but I'm really  
23 not sure.

24 Q If they need to contact the police, is there a  
25 phone number that's provided to them?

1           A     No. I would think they would just call 911 if  
2 they had to call the police.

3           Q     And have they ever called 911?

4           A     I don't know.

5           Q     So has anyone from the Houston Police  
6 Department ever responded to a call for assistance from  
7 the church?

8           A     Not that I'm aware of.

9           Q     Has anyone from the City of Houston government  
10 responded to an event at the church?

11          A     I don't -- I don't know really. To an  
12 event? You mean, like a dispatch?

13          Q     Yeah.

14          A     No, I don't think so. Not that I'm aware of.

15          Q     Has anyone from the Houston Police Department  
16 sent you correspondence or told you in person or called  
17 you on the phone and informed you of certain signs  
18 you're required to have at the church?

19          A     Not that I'm aware of.

20          Q     Has anyone from the Houston Police Department  
21 inspected signs at the church?

22          A     Not that I know of.

23          Q     Has anyone from the Houston Police Department  
24 informed you that you would not receive assistance from  
25 them --

1 A No --

2 Q -- in any way?

3 A -- not that I know of.

4 THE VIDEOGRAPHER: Ms. Azadeh, your mike.

5 MS. AZADEH: I'm sorry.

6 Q (BY MS. AZADEH) Do you have any reason to  
7 believe the Houston Police Department would not respond  
8 or would decline to help you if -- if the church is  
9 within their jurisdiction?

10 A No, I don't have any reason to believe that.

11 (Exhibit 10 marked)

12 MS. AZADEH: I have some copies.

13 Q (BY MS. AZADEH) I'll show you what I've  
14 marked as Exhibit 10, and I will represent to you this a  
15 map from mycity.houstontx.gov, which is a website run by  
16 the City of Houston. If you would just take a look at  
17 that.

18 A Okay.

19 Q Does the square box in the middle accurately  
20 represent the location of your church?

21 A Yes.

22 Q And does the church building itself appear to  
23 be within the boundary identified by the blue line?

24 Sorry. I'll rephrase that. Is the  
25 church property building itself located above or below

1 the blue line?

2 A It's below the blue line.

3 Q All right. And can you -- in that little box,  
4 does it identify any services provided by the City of  
5 Houston for this address?

6 A I don't -- I don't know.

7 Q Under Council District, does it identify any  
8 council district?

9 A Wait. I'm sorry, I don't really understand  
10 what you're saying.

11 Q In the middle of the page, the white box --

12 A Uh-huh.

13 Q -- do you see at the top it says City Service  
14 For This Address?

15 A Uh-huh.

16 Q Underneath that, does that identify Council  
17 District for this address?

18 A I mean, it says Council District. It doesn't  
19 really say City of Houston. So I'm -- I'm sorry, I'm  
20 confused.

21 Q Does it say City Service For This Address or  
22 any identified?

23 A Yes, it says City Service For This Address,  
24 yes.

25 Q And does it identify a council district

1 underneath that for this address?

2 A It says Council District. It doesn't have  
3 anything after the colon.

4 Q Okay. What about City Service Type?

5 A There's nothing after the colon, no.

6 Q How about HPD Beat?

7 A No, there's nothing after that.

8 Q Now, if the City does not identify this  
9 property as falling within any HPD jurisdiction beat or  
10 division, do you have any reason to doubt that?

11 A No, I don't. I...

12 MS. AZADEH: I'll mark this Exhibit 11.

13 (Exhibit 11 marked)

14 MR. NELLIS: Thank you.

15 Q (BY MS. AZADEH) And I'll represent that this  
16 is a map provided by the City of Houston as well. Does  
17 the gray shaded area in the center of that map look like  
18 the location of the property of the church?

19 A Yes.

20 Q And can you identify what it says in the box?

21 A It says Outside Service Area. No information  
22 is available at the selected location.

23 Q And the address in the search box, 17503 El  
24 Camino Real, Houston, is that your -- the church's  
25 address?

1 A Yes, that's correct.

2 Q If -- if this is a map that identifies any  
3 city council district for the City of Houston for this  
4 property and there are none, would that -- do you have  
5 any reason to doubt that?

6 A I really don't know what a city council  
7 district is. Sorry, but I --

8 Q That's okay.

9 (Exhibit 12 marked)

10 Q (BY MS. AZADEH) I'll hand you what's marked  
11 as Exhibit 12.

12 MS. BEELER: Do you have an extra copy?

13 MR. PFEIFFER: Uh-huh.

14 Q (BY MS. AZADEH) And I'll represent to you  
15 that this is a website provided by the City of Webster.  
16 Do you see the church's address on this map?

17 A Yes, I do.

18 Q I want you to look at what will be Exhibit 13.

19 (Exhibit 13 marked)

20 Q (BY MS. AZADEH) Do you see the church's  
21 address at the top left of Exhibit 13?

22 A Yes, I do.

23 Q Okay. And if -- if -- the blue marker on that  
24 map represents the location of the search?

25 A I guess it does.

1 Q Okay. It's okay. But is it above or below  
2 the boundary line at that location?

3 A It's below the line.

4 Q Okay. Do you know what entity or company does  
5 trash pickup for your church?

6 A We pay somebody to do it.

7 Q Do you pay a private --

8 A Yes, we do.

9 Q -- person? What about water, who -- who's the  
10 water provider?

11 A Clear Lake Water Authority.

12 Q And is there a sewage system?

13 A That goes through Clear Lake Water Authority,  
14 too.

15 Q Do you use any entity through the City of  
16 Houston?

17 A No, we do not.

18 Q Is your church a subscriber or member of any  
19 church security group or organization?

20 A Not that I'm aware of.

21 Q Has the church ever hired anybody as a  
22 consultant or an expert or, you know, just for help with  
23 security plans?

24 A No.

25 Q Now, the alarm -- alarm company that provides

1 services for the church, that you believe is ADT, do you  
2 know if -- if they were to ever dispatch police to your  
3 property, would they ever do it through the Houston  
4 Police Department?

5 A I don't know.

6 Q In your communications with them, have they  
7 ever indicated that Houston Police Department was  
8 contacted?

9 A No, they have not.

10 Q Have they advised you that Houston Police  
11 Department would not be willing to assist the church?

12 A No, they have not.

13 Q Do you have a metal detector at your church?

14 A No, we do not.

15 Q Do you hire private security or, you know,  
16 off-duty police security for your services?

17 A No, we do not.

18 Q Do you have any members who are officers for  
19 the Houston Police Department, that you know of?

20 A I don't know.

21 MS. AZADEH: I'll pass the witness.

22 MS. KEELEY: Here, give us one second.

23 MS. AZADEH: Let's go off.

24 THE VIDEOGRAPHER: We are off the record  
25 at 12:38 p.m.

(Proceedings concluded at 12:38 p.m.)

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## CHANGES AND SIGNATURE

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8 I declare under penalty of perjury that the  
9 foregoing is true and correct.  
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11 \_\_\_\_\_  
12 SHARLENE ROCHEN  
13  
14

15 SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned  
16 authority, by the witness, SHARLENE ROCHEN, on this the  
17 \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
18

19 \_\_\_\_\_  
20 NOTARY PUBLIC IN AND FOR

21 THE STATE OF \_\_\_\_\_  
22

23 My Commission Expires: \_\_\_\_\_  
24  
25

1 STATE OF TEXAS

2 COUNTY OF HARRIS

3  
4 REPORTER'S CERTIFICATE

5 VOLUME 1 OF 1 VOLUME

6 ORAL VIDEOTAPED DEPOSITION OF SHARLENE ROCHEN

7 March 23, 2022

8 I, Gina Bench, the undersigned Certified Shorthand  
9 Reporter in and for the State of Texas, certify that the  
10 facts stated in the foregoing pages are true and  
11 correct.

12 I further certify that I am neither attorney or  
13 counsel for, related to, nor employed by any parties to  
14 the action in which this testimony is taken and,  
15 further, that I am not a relative or employee of any  
16 counsel employed by the parties hereto or financially  
17 interested in the action.

18 SUBSCRIBED AND SWORN TO under my hand and seal of  
19 office on this the \_\_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_\_.

21 \_\_\_\_\_  
22 Gina Bench, CSR, RPR, RMR  
23 Texas CSR 221  
24 Expiration: 11/30/2023  
25 Cindi Bench Reporting  
10701 Corporate Dr., #172  
Stafford, Texas 77477  
Telephone: 713.824.2599

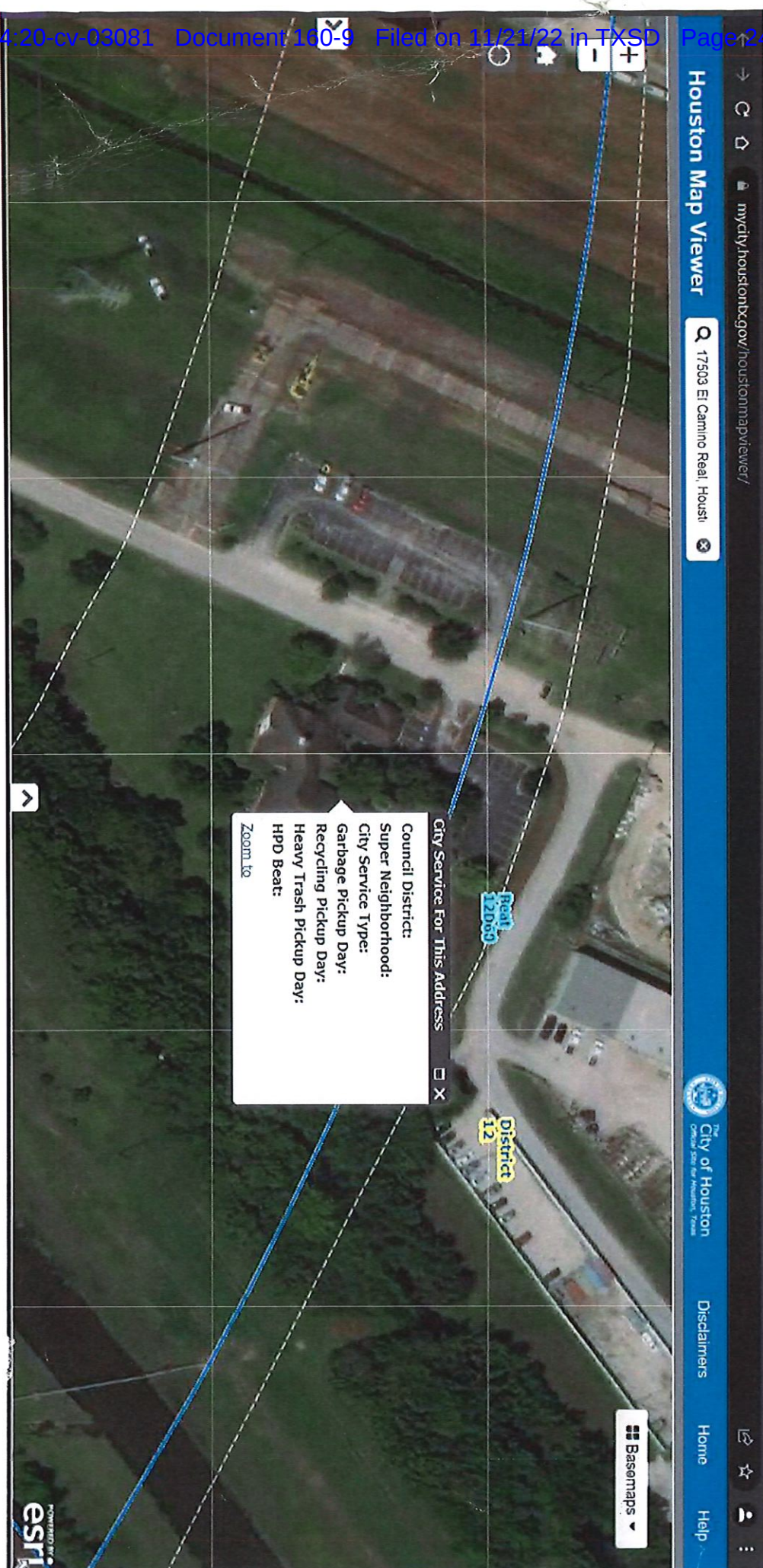


EXHIBIT 10  
WIT: S. Rader  
DATE: 3-23-22  
GINA BENCH, CSR, RMR

EXHIBIT 11  
WIT: S. Roebert  
DATE: 3-23-22  
GINA BENCH, CSR, RMR

If you do not see results, make sure that your browser address is <https> and not <http>.

houston.tx.gov/council/whoismymem.html

Conflict of Interest Forms

Council Committee Agendas

County Clerk's Office

District Boundaries Ordinance

Maps of Council Districts

Meetings Information, Etc.

Voter Registration Info

Who Is My Council Member?

17503 El Camino Real, Houston X

+

-

↶

↷

El Camino Real

Camino Real

Esri Community Maps Contributors, City of Houston, Brazo...

Esri

Outside Service Area

No information is available at the selected location.

Zoom to

Your five At-Large Council Members, from January 2, 2020 to January 2, 2024, who represent the entire City of Houston, are:



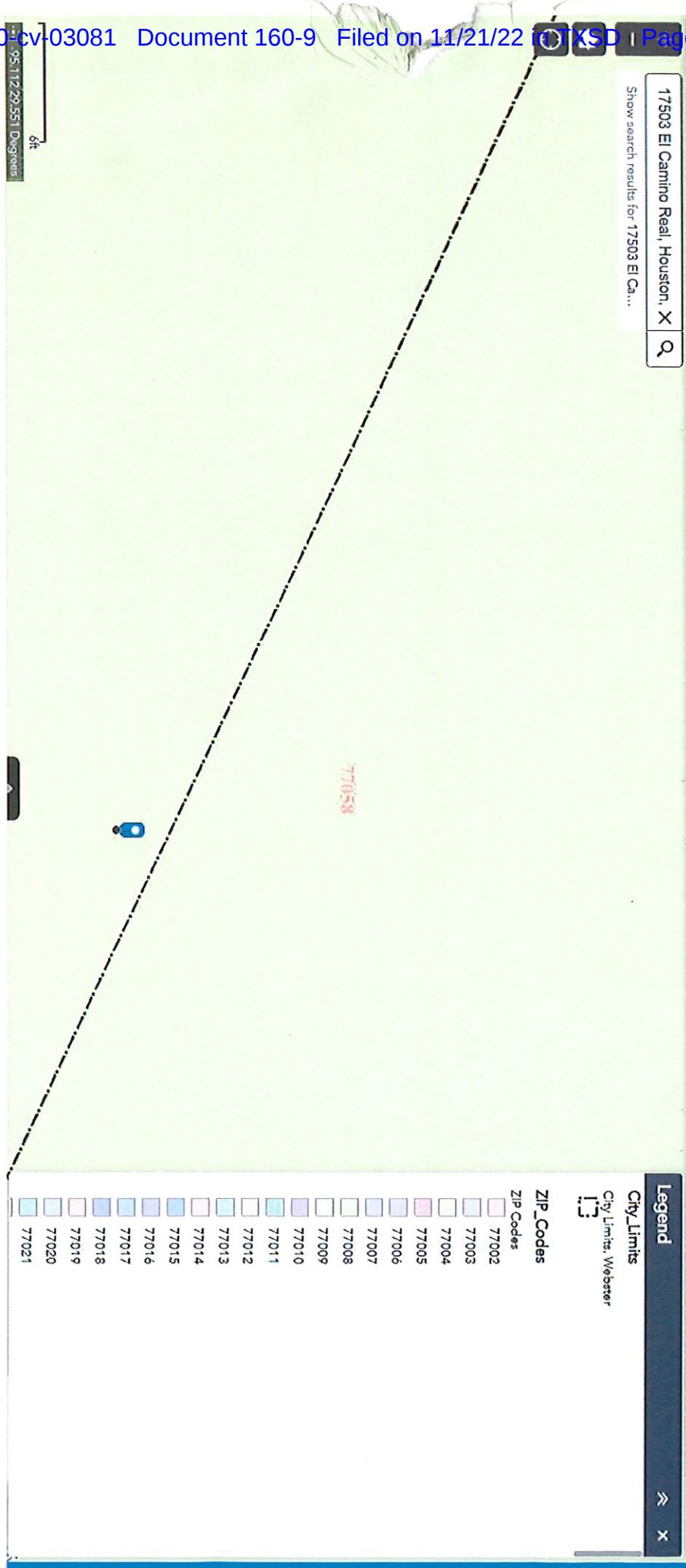


EXHIBIT 13

WIT: S. Becker

DATE: 3-23-22

GINA BENCH, CSR, RMR

## Exhibit 10

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BAY AREA UNITARIAN )  
UNIVERSALIST CHURCH; DRINK )  
HOUSTON BETTER, LLC d/b/a )  
ANTIDOTE COFFEE; PERK YOU )  
LATER, LLC, )  
Plaintiffs, )

VS. )

CIVIL ACTION NO.  
4:20-CV-3081

KEN PAXTON, Attorney General )  
for the State of Texas, in his )  
official capacity; KIM OGG, )  
District Attorney for Harris )  
County, in her official )  
capacity; VINCE RYAN, County )  
Attorney for Harris County, in )  
his official capacity; )  
ED GONZALEZ, County Sheriff )  
for Harris County, in his )  
official capacity; )  
PETE BACON, Acting Chief of )  
Police for the Webster Police )  
Department, in his official )  
capacity; ART ACEVEDO, Chief )  
of the Houston Police )  
Department, in his official )  
capacity; KIM LEMAUX, )  
Presiding Officer for the )  
Texas Commission on Law )  
Enforcement, in her official )  
capacity, )  
Defendant. )

\*\*\*\*\*

ORAL DEPOSITION OF DAWN CALLAWAY  
JUNE 1, 2022

\*\*\*\*\*

1 ORAL DEPOSITION OF DAWN CALLAWAY, produced as a  
2 witness at the instance of the Defendant and duly sworn,  
3 was taken in the above styled and numbered cause on  
4 Wednesday, June 1, 2022, from 10:04 a.m. to 12:25 p.m.,  
5 before ROBIN GROSS, CSR in and for the State of Texas,  
6 reported by shorthand machine, at the Offices of Jones  
7 Day, 717 Texas Avenue, Suite 3300, Houston, Texas,  
8 pursuant to the Federal Rules of Civil Procedure and the  
9 provisions stated on the record herein.

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## I N D E X

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4	HPD report No. 1356055-21	65
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\* \* \* \*

1 Q. Antidote.

2 A. Antidote, two rooms.

3 Q. And what are those rooms used for?

4 A. One is for coffee and food sales, the register,  
5 espresso.

6 Q. And the other?

7 A. The other is for customer seating.

8 Q. How many entrances do you have?

9 A. Two.

10 Q. Where are they located?

11 A. One is in front of the espresso machine and  
12 in-service checkout and the other one is in front of  
13 the -- the dining room, I guess you'd call it.

14 Q. And then --

15 A. And then there is an exit out back, emergency  
16 exit; and there are two bathrooms and an office. I  
17 don't know if that matters.

18 Q. Thank you. And how many windows would you say  
19 are at the coffee shop?

20 A. Large windows in the front. Three or four on the  
21 left if you're looking at it; two on the right; tiny  
22 windows in the -- the area -- the seating area.

23 Q. What kind of signs do you have, if you have any?

24 A. What kind of signs?

25 Q. On the outside --

1 A. On the --

2 Q. -- that would be visible to people entering.

3 Sorry.

4 A. I have the 1330 -- I mean 30.06 and 30.07. I  
5 have an alarm sign currently. And I have signs in the  
6 window, I think they say coffee, tea, beer, wine.

7 Q. And how long have you had the 30.06 and 30.07  
8 signs?

9 A. Since shortly after the law went into place.

10 Q. And which law would that be?

11 A. The law that I needed -- the law that required  
12 that I put them up to prevent someone with a concealed  
13 handgun or open carry to enter my business.

14 Q. And you mentioned beer and wine. Do you sell  
15 alcohol at Antidote?

16 A. Yes, I do.

17 Q. And what percentage of your revenue would you say  
18 is from alcohol sales?

19 A. Oh, gosh. I would have to look at paperwork  
20 these days; but if I was to -- if I was to guess, I'd  
21 say about 50 percent.

22 Q. So are you familiar with the Texas Alcohol  
23 Beverage Commission?

24 A. Of course.

25 Q. Are you required to post any signs by the Texas

1 A. Yes.

2 Q. And how do you know that he had tried to break  
3 into others?

4 A. Because a restaurant near us also had footage.

5 Q. What restaurant?

6 A. I believe it was Jenni's Noodle House.

7 Q. Jenni?

8 A. J-E-N-N-I.

9 Q. And were you there when the police came to the  
10 scene?

11 A. No, I don't -- I don't recall being there myself,  
12 no.

13 Q. Did they have any guns?

14 A. The person -- I don't -- that was caught on video  
15 with a hammer. I would -- I don't know if they had  
16 guns.

17 Q. Okay.

18 A. No reason to think so.

19 MS. AZADEH: I'm going to mark this as  
20 Exhibit 2.

21 (Exhibit No. 2 marked.)

22 Q. (BY MS. AZADEH) And we've marked as Exhibit 2 a  
23 Houston Police Department report dated 7/20/2020, and do  
24 you see at the top of the document where it says a  
25 number, 952692-20?

1 A. Yes.

2 Q. And I'll give you a moment to look over the  
3 document.

4 A. Okay. (Examining document).

5 Q. Ms. Callaway, do you see -- can you look on page  
6 3 of 4? They're marked at the bottom.

7 A. Sure.

8 Q. And under the bottom section where it says  
9 Narrative, do you see where it says that on 7/20/2020,  
10 Officer Araiza, riding 2A25D, was dispatched to a  
11 criminal mischief report at 729 Studewood. Officer was  
12 dispatched at 0933 hours and arrived at 0938 hours.

13 Do you have any reason to dispute that that was  
14 when the police responded?

15 A. No.

16 Q. Do you recall this incident?

17 A. Sounds familiar.

18 Q. Were you there?

19 A. No.

20 Q. Were you the one who called 911?

21 A. No.

22 Q. Okay. And did Stacy Williams tell you that she  
23 contacted the police?

24 A. Yeah, she would -- she would normally tell me. I  
25 don't remember her telling me; but that would be what we

1 would do, yes, she would tell me.

2 Q. And then can you read under that where it says  
3 Complainant Statements, Stacy Williams, who is the  
4 complainant identified in this report, do you see where  
5 it says: Complainant stated she works for Antidote  
6 Coffee and when she arrived this morning she noticed  
7 that the front door lock was damaged.

8 Do you see that?

9 A. Uh-huh.

10 Q. And do you see where it says that she reviewed  
11 the video?

12 A. Yes.

13 Q. And around midnight a silver or gray Toyota RAV4  
14 backed up to the front door. Two suspects got out. One  
15 of the suspects was white male, one unknown, and the  
16 race and sex was not clear due to the hoodie.

17 A. I see that.

18 Q. Complainant stated the suspect walked to the door  
19 and used a metal bar to try to pry the lock off. They  
20 did not get in and left the area.

21 Do you see that?

22 A. Uh-huh.

23 Q. Does that sound familiar? Do you have any reason  
24 to dispute this version?

25 A. I have no reason to dispute it.

1 Q. So is it possible it was a metal bar and not a  
2 hammer?

3 A. Yeah, this is probably -- I think this is a  
4 different incident than the one I was talking about.

5 Q. And then if you go over to the next page, do you  
6 see where the officer notes that the door frame was  
7 dented?

8 A. Yes. Sorry. Took me a minute to find it.

9 Q. It's hard to read.

10 And do you see under that where it says the  
11 complainant had the video of the crime on her phone and  
12 will provide a copy on a thumb drive and will call the  
13 police to pick it up.

14 Do you see that?

15 A. Yeah.

16 Q. Are you aware of Ms. Williams providing a copy of  
17 that video to the police?

18 A. I don't know if she did, but I remember there was  
19 a difficulty trying to move things from the video to a  
20 thumb drive.

21 Q. Okay. Do you know if anybody ever contacted the  
22 police to follow up?

23 A. Not that I recall, no.

24 Q. So did you ever follow up with the police to try  
25 and identify the suspects?

1 A. I don't -- I don't think so.

2 Q. Okay. And nobody ever contacted you?

3 A. No.

4 Q. And so do you think that the video was given to  
5 the police or was not?

6 A. I bet -- I would assume it was not.

7 Q. And why would you assume that?

8 A. Because of the difficulty of -- just  
9 technological issues.

10 (Exhibit No. 3 marked.)

11 Q. (BY MS. AZADEH) And this one has been marked  
12 Exhibit 3. Do you see at the top it has a similar  
13 number, 1603946-19?

14 A. Yes.

15 Q. And do you see where it says Houston Police  
16 Department report dated December 6th, 2019?

17 A. Yes.

18 Q. And I'll give you a moment to look this one over  
19 as well.

20 A. Okay. (Examining document.)

21 Q. I'm going to ask you to go again to page 4 of 5,  
22 and it's marked at the bottom. Under Narrative, do you  
23 see where it says: I, Officer D. Flores assigned to  
24 unit hashtag 2A30N received a call from dispatch at 0412  
25 hours on 12/6/19 regarding a burglary of a business at

1 729 Studewood. I arrived at 0416 hours and initiated my  
2 body worn camera prior to arrival.

3 Do you see that?

4 A. Yes.

5 Q. And do you have any dispute -- any reason to  
6 dispute that the police arrived there within four  
7 minutes?

8 A. No.

9 Q. And do you remember this incident?

10 A. Yeah, kind of. I remember that someone -- like I  
11 said, someone stole the -- the register drawer.

12 Q. Okay. And were you there?

13 A. No.

14 Q. Were you there when police arrived?

15 A. I don't believe so.

16 Q. Did you speak with the police by phone?

17 A. I don't believe so.

18 Q. Then do you see under the complainant section it  
19 says: Complainant Williams, Stacy Yvette stated that  
20 she got a call from the alarm company and emails at 0352  
21 a.m. that there was motion at the business. She stated  
22 that once she arrived, she noticed the damage to the  
23 door and called police. She stated that she noticed  
24 that the register was missing and about \$16 in change.

25 Do you remember that?

1 A. Yes.

2 Q. And did Stacy call you and tell you about this  
3 incident?

4 A. Not at the time. She -- we would have talked at  
5 some point.

6 Q. Okay. And then at the bottom do you see where it  
7 says Scene Description?

8 A. Uh-huh.

9 Q. The location was on the west side of the street.  
10 The front of the business had glass windows and two  
11 single door. The southern door was found to be pried  
12 open, and the location had video surveillance.

13 Do you see where it says that?

14 A. Yes.

15 Q. Is that an accurate description?

16 A. I'm not sure what southern door means -- yes,  
17 that is an accurate --

18 Q. Back to the top section, do you see where it says  
19 that she stated that she would make a copy of the video  
20 footage when it becomes available?

21 A. Okay. Yes.

22 Q. Do you see that?

23 A. It does.

24 Q. And do you remember if Stacy or anybody provided  
25 a copy of that video to police?

1           A. No, I don't recall, but I -- it may not have  
2 happened.

3           Q. May not have happened. So you don't recall if it  
4 happened or not?

5           A. I would doubt that it happened.

6           Q. Why -- why is that?

7           A. Just technological issues.

8           Q. Okay. So did you ever follow up with the police  
9 about the cash register that was stolen or the \$16?

10          A. No.

11          Q. Or the damage to the property?

12          A. No.

13          Q. And your name is not identified in this report.  
14 Would you have any reason to dispute that you were not  
15 present?

16          A. No reason.

17          Q. And you were not -- you did not speak to the  
18 police on the phone then?

19          A. I don't believe so.

20          Q. Okay.

21                       (Exhibit No. 4 marked.)

22          Q. (BY MS. AZADEH) And can you see at the top  
23 there's the same report, Houston Police Department,  
24 No. 1356055-21.

25          A. Yes.

1 Q. And I'll let you look over it.

2 A. Okay. (Examining document.)

3 Q. I'm going to ask you to go to page 6 of 7. Can  
4 you see the date identified at the bottom, 12/15/2021?

5 A. Yes.

6 Q. Okay. And this is -- this report relates to an  
7 incident at 735 Studewood Street.

8 A. Okay.

9 Q. That's not your business, is it?

10 A. No, it's not.

11 Q. But it is your property?

12 A. Yes, it is.

13 Q. 735 is included in your property?

14 A. Yes, it is.

15 Q. And Woods Food Mart is your lessee?

16 A. Yes.

17 Q. And do you have any -- this is about an  
18 aggravated robbery --

19 A. Yes.

20 Q. -- that we discussed earlier and you remembered  
21 someone telling you about the pistol?

22 A. Yeah.

23 Q. Do you have any personal knowledge about this  
24 incident?

25 A. Other than that I heard that it happened.

1 Q. Uh-huh. And were you at the scene when police  
2 arrived?

3 A. No.

4 Q. Were you at the scene when the crime occurred?

5 A. No.

6 Q. And were your businesses affected in any way?

7 A. No.

8 Q. Did anybody talk to you about the incident, from  
9 the police?

10 A. From the police? No.

11 Q. Did any of your employees or your husband have  
12 anything to do with the investigation or the incident?

13 A. No, I don't believe so.

14 Q. Okay. And did you have any complaints from your  
15 lessee about the incident?

16 A. I think he was frightened, but I didn't talk to  
17 him personally.

18 Q. Okay.

19 A. My staff was frightened.

20 Q. Do you know -- does anybody work for you called  
21 Annabelle at that time?

22 A. Yes.

23 Q. And what is her last name?

24 A. I'd have to look. Would you like me to look in  
25 my phone?

1 Q. Sure, if that's okay.

2 A. Jones.

3 Q. Annabelle Jones. Does she still work for you?

4 A. Yes, she does.

5 Q. What's her job?

6 A. Barista.

7 Q. Do you see at the bottom of page 6 where it says:  
8 Reportee Statement, Anabelle.

9 A. Oh.

10 Q. And then following on the next page it says: Not  
11 at scene when officer arrived. Unable to get a  
12 statement.

13 A. No, I don't, could you direct me to where that  
14 is? I'm sorry.

15 Q. Page 6 of 7.

16 A. Okay.

17 Q. Yeah, at the very bottom of that page it says  
18 Reportee Statement, and then it continues to the next  
19 page.

20 A. Oh, okay.

21 Q. So the top of page 7.

22 A. Okay.

23 Q. Not at scene when officer arrived.

24 Do you see that?

25 A. Uh-huh.

1 Q. Do you remember Annabelle mentioning anything  
2 about this incident?

3 A. I remember the staff being concerned and scared.  
4 I didn't remember it was specifically Annabelle.

5 Q. Okay. And do you know if anybody from Antidote  
6 had contacted law enforcement or 911?

7 A. I don't believe so.

8 Q. Do you know if this was Annabelle that works for  
9 you that's referenced in this report?

10 A. Yes, I would imagine, yes.

11 Q. You would imagine, okay. Do you have any other  
12 information about this incident? Do you know if the  
13 police followed up?

14 A. I have no idea.

15 Q. Do you know if anyone was ever caught?

16 A. I have no idea.

17 Q. Okay. I've marked Exhibit 5.

18 (Exhibit No. 5 marked.)

19 Q. (BY MS. AZADEH) If you see at the top where it  
20 says Houston Police Department Report No. 1469277-21?

21 A. Yeah.

22 Q. I'll let you look over this.

23 A. (Examining document.)

24 Q. Can you see where this is an October 31st of '21  
25 report regarding a mental illness?

1 A. Sure.

2 Q. At your address?

3 A. Yeah.

4 Q. 729 Studewood?

5 A. Yes.

6 Q. Do you recall anything about this incident?

7 A. I believe this might be one of the incidents I  
8 thought before that looked erratic, possibly homeless  
9 person.

10 Q. And do you know if somebody from your business  
11 called 911?

12 A. Yeah, they might have. I remember the incident.  
13 So.

14 Q. You do?

15 A. I mean I remember -- I remember that police were  
16 called for an erratic person.

17 Q. And can you see on page 3 of 4 where it states:  
18 I, Officer S. Deliphose, along with my partner W. Laster  
19 riding unit 2A18E, were dispatched to a suicide/just  
20 occurred/no weapon/CIT at 1637 hours to 729 Studewood  
21 Street on October 31st, 2021. We arrived on scene at  
22 1640 hours.

23 Can you see where it says that?

24 A. Yes.

25 Q. Do you have any reason to dispute that the police

1 arrived within three minutes?

2 A. No.

3 Q. Does that seem accurate to you?

4 A. Sure.

5 Q. And it goes on to discuss that they spoke with  
6 the police -- with the, you know, erratic mentally ill  
7 suspected person, and there was HFD, Houston Fire  
8 Department on the scene, but the person refused  
9 treatment?

10 A. I don't recall the details, but I believe that  
11 would be -- that would be right.

12 Q. Do you know if police --

13 A. No reason to dispute it.

14 Q. Do you know if police transported him to the  
15 hospital?

16 A. I do believe -- they were -- they took him  
17 somewhere.

18 Q. They took him somewhere. Okay. And do you have  
19 any -- did you have any complaints with the police  
20 regarding this issue or their response?

21 A. No.

22 Q. So they showed up and they took him away,  
23 correct?

24 A. Yes.

25 MS. AZADEH: This will be the last one. I'm

1 going to mark this as Exhibit 6.

2 (Exhibit No. 6 marked.)

3 Q. (BY MS. AZADEH) And can you see how this is  
4 identified, Houston Police Department report 1616735-21?

5 A. Yes.

6 Q. And I'll let you look it over.

7 A. Okay. (Examining document.)

8 Q. And can you see on page 3 of 5 at the bottom  
9 under Narrative where it says: On Friday, December 3rd,  
10 2021, I, Officer B.A. Morrow riding 2A31D received a  
11 call regarding a Criminal Mischief report from dispatch  
12 to 729 Studewood Street -- Drive described as a Taco  
13 Truck at 751 a.m.

14 Do you see this?

15 A. Yes.

16 Q. And do you have any knowledge about this  
17 incident?

18 A. That -- that was the -- this was when the taco  
19 truck was -- the door was messed with, and I don't think  
20 they quite got in, but I'm not sure. That it was --

21 Q. They were --

22 A. They were attempting to get into the taco truck.  
23 And now I recall, after reading this, I can remember  
24 that the same person who did that went next door and the  
25 woman who lives there felt threatened.

1 Q. Okay.

2 A. And she chased him with a hatchet.

3 Q. With a hatchet?

4 A. He didn't realize how tough she was.

5 Q. Was that person Cynthia --

6 A. I don't know her name.

7 Q. Okay. And does she live there?

8 A. I -- I see her there. I don't know if she lives  
9 there, if it's her -- she comes to visit, I don't know.

10 Q. Right. And is there -- Ms. Cynthia Fabiola  
11 Hernandez stated that around 1:00 a.m. she called for  
12 the police because an unknown white male or Hispanic  
13 male had attempted to enter into her home through the  
14 front door.

15 Do you see that?

16 A. Yes.

17 Q. Okay. And is 725 Studewood Drive your property?

18 A. No.

19 Q. Is that a private residence as far as you know?

20 A. Yeah.

21 Q. Okay. And were you there when this incident  
22 occurred?

23 A. No.

24 Q. How did you learn about it?

25 A. From Pedro himself.

1 Q. Okay. And did anybody ever speak with you from  
2 the police regarding this incident?

3 A. No.

4 Q. Anyone at your business speak to police as far as  
5 you know?

6 A. No. I don't think so.

7 Q. And so you have no other information about it?

8 A. No, I was just -- that was the story. Also  
9 scared us, just to have that happening in our parking  
10 lot. But no.

11 Q. And do you know if -- it says it's related to a  
12 home invasion, and that was similar language in a  
13 previous report. Do you know anything about any home  
14 invasions in the area?

15 A. Besides that one?

16 Q. Besides this where -- yes, besides --

17 A. Besides that one, no.

18 Q. Okay. And did Pedro or Ms. Fabiola Hernandez  
19 complain to you regarding security or safety?

20 A. Just that it's -- the neighborhood can be scary  
21 and we're having break -- had a break-in.

22 Q. Is it a dangerous neighborhood?

23 A. I don't like to think so.

24 Q. But is it?

25 A. In my opinion, it's not. But there have been a

1       few incidents in the last few years that are  
2       frightening.

3           Q.   Okay.  Now, Ms. Callaway, you have several --  
4       you've operated several successful businesses, correct?

5           A.   I'd like to think so, yes.

6           Q.   And you've been doing it for how long roughly?

7           A.   18 years.

8           Q.   18 years in Houston?

9           A.   Yes.

10          Q.   And are you aware if you're allowed to, like,  
11       exclude -- you're allowed to exclude Black people from  
12       your businesses?

13          A.   I wouldn't think so.

14          Q.   And why would that be?  As far as you know?

15          A.   Discrimination.

16          Q.   And what about disabled people, can you say no  
17       disabled people?

18          A.   I wouldn't think so.  I mean, I would never do  
19       that, so I've never thought about it.

20          Q.   Uh-huh.

21          A.   But I...

22          Q.   Would you think -- do you think that is something  
23       you could do if you wanted to?

24          A.   I guess so.  I mean, I think I have the right to  
25       refuse service.

1 Q. To refuse service to any --

2 A. But I wouldn't, except for -- I don't know the  
3 laws anymore. I would never do that. But I know, you  
4 know, the famous case where someone wanted to refuse  
5 making a cake for a gay couple and then they didn't have  
6 to make the cake. I mean, I guess I could refuse. I  
7 don't know. But then also there's discrimination. I  
8 don't know.

9 Q. Okay. As a property owner, do you believe you  
10 have a right to put a sign on your door that says no  
11 disabled people?

12 MR. TAYLOR: Object to the form.

13 A. I don't know if I have that right. I would never  
14 do that.

15 Q. (BY MS. AZADEH) Okay. And do you know if you  
16 have a right to put a sign on the door saying that you  
17 won't -- you would not -- you will refuse service to,  
18 you know, minorities based on their race?

19 MR. TAYLOR: Object to the form.

20 A. I would have no idea.

21 Q. (BY MS. AZADEH) Okay. Do you recall giving an  
22 interview to the -- I think it was the Houston  
23 Chronicle. Do you recall?

24 A. We have done interviews with various, various  
25 magazines and things.

1 regulations, do they let you know?

2 A. When they do an inspection, they would let me  
3 know.

4 Q. How often do they do inspections?

5 A. I think it used to be once a year, but I think  
6 that might have changed recently. I think we have an  
7 online way to do inspections now.

8 Q. Okay. And so if their -- if their signs have  
9 changed in any way, how would you know? Do you know?

10 A. I think they would tell me.

11 Q. They would tell you. Okay.

12 A. Because I'd be out of compliance.

13 Q. Now, do -- does the City of Houston inspect your  
14 gun signs under 30.06 and 07?

15 A. No.

16 Q. Or 30.05?

17 A. No.

18 Q. Have they ever sent you any sort of like  
19 instructions or communications saying you're required to  
20 have them and they must look like this?

21 A. City of Houston?

22 Q. Yes.

23 A. No.

24 Q. What about the chief of police or the Houston  
25 Police Department?

1 A. No.

2 Q. Has any law enforcement agency told you that you  
3 have to have those signs?

4 A. No.

5 Q. Have they ever inspected the signs?

6 A. No.

7 Q. At any time have you or anyone that you know of,  
8 you know, in regards to your business at Antidote cafe,  
9 contacted law enforcement and been told that they will  
10 not, you know, assist you if you don't have the  
11 appropriate signage?

12 A. No, I've never -- never asked that question.

13 Q. Have you ever been concerned about calling law  
14 enforcement about a trespasser with a gun?

15 A. Could you say that again?

16 Q. Have you ever been concerned about calling law  
17 enforcement about a trespasser with a gun?

18 MR. TAYLOR: Object to the form.

19 Q. (BY MS. AZADEH) That they wouldn't help you?

20 A. No.

21 Q. Have you ever been hesitant to contact law  
22 enforcement regarding your business?

23 A. I try to defuse situations before that has to  
24 happen; but yes, I do if I need to.

25 Q. You contact them if you need to?

1 A. If I need to.

2 Q. Okay. And as far as you know, nobody from the  
3 Houston Police Department has refused to assist you?

4 A. No.

5 Q. And how many occasions of trespass have you  
6 reported to any law enforcement agency regarding  
7 Antidote?

8 A. I don't know the number, honestly, it's 14 years,  
9 it's happened.

10 Q. I mean -- okay. In the last five years?

11 A. I mean, we've called about things clearly when we  
12 need to, I don't remember the number. I'm sorry.

13 Q. Okay. But have you ever called about a person  
14 with a gun entering the business?

15 A. I don't believe so.

16 Q. You said that somebody -- a customer asked you  
17 why you were anti-gun?

18 A. Uh-huh.

19 Q. Are there any other similar instances you recall  
20 of being labeled?

21 A. I can think of two other ones.

22 Q. Can you tell me about them, please?

23 A. One of them happened last fall when I was  
24 replacing the signs and he -- someone proceeded to tell  
25 me that those signs don't matter, that he can come in

1 and defendant Kim Ogg, the Harris County District  
2 Attorney.

3 Ms. Callaway, I have a few questions for you.  
4 Some of my questions may sound similar to questions that  
5 have already been asked, but I want to ask you some  
6 followup questions related to things you've said and  
7 some questions specific to my client for the record.

8 A. Sure.

9 Q. You testified earlier that you don't believe  
10 police were called to address the three incidents when  
11 people were on your property with guns. Is that  
12 correct?

13 A. That's correct.

14 Q. To your knowledge, has Antidote Coffee ever  
15 requested assistance from the Harris County Sheriff's  
16 Office in enforcing any Texas trespass statutes?

17 A. I don't believe so.

18 Q. To your knowledge have you called the Harris  
19 County Sheriff's Office before for help with an armed  
20 trespasser?

21 A. No.

22 Q. And to your knowledge, no one in your employ at  
23 Antidote Coffee has called the Harris County Sheriff's  
24 Office before for help with an armed trespasser either;  
25 is that correct?

1 A. Yeah, I don't think so. That's correct.

2 Q. Would you agree with me that the Harris County  
3 Sheriff's Office has never refused to provide assistance  
4 with an armed trespasser at Antidote Coffee then?

5 A. I agree.

6 Q. Do you know of a time when you or someone you  
7 employed has called the Harris County Sheriff's Office  
8 for help with anything else and they didn't respond?

9 A. Not to my knowledge, no.

10 Q. Are you aware that law enforcement officers do  
11 not decide whether a person accused of a crime is  
12 prosecuted?

13 MR. TAYLOR: Objection, form.

14 A. No, I don't -- I'm not -- please say it again. I  
15 don't think I understand.

16 Q. (BY MS. BEELER) Are you aware that law  
17 enforcement officers don't decide whether a person  
18 accused of a crime is prosecuted?

19 MR. TAYLOR: Object to the form.

20 A. Yeah, I'm not aware. I don't know. I don't know  
21 how someone gets prosecuted.

22 MS. BEELER: And what's the basis for the  
23 objection?

24 MR. TAYLOR: Asking for a legal conclusion.

25 MS. BEELER: Okay.

1 Q. (BY MS. BEELER) If I were to represent to you  
2 that prosecutors are the ones who decide whether or not  
3 to prosecute a person accused of a crime, do you have  
4 any reason to doubt the truth of that statement?

5 A. That sounds correct.

6 Q. Are you aware that of the parties sued in this  
7 lawsuit, only a district attorney or an assistant  
8 district attorney can prosecute someone?

9 A. I -- I wasn't aware of that.

10 Q. Do you personally think the sheriff's office  
11 would refuse to provide you help at Antidote Coffee if  
12 you called in and asked for help with an armed  
13 trespasser?

14 A. No, I think they would help us.

15 Q. So you don't have any reason to think that the  
16 Harris County Sheriff's Office would not respond if you  
17 were to call them for help with an armed trespasser?

18 A. I have no reason to think they would.

19 Q. Now I'm going to switch a little bit and I'm  
20 going to talk to you about District Attorney Kim Ogg.

21 A. Okay.

22 Q. Has Antidote Coffee ever requested assistance  
23 from DA Ogg or her office in enforcing any Texas  
24 trespass statutes?

25 A. No.

1 Q. Has Antidote Coffee, to your knowledge, ever been  
2 denied assistance with DA Ogg or her office in enforcing  
3 Texas trespass statutes?

4 A. No.

5 Q. So you would agree with me then that DA Ogg and  
6 her office have never refused to prosecute an alleged  
7 trespasser at Antidote Coffee?

8 A. I agree.

9 Q. Do you have any reason to think that DA Ogg or  
10 her office would refuse to prosecute alleged armed  
11 trespassers?

12 A. I have no reason to believe that.

13 MS. BEELER: That's it. I pass the witness  
14 and reserve the rest of our questions for the time of  
15 trial.

16 EXAMINATION

17 BY MR. PFEIFFER:

18 Q. Good afternoon. I am Justin Pfeiffer. I  
19 represent the city of Webster.

20 A. Oh.

21 Q. Webster is being sued through its chief of  
22 police, named Pete Bacon. And similarly, I won't have  
23 too many questions for you.

24 A. Okay.

25 Q. Really, the question is simply: Have you ever in

1 THE STATE OF TEXAS )  
COUNTY OF HARRIS )

2  
3 REPORTER'S CERTIFICATION  
ORAL DEPOSITION OF DAWN CALLAWAY  
4 TAKEN JUNE 1, 2022

5 I, ROBIN GROSS, Certified Shorthand Reporter in and  
for the State of Texas, hereby certify to the following:

6 That the witness, DAWN CALLAWAY, was duly sworn by  
the officer and that the transcript of the oral  
7 deposition is a true record of the testimony given by  
the witness;

8 That the deposition transcript was submitted on  
9 \_\_\_\_\_ to the witness or the attorney for the  
witness for examination, signature and return to Nell  
10 McCallum & Associates, by \_\_\_\_\_;

11 That the amount of time used by each party at the  
deposition is as follows:

12 MS. MELISSA AZADEH - 1:59  
13 MS. CHRISTINA BEELER - 0:04  
14 MR. JUSTIN C. PFEIFFER- 0:01

15 I further certify that I am neither counsel for,  
related to, nor employed by any of the parties in the  
action in which this proceeding was taken, and further  
16 that I am not financially or otherwise interested in the  
outcome of the action.

17 Certified to by me this 7th day of June, 2022.  
18  
19  
20

21 

22 ROBIN GROSS CSR, TEXAS CSR NO. 9015  
Expiration Date: 07-31-23  
23 Nell McCallum & Associates, Inc.  
Firm Registration No. 10095  
Expiration Date: 01-31-2023  
24 718 Westcott  
Houston, Texas 77007  
25 (713) 861-0203/Fax(713) 861-2324

# Exhibit 11

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BAY AREA UNITARIAN )  
UNIVERSALIST CHURCH; DRINK )  
HOUSTON BETTER, LLC d/b/a )  
ANTIDOTE COFFEE; PERK YOU )  
LATER, LLC, )  
Plaintiffs, )

VS. ) CIVIL ACTION NO.  
4:20-CV-3081

KEN PAXTON, Attorney General )  
for the State of Texas, in his )  
official capacity; KIM OGG, )  
District Attorney for Harris )  
County, in her official )  
capacity; VINCE RYAN, County )  
Attorney for Harris County, in )  
his official capacity; )  
ED GONZALEZ, County Sheriff )  
for Harris County, in his )  
official capacity; )  
PETE BACON, Acting Chief of )  
Police for the Webster Police )  
Department, in his official )  
capacity; ART ACEVEDO, Chief )  
of the Houston Police )  
Department, in his official )  
capacity; KIM LEMAUX, )  
Presiding Officer for the )  
Texas Commission on Law )  
Enforcement, in her official )  
capacity, )  
Defendant. )

\*\*\*\*\*

ORAL DEPOSITION OF SCOTT REPASS  
JUNE 2, 2022

\*\*\*\*\*

1           ORAL DEPOSITION OF SCOTT REPASS, produced as a  
2       witness at the instance of the Defendant and duly sworn,  
3       was taken in the above styled and numbered cause on  
4       Thursday, June 2, 2022, from 10:33 a.m. to 11:20 a.m.,  
5       before ROBIN GROSS, CSR in and for the State of Texas,  
6       reported by shorthand machine, at the Offices of Jones  
7       Day, 717 Texas Avenue, Suite 3300, Houston, Texas,  
8       pursuant to the Federal Rules of Civil Procedure and the  
9       provisions stated on the record herein.

## A P P E A R A N C E S

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## ALSO PRESENT:

MR. ARTHURO GARZA

MR. BRANDON ZARATTI

## I N D E X

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## E X H I B I T S

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\* \* \* \*

1 Q. Any other complaints regarding signs?

2 A. Not that I currently recall.

3 Q. Okay. And does -- are there any signs to the  
4 entrance for the patio?

5 A. I don't believe so.

6 Q. Okay. Has anyone from the Houston Police  
7 Department ever inspected your gun signs?

8 A. Not that I am aware of.

9 Q. Has anyone from the City of Houston inspected  
10 them?

11 A. Not that I'm aware of.

12 Q. Has anyone from either the Houston Police  
13 Department or the City of Houston told you that you're  
14 required to have those signs?

15 A. Not that I'm aware of.

16 Q. Okay. And has anybody from either the City or  
17 Houston Police Department informed you that they will  
18 not respond to a call for trespass on your property if  
19 you don't have signs?

20 A. No one has informed me of that, no.

21 Q. Have there been ever break-ins or attempted  
22 break-ins?

23 A. Yes.

24 Q. And do you know if any of those incidents  
25 involved handguns?

1           A. There was an incident over ten years ago, I would  
2 think, where -- yes. I should say, yes, is the answer.

3           Q. Okay. Can you describe what you recall --

4           A. Yeah.

5           Q. -- about that incident?

6           A. We were open and if -- like I said, it's been  
7 over ten years, so I'm trying to remember. Someone  
8 approached the barista with a gun, and I think there  
9 were two men and they stole the cash register, they took  
10 it and ran.

11          Q. And was there money in the cash register?

12          A. Yes.

13          Q. Do you recall how much, roughly?

14          A. Less than \$500.

15          Q. And was that before you had signs on the window  
16 regarding guns?

17          A. I don't know.

18          Q. Was that after hours or during business hours?

19          A. During business hours.

20          Q. Were police called?

21          A. If I remember correctly, there was a police  
22 officer across the street.

23          Q. And was he with the Houston Police Department?

24          A. I don't know.

25          Q. And did he come to the scene?

1 A. Yes.

2 Q. And what did he do, if you recall?

3 A. I don't remember.

4 Q. Did you have any complaints about his assistance?

5 A. I don't remember.

6 Q. Was the suspect ever identified?

7 A. Yes.

8 Q. Who was the suspect?

9 A. I don't know.

10 Q. Were they arrested?

11 A. Yes.

12 Q. Were they prosecuted?

13 A. I don't know.

14 Q. You don't know the outcome of any charges?

15 A. No, I don't.

16 Q. Was it more than one suspect?

17 A. I believe it was two.

18 Q. And were they both identified?

19 A. I don't know.

20 Q. Are you aware of any online discussion or  
21 websites labeling Antidote Coffee as anti-gun?

22 A. I have heard about it.

23 Q. And what have you heard?

24 A. I have heard that there is a website that posts  
25 the names and locations of businesses that are anti-gun

1 in that they post these signs from the City -- or from  
2 the State or whoever it is. I don't even know who  
3 requires us to have these signs, but...

4 Q. So you don't know if it's the City of Houston or  
5 the police department of Houston that requires those  
6 signs?

7 A. I don't.

8 Q. And who did you hear this from?

9 A. My wife.

10 Q. And did she identify the websites?

11 A. I don't recall.

12 Q. Did you ever look for them?

13 A. No.

14 Q. Do you recall an incident in July of 2018 where  
15 there was a burglary -- or attempted burglary at  
16 Antidote Coffee and you called law enforcement?

17 A. I don't remember.

18 MS. AZADEH: Okay. I'm going to mark this  
19 Exhibit 1.

20 (Exhibit No. 1 marked.)

21 Q. (BY MS. AZADEH) I'll let you look at that for a  
22 moment.

23 A. (Examining document.)

24 Q. Mr. Repass, do you see at the top of the first  
25 page where it says Houston Police Department and there's

1 an incident number 944127-18?

2 A. Yes.

3 Q. And it says: Reported date July 25th, 2018,  
4 Burglary Building.

5 A. Yes.

6 Q. And having reviewed this document, does it  
7 refresh your memory at all about the incident?

8 A. Yes.

9 Q. Can you describe what you recall?

10 A. If I'm remembering correctly, I got a call from  
11 the alarm company early in the morning that the -- I  
12 don't know which alarm went off, but that some -- the  
13 alarm company had been notified and we were notified and  
14 the police were dispatched.

15 Q. Okay. And if you could look at page 3 of 4,  
16 under the Narrative it says -- does it say: I, Officer  
17 M.A. Romero, riding unit hashtag 2A31N while on routine  
18 parole on 7/25/18 at 0422 hours was dispatched to a  
19 burglary/business/in progress at Antidote Coffee House  
20 located at 729 Studewood.

21 Do you see that?

22 A. Yes.

23 Q. And then it says: I arrived on the scene at 0424  
24 hours.

25 Do you have any reason to dispute that the

1 officer was dispatched and arrived within a few minutes?

2 A. No.

3 Q. Were you there when they arrived?

4 A. I don't recall.

5 Q. Okay. And was the front window shattered or  
6 broken?

7 A. I believe so.

8 Q. And did you find that anything had been stolen?

9 A. I don't believe so.

10 Q. Was there a black and yellow hammer found on the  
11 property?

12 A. I believe so.

13 Q. And did the police check for fingerprints?

14 A. I don't know.

15 Q. And do you recall telling police that your video  
16 surveillance system was not working?

17 A. I don't recall that, no.

18 Q. Okay. Did you have video system -- surveillance  
19 system at the time at Antidote Coffee?

20 A. I believe so.

21 Q. Okay. Do you have any complaints about the  
22 police response to this incident?

23 A. Not that I currently recall.

24 Q. Were you satisfied with it?

25 A. I don't know.

1 Q. You don't know?

2 A. I don't recall.

3 Q. Okay. Did the police ever identify a suspect?

4 A. I don't know.

5 Q. Okay. And was Stacy Williams there?

6 A. I don't recall.

7 Q. Okay. Do you recall any other incidents now  
8 where you called law enforcement regarding Antidote  
9 Coffee?

10 A. I know there have been other incidents, but I  
11 couldn't tell you details.

12 Q. Do you recall incidents where law enforcement  
13 were called and there was security footage available  
14 from Antidote Coffee but you were unable to retrieve  
15 that video to provide it to law enforcement?

16 A. I don't know.

17 Q. Okay. Now, you said the "alarm company"; what  
18 alarm company do you use?

19 A. I believe it's called Alert 360, but I couldn't  
20 tell you who it was in 2018.

21 Q. And do you know if they contact law enforcement  
22 automatically if there's an alarm trigger?

23 A. They do not.

24 Q. They contact who?

25 A. If I'm -- if I am remembering the procedure

1       correctly, first they call the -- the emergency contacts  
2       on the account.

3       Q.   Are you one of those contacts?

4       A.   I believe so.

5       Q.   Okay.

6       A.   I -- let me say I don't know if I am currently,  
7       but I have been in the past.

8       Q.   Okay. And have they ever advised you that -- I  
9       withdraw that.

10           Do you -- do you store your video surveillance  
11       from the cameras at Antidote Coffee?

12       A.   Do we store the video surveillance? I don't know  
13       exactly how to answer that.

14       Q.   Do you save it? Or is it, like, rolling where it  
15       just records over itself?

16       A.   I believe it is saved by the alarm company for a  
17       certain period of time, but I'm guessing.

18       Q.   Okay. And has the alarm company ever informed  
19       you that there were, you know, people with handguns on  
20       the property?

21       A.   I don't recall.

22       Q.   You don't recall ever having been informed of  
23       that?

24       A.   Correct.

25       Q.   All right. Do you recall any incidents where

1 Q. I mean, from your business, who's in charge of  
2 those -- those things?

3 A. My wife, Dawn.

4 Q. Okay. Is there any reason -- sorry. Scratch  
5 that.

6 Would you hesitate for any reason to contact law  
7 enforcement or Houston Police Department if there was an  
8 incident at the property?

9 A. I'm not sure how to answer that.

10 Q. If there was a person with a handgun trespassing  
11 at Antidote Coffee, would you contact law enforcement?

12 A. Yes.

13 Q. Do you have any reason to believe they would not  
14 respond?

15 A. No.

16 MS. AZADEH: Okay. Can we take a short  
17 break? I might be done.

18 MS. KEELEY: Uh-huh.

19 MS. AZADEH: Off the record.

20 (Recess from 11:07 a.m. to 11:15 a.m.)

21 MS. AZADEH: Back on the record.

22 I pass the witness. Thank you, Mr. Repass.

23 THE WITNESS: Thank you.

24

25

1 A. Yes, I suppose I am aware of that.

2 Q. (BY MS. BEELER) And if I were to represent to  
3 you that prosecutors are the ones who decide whether or  
4 not to prosecute a person accused of a crime, do you  
5 have any reason to doubt the truth of that statement?

6 A. No.

7 Q. And are you aware that, of the parties sued in  
8 this lawsuit, only a district attorney or an assistant  
9 district attorney can prosecute someone?

10 MS. KEELEY: Object to the form.

11 A. I wouldn't know.

12 Q. (BY MS. BEELER) Do you have any reason to think  
13 that Harris County Sheriff's Office would refuse to  
14 provide help at Antidote Coffee if you or one of your  
15 employees called in and asked for help with an armed  
16 trespasser?

17 A. No.

18 Q. Do you have any reason to think that the Harris  
19 County Sheriff's Office would not respond if you were to  
20 call them for help with an armed trespasser at Antidote  
21 Coffee?

22 A. No.

23 Q. Do you have any reason to fear that someone will  
24 enter Antidote Coffee with a handgun in the future?

25 A. Do you mean do I have any specific reason to fear

1 that?

2 Q. Yes. Like have you received any threats?

3 A. Not that I'm aware of.

4 Q. So you have no specific reason currently to think  
5 that someone would target Antidote Coffee with a  
6 handgun?

7 A. No.

8 Q. Has Antidote Coffee ever requested assistance  
9 from District Attorney Kim Ogg or her office in  
10 enforcing any Texas trespass statutes?

11 A. I don't know.

12 Q. So I think I know what your answer will be to  
13 this question, but has Antidote Coffee ever been denied  
14 assistance from District Attorney Ogg or her office in  
15 enforcing Texas trespass statutes?

16 A. I don't know.

17 Q. Do you have any reason to think that DA Ogg or  
18 her office would refuse to prosecute potential  
19 trespassers at Antidote Coffee?

20 A. No.

21 MS. BEELER: Okay. I pass the witness and  
22 reserve the rest of my questions for the time of trial.

23 (Concluded at 11:20 a.m.)

24

25

1 THE STATE OF TEXAS )  
2 COUNTY OF HARRIS )

3 REPORTER'S CERTIFICATION  
4 ORAL DEPOSITION OF SCOTT REPASS  
5 TAKEN JUNE 2, 2022

6 I, ROBIN GROSS, Certified Shorthand Reporter in and  
7 for the State of Texas, hereby certify to the following:

8 That the witness, SCOTT REPASS, was duly sworn by the  
9 officer and that the transcript of the oral deposition  
10 is a true record of the testimony given by the witness;

11 That the deposition transcript was submitted on  
12 \_\_\_\_\_ to the witness or the attorney for the  
13 witness for examination, signature and return to Nell  
14 McCallum & Associates, by \_\_\_\_\_;

15 That the amount of time used by each party at the  
16 deposition is as follows:

17 MS. MELISSA AZADEH - 0:34  
18 MR. JUSTIN C. PFEIFFER - 0:01  
19 MS. CHRISTINA BEELER - 0:04

20 I further certify that I am neither counsel for,  
21 related to, nor employed by any of the parties in the  
22 action in which this proceeding was taken, and further  
23 that I am not financially or otherwise interested in the  
24 outcome of the action.

25 Certified to by me this 8th day of June, 2022.



26 ROBIN GROSS CSR, TEXAS CSR NO. 9015  
27 Expiration Date: 07-31-23  
28 Nell McCallum & Associates, Inc.  
29 Firm Registration No. 10095  
30 Expiration Date: 01-31-2023  
31 718 Westcott  
32 Houston, Texas 77007  
33 (713) 861-0203/Fax(713) 861-2324