

Time Frame For Arrest

The Question

Is there a time frame when an arrest can be made to a based on a case report (complainant willing to sign complaint)?

Comments

- All arrests without a warrant must be supported by probable cause. Whether an officer has probable cause to arrest will depend on the totality of the circumstances that give rise to the arrest (IL v. Gates, 462 US 213 (1983). In other words, all the circumstances of the situation must be considered to determine if probable cause exists. There is no numerical percentage of certainty that an officer must possess to find probable cause.

There are statute of limitations on the filing of criminal cases (time limits to ensure that the evidence has not deteriorated to the point where it's unreliable). Certain serious crimes, i.e., the first-degree murder charge, have no time limits. The general rule is that the statute of limitations for most felonies is three years from the date of the offense. The statute of limitations for most misdemeanors is 18 months the date of the offense. Obviously, officers are bound by the Rules and Regulations of CPD and should take enforcement action to protect life, prevent crime, preserve peace, and enforce laws and ordinances. However, each police officer also exercises the discretion vested in the position within the law. Guided by the principle of reasonableness, an officer will consider all surrounding circumstances in determining whether, for example, to make an arrest or a traffic stop on certain offenses (not every motorist stopped is issued a ticket). Department policy requires mandatory arrest for only two offenses - Violation of an Order of Protection and Violation of Bail Bond.

Therefore, also, to protecting life, preventing crime, preserving peace, another factor of the totality of the circumstances test that officers can use to determine probable cause for a physical arrest is whether the victim/ complainant sought an arrest warrant in the period after the incident to the time when requesting the arrest. On every reported criminal incident, CPD provides each victim with a Victim Information Notice which describes the method to obtain a warrant for criminal charges. What steps did the victim/ complainant take after the incident, especially if much time has passed since the incident to obtain a warrant?

Also, an officer confronted with a named-offender listed in a previous case report must familiarize themselves with the facts of the situation to support the probable cause to work in concert with the case. In the case of State v. Bass (2019), the Illinois Appellate Court held that "the mere word of another officer, based on the mere word of another citizen does not meet the Illinois constitutional threshold for effectuating a lawful arrest." Therefore, the arresting officer must establish probable cause before the arrest.

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