

PRELIMINARY INVESTIGATIONS

POLICY & PROCEDURE NO. 2.01	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED: 01/28/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

The ultimate success or failure of police efforts in solving a case is often based upon the immediate police response and preliminary investigation. This is generally the responsibility of patrol officers who are nearly always the first officers on the scene of a reported crime. It is the patrol officer who will initially discover facts, locate and identify witnesses and preserve physical evidence that is relied upon by the police investigator in the subsequent search for the suspected criminal.

The purpose of this policy is to provide guidance to those officers who conduct preliminary investigations.

If no detective is available, the initiating officer will be directed to complete the investigation in its entirety and/or work with other officers who may assist; this shall be at the direction of a supervisor or OIC.

II. POLICY

It is the policy of this department that:

- A. Preliminary investigations shall be conducted on all incidents which violate the criminal code of the Commonwealth or town bylaws, or have the potential to result in a criminal or civil action; and
- B. All officers understand and comply with the following procedures when conducting initial investigations of crimes.

III. PROCEDURES

A. Responding to a Crime Scene

1. Officers proceeding to a crime scene shall be vigilant and watchful in their approach for any signs of:

Suspicious activity that may be related to the crime;

Evidence of a fleeing criminal;

Persons acting suspiciously or furtively in the vicinity; or

Objects being thrown from a vehicle leaving the scene.

2. A threshold inquiry is justified when officers observe an individual fleeing from the scene of a crime.¹
3. Responding officers shall record or report the registration numbers of any suspicious vehicles coming from the scene and the general description and any obvious characteristics of the operator or occupants if possible.
4. Officers shall be alert for any additional messages from the dispatcher.

The dispatcher shall immediately furnish the responding officers with any supplementary information that would be of assistance to them.

The dispatcher shall provide any available information that would indicate the possibility of a dangerous situation or the possible presence of an armed or dangerous criminal.

B. Preliminary Investigation

1. ASSIGNMENT OF INVESTIGATING OFFICER [42.1.4]

The assigned officer arriving at the scene of an incident will usually be responsible for initiating and conducting the preliminary investigation unless otherwise directed by a supervisor or OIC.

A responding detective may relieve a patrol officer of the preliminary investigation if directed by a supervisor or OIC. The presence of a detective at a crime scene does not in and of itself relieve the patrol officer of the responsibility to conduct the preliminary investigation.

When a crime scene or investigation is turned over to an investigator, all information obtained up to that point, and the identity and location of any physical evidence discovered, shall be relayed to the investigator.

2. ASSESSMENT [42.2.1(A)]

Upon arriving at the scene, the officer shall make a quick assessment of the situation and report the following to the dispatcher:

- 1) Assessment of any injured persons, providing or summoning appropriate aid;
- 2) The nature of the crime committed;

- 3) As complete a description of the offender as possible and the direction of his/her flight;
- 4) Whether the offender is, or may be, armed and dangerous;
- 5) A description of any vehicle being used by the offender and of any occupants of that vehicle;
- 6) A description of any firearms or other weapons used in the commission of the crime;
- 7) A description of any property stolen and whether it may be in the possession of the offender;
- 8) Any additional information that may lead to the apprehension of the offender;
- 9) The need for additional assistance from responding officers or investigators; and
- 10) The need for assistance from other agencies or special services (e.g., fire department, ambulance, etc.).

3. ARRESTING THE PERPETRATOR

If the perpetrator is at the scene, the crime is an arrestable offense, and probable cause to arrest exists, the officer may make an arrest. For further information, see the department policy on **Arrest**. In determining if an arrest is appropriate, the officers should consider:

- 1) The nature of the crime;
- 2) The suspect's propensity to violence;
- 3) The age of the suspect;
- 4) Suspect's criminal history;
- 5) The suspect's likelihood to default; and
- 6) The need for further investigation.

A decision to leave the scene to pursue a perpetrator shall be made based upon the following factors:

- 1) The likelihood that an apprehension can be made;
- 2) The physical condition of the victim(s);
- 3) The need to protect the victim from a renewed attack;
- 4) The potential danger to the public if the perpetrator is allowed to escape;
- 5) The nature of the crime committed;
- 6) The time and place of occurrence;
- 7) The lapse of time between the crime and the arrival of the police at the scene;

- 8) Whether the suspect is known to the officer or a good description of the offender is available; and
- 9) The availability of other officers to conduct the pursuit and to apprehend the offender.

4. PRESERVING EVIDENCE [42.2.1(C)]

A critical task for the first officers at the scene of a crime is to protect the crime scene for the preservation of any physical evidence. (See department policy on **Collection and Preservation of Evidence** .)

The crime scene shall be maintained in the same manner as it was left by the perpetrator, as far as possible.

- 1) Clear the largest area possible. The size of the scene area can be contracted by investigators.
- 2) Secure and isolate the actual crime scene.
- 3) Secure a larger area for police personnel conducting the investigation.
- 4) Begin a "Crime Scene Sign-in Sheet," recording the name, agency, date and time of all persons entering the inner crime scene.

Witnesses and other persons connected with the crime and persons associated with the property or premises involved in the crime shall be told to remain present and available for questioning but shall be removed from the actual crime area.

Officers shall look for any item of evidentiary value. This includes but is not limited to the following:

- 1) Weapons, shell casings, tools, clothing, shattered glass, stains, footprints, fingerprints, tool impressions, tire markings, etc.;
- 2) Ordinary objects or articles found in unexpected or unusual locations;
- 3) Ordinary objects or articles having individual peculiarities or markings;
- 4) Uncommon objects or articles not generally found at the location of the particular crime; and
- 5) Bits and pieces of evidence which may be of minor importance individually, but when taken together can be of significant value to the investigation.

The location of physical evidence shall be noted, but the evidence itself shall not be moved or touched if detectives or evidence technicians are responding to the scene to recover evidence. If evidence is to be recovered by officers at the scene, or if it is absolutely necessary to ensure preservation of evidence, follow these procedures:

- 1) Photograph the item prior to moving it if possible.
- 2) Carefully note its exact location and position at the scene.
- 3) Handle the item using gloves and in such a manner as to prevent any alteration of its condition or the accidental impression of fingerprints.

- 4) For further information, see the department policy on **Collection and Preservation of Evidence**.

5. INTERVIEWING COMPLAINANT, WITNESSES, AND SUSPECTS [42.2.1 (D)]

The purpose of a preliminary interview is to obtain as much basic information as quickly as possible in order to identify the perpetrator and to establish the basis for the follow-up investigation.

Officers shall attempt to locate, identify and interview reliable witnesses. [42.2.1(b)]

- 1) Obtain the name, address and telephone number of all witnesses.
- 2) Separate witnesses to prevent them from discussing what has occurred among themselves before they are interviewed. This may taint individual recollections.

Conducting Interviews [42.2.1(d)]

- 1) The officer may ask each witness to write out a statement which describes what occurred.
- 2) Interview each witness separately and in a quiet area if possible.
- 3) When interviewing suspects, be mindful of any obligations to provide the suspect with Miranda warnings or record the interview. For further information, see the department policies on **Interrogating Suspects & Arrestees** and **Electronic Recording of Interrogations**.

Provide information about victim and witness assistance, including what to do if the suspect or suspect's companions threaten or otherwise intimidate the victim or witness. See department policy on **Victim/Witness Assistance**.

6. REPORT WRITING

The officer conducting a preliminary investigation shall make an accurate and complete written report of the incident in accordance with departmental procedures.

Use a department investigative case report or other form if appropriate.

An officer making a preliminary investigation should make a written record of the following data:

- 1) Date and time of arrival at scene;
- 2) Weather conditions and visibility, including the location and distance from the nearest street light or artificial lighting and whether the lights were on;
- 3) Approximate time of commission of the crime and by whom it was discovered;
- 4) Identity of other police officers present;
- 5) All necessary information concerning any physical evidence discovered;

- 6) Name, address and telephone number of victims and witnesses;
- 7) The identity or the best available description of the criminal suspect or suspects, particularly noting any unusual characteristics;
- 8) The best available description of any vehicle used by the suspect or suspects;
- 9) Any information relating to others assisting at the scene including:
 - a) The name of any police photographer who took pictures;
 - b) The name and affiliation of any media photographer who took pictures;
 - c) The name and address of any private individual who took pictures;
 - d) The name and address of any individual turning evidence over to the police; and
 - e) Measurements made at the scene and a rough crime scene sketch if appropriate;
- 10) The time and location of any interviews of the victim or witnesses and a brief statement as to what they heard or observed; and
- 11) Any other information that the officer believes may be useful for the apprehension of the criminal suspect and his/her subsequent prosecution.

¹ Illinois v. Wardlow, 120 S.Ct. 673 (2000).

FOLLOW-UP INVESTIGATIONS

POLICY & PROCEDURE NO. 2.02	ISSUE DATE: 10/05/15
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I. GENERAL CONSIDERATIONS AND GUIDELINES

Follow-up investigations are investigations into crimes beyond the preliminary investigation performed by the first officer(s) at the scene. Follow-up investigations are generally the responsibility of the department's detective unit; however, patrol officers may conduct their own follow-up investigations for those less serious crimes that do not require the utilization of resources generally unavailable to patrol officers.

This policy contains general procedures for conducting any follow-up investigation. Where a policy exists on responding to a specific crime, that policy should also be followed. See department policies on **Domestic Violence, Bias Crimes, Rape Investigations, Missing Persons, Dead Bodies, Breaking and Entering, Bank Robberies, Auto Theft, Structure Fires,** and **Vehicle Fires**.

II. POLICY

It is the policy of this department to conduct follow-up investigations in accordance with the criteria established in this policy.

III. PROCEDURES

A. Responsibilities

COVERAGE: The department allows officers to perform investigations during on-duty patrol functions, or possibly on off hours. This will be at the discretion of a supervisor or the Chief of Police.

DETECTIVE, SUPERVISOR OR OIC: It shall be the responsibility of the commanding officer (Supervisor or Chief), to determine:

- a. Whether a follow-up investigation shall be conducted;

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- b. How many investigators are to be assigned to each investigation; and
 - c. How many hours are to be expended on each investigation.
2. PRELIMINARY INVESTIGATIONS: Preliminary investigations are the responsibility of the officer assigned to a particular incident. Usually, this will be a patrol officer. [42.1.4]
 3. FOLLOW UP INVESTIGATIONS: In general, the responsibility for conducting follow-up investigations is that of the Investigative Function, but if unavailable, patrol officers shall perform this function. [42.1.4]
 - a. A specific investigator shall be assigned by a Supervisor, Chief or OIC as the principal investigator for each case.
 - b. Cases involving specialized skills, knowledge or ability should be assigned to or assisted by those officers having that expertise, regardless of function assignment. The State Police Detective Unit should also be contacted for assistance with more demanding cases.

B. Case Management

1. CASE SCREENING: The Supervisor, Chief or OIC shall review the preliminary investigation report for each candidate case using departmental screening criteria to determine the likelihood of a successful follow-up investigation. Screening criteria includes: [42.1.2]
 - a. The nature and seriousness of the crime;
 - b. Solvability factors;
 - c. Community reaction to the crime;
 - d. Availability of department resources;
 - e. The documented experiences of this department and other law enforcement agencies;
 - f. Research conducted by the department including the application and utilization of crime analysis; and
 - g. Research conducted by other law enforcement agencies.
2. CASE ASSIGNMENT
 - a. The Supervisor, Chief or OIC shall assign cases screened for follow-up investigation.
 - b. The supervisor, Chief or OIC should consider investigator experience, expertise, and case load in making assignments.
 - c. Cases may be referred back to the patrol function for follow-up if appropriate.
3. CASE FILE CONTROL: The Supervisor, Chief or OIC shall maintain a case file roster to manage open cases. The roster will include: [42.1.3(a)]
 - a. The investigator assigned;

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- b. Incident number;
 - c. Date of assignment; and
 - d. Dates that the report updates are due.
4. CASE PROGRESS REPORTING
- a. Investigators will periodically report the progress of investigations assigned to them to the Supervisor or OIC.
 - b. For ongoing and lengthy cases, progress reports shall be made at least once each week, and more frequently if necessary.
 - c. It shall be the responsibility of the Supervisor or OIC to determine if additional resources shall be expended in the investigation of such cases or if the investigation shall be suspended.
5. CASE FILE CONTENTS: The case file for each investigation shall contain, as applicable, each of the following: [42.1.3(c)]
- a. A copy of the preliminary report;
 - b. Statements of witnesses and suspects;
 - c. Investigator's notes;
 - d. Tests conducted and the results if available;
 - e. Documents obtained which relate to the investigation (i.e., telephone records, copies of checks, receipts, etc.);
 - f. Case status reports; and
 - g. Other documents and resources pertinent to the investigation.
6. FILE ACCESS [42.1.3(D)]
- a. Case file for open, active cases shall be kept in the records storage area of the investigative function. Chiefs or Sergeants Office.
 - b. Access to such records shall be available to:
 - 1) Investigators;
 - 2) Detective, Supervisor or OIC(s); and
 - 3) Clerical personnel (for internal use only).
 - c. Files for active cases may be maintained by the assigned investigator if the investigator is working the case. Case files shall be kept in a secure location by investigators (locked desk, locked file cabinet, etc.)
7. SUSPENDING AN INVESTIGATION
- a. An active case shall not be suspended without an evaluation by the principal investigator of the following:
 - 1) Absence of further leads or solvability factors;
 - 2) Unavailability of investigative resources;

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- 3) Negative interviews with victims/witnesses;
 - 4) Inconclusive physical evidence found at the scene of the crime/incident;
 - 5) The exhaustion of all other information sources; and
 - 6) The degree of seriousness of the crime.
- b. In all cases, the principal investigator shall have the approval of a superior officer prior to the suspension of investigative efforts.
8. CASE STATUS: The Supervisor, Chief or OIC shall supervise the status of case assignments, utilizing the following administrative designations appearing on all Investigative Reports: [42.1.3(b)]
 - a. OPEN: The case is assigned to a detective/patrol officer, and investigative efforts are active.
 - b. SUSPENDED: All available leads have been exhausted, but the case has not been brought to a satisfactory conclusion, and investigative efforts may be resumed.
 - c. CLOSED: The case has been satisfactorily concluded.
9. INACTIVE INVESTIGATION FILES [42.1.3(E)]
 - a. Case files for inactive cases shall be filed in accordance with the administrative designator (Open, Suspended, Closed).
 - b. Open Inactive Cases: Open inactive cases shall be filed in the "Open Inactive Case File" area detective or investigating officer file.
 - 1) Such cases shall include cases where suspects have been identified and charged with a crime, but their whereabouts are unknown.
 - 2) Case files shall be maintained indefinitely.
 - c. Suspended Cases: Suspended cases shall be filed in the "Suspended Case File" in the detective or investigating officer file.
 - 1) Such cases shall include cases where all available leads have been exhausted, but the case has not been brought to a satisfactory conclusion, and investigative efforts may be resumed.
 - 2) Case files shall be maintained 7 Years, unless otherwise specified.
 - d. Closed Cases: Closed cases shall be **stored in central records** as a department record. For further information, see the department policy on **Records Management** .
10. RE-OPENING INACTIVE INVESTIGATIONS (COLD CASES)
 - a. Cold Case: A "Cold Case" is a criminal investigation that has been suspended, usually due to the exhaustion of investigative leads or evidence. [42.2.9(a)]

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- b. Activation Criteria: A cold case may be reactivated in the event that:
[42.2.9(b)]
 - 1) New evidence in the case has been discovered;
 - 2) New technology is available which may provide new leads in the case;
 - 3) A witness in the case has come forward; or
 - 4) A victim's body has been found.
 - c. Activation Process: The Supervisor or OIC shall review or assign for review cold cases to determine if additional investigative resources could result in the case being solved. The Chief of Police may determine that a case should be reopened. The supervisor or OIC should consider the following criteria in determining whether to reopen a case: 42.2.9(b)]
 - 1) The nature of the crime;
 - 2) The nature and weight of the new evidence, if any;
 - 3) The age of the case;
 - 4) The availability of witnesses; and
 - 5) The likelihood of a successful prosecution.
 - d. In each case where a cold case is reviewed and a determination is made to reopen the case, an addendum shall be made to the report of the fact that the case has been reopened as well as any investigative activities.
[42.2.9(c)]
11. RECORDS RETENTION: The Secretary of the Commonwealth, Public Records Division, requires retention of records in accordance with a published schedule, 11-81. Investigative records not required to be held longer by policy or another authority shall be held as follows:
- a. Permanent
 - 1) Death reports¹
 - 2) Firearms wounds²
 - 3) Motor vehicle accidents, fatal³
 - b. Eleven (11) Years
 - 1) Armed robbery⁴
 - 2) Assault with a dangerous weapon⁵
 - 3) Confining and putting in fear with intent to commit a felony⁶
 - 4) Unarmed robbery⁷
 - c. Seven (7) Years
 - 1) All crimes except:⁸
 - a) Murder
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- b) Assault with intent to rob
- c) Robbery
- d) Assault with intent to Murder
- e) Stealing by confining and putting in fear
- 2) Dog bites⁹
- 3) Motor vehicle accidents, personal injury¹⁰
- d. Three (3) Years
 - 1) Motor vehicle accidents, property damage¹¹
 - 2) Stolen goods¹²
 - 3) Stolen vehicles¹³
- e. Two (2) Years after the case is closed: Missing persons. ¹⁴

C. Conducting Follow-Up Investigations

1. The following guidelines should be used, as applicable, during all follow-up investigations:
 - a. Reviewing and analyzing all previous reports prepared in the preliminary phase to include: [42.2.2(a)]
 - 1) Departmental records;
 - 2) Existing evidence;
 - 3) Statements of victims, suspects and witnesses; and
 - 4) Laboratory examination results;
 - b. Conducting additional interviews and/or interrogations: for further guidance see the department policies regarding **Interviewing Victims and Witnesses** and **Interrogating Suspects and Arrestees**; [42.2.2(b)]
 - c. Seeking additional information from other officers; [42.2.2(c)]
 - d. Seeking additional information from informants: for further information, see the department policy on **Use of Confidential Informants** ; [42.2.2(c)]
 - e. Planning, organizing and conducting searches: for further guidance, see the department policy on **Search and Seizure** ; [42.2.2(d)]
 - f. Identifying and apprehending suspects: for further guidance, see the department policies on **Eyewitness Identification** and **Arrest**; [42.2.2(e)]
 - g. Determining involvement of suspects in other crimes; [42.2.2(f)]
 - h. Conducting background investigations and checking suspects' criminal histories; [42.2.2(g)]
 - i. Conducting surveillance;
 - j. Collecting physical evidence: for further information see the department policy on **Collection and Preservation of Evidence** ;

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- k. Arranging for dissemination of information to other law enforcement agencies, targeted groups, or the public, as appropriate;
 - l. Preparing cases for court presentations; [42.2.2(h)]
 - m. Assisting in prosecution with the district attorney's office; and
 - n. Arranging for dissemination of information as appropriate.
2. Officers conducting follow-up investigations shall maintain contact with victims and witnesses, as appropriate. For further information, see the department policy on **Victim/Witness Assistance** .
 3. Polygraph examinations may be arranged with the authorization of the Detective Supervisor or OIC. [42.2.6]
 - a. Department employees trained and certified to operate polygraphs may administer examinations. A copy of the employee's certificate shall be included in each case file for which the employee conducts such an examination.
 - b. Examinations may be arranged through the State Police or other agency.

¹ Police Department Records Disposal Schedule 11-81, Series 14.3.

² Police Department Records Disposal Schedule 11-81, Series 14.9.

³ Police Department Records Disposal Schedule 11-81, Series 14.19B.

⁴ Police Department Records Disposal Schedule 11-81, Series 14.13A.

⁵ Police Department Records Disposal Schedule 11-81, Series 14.13B.

⁶ Police Department Records Disposal Schedule 11-81, Series 14.13D.

⁷ Police Department Records Disposal Schedule 11-81, Series 14.13C.

⁸ Police Department Records Disposal Schedule 11-81, Series 14.12.

⁹ Police Department Records Disposal Schedule 11-81, Series 14.4.

¹⁰ Police Department Records Disposal Schedule 11-81, Series 14.19D.

¹¹ Police Department Records Disposal Schedule 11-81, Series 14.19E.

¹² Police Department Records Disposal Schedule 11-81, Series 14.28.

¹³ Police Department Records Disposal Schedule 11-81, Series 14.29.

¹⁴ Police Department Records Disposal Schedule 11-81, Series 14.18.

DETECTIVE BUREAU

POLICY & PROCEDURE NO. 2.02a	ISSUE DATE: 04/01/24
	EFFECTIVE DATE: 4/27/24
HADLEY POLICE DEPARTMENT	REVISION DATE:

I. GENERAL CONSIDERATIONS AND GUIDELINES

The Detective Bureau is responsible for conducting various types of investigations ranging from misdemeanor crimes to serious felonies, and investigating matters such as suspicious deaths, missing persons, allegations of abuse against certain members of the community such as children, elders, or those with special needs. Those may be independently investigated as appropriate, or in conjunction with other agencies either when appropriate, or required by statute. Case-work is generated through a combination of responses to assist/referrals from the patrol division, self-initiated case work, and referrals from other government/law enforcement agencies.

II. POLICY

It is the policy of the department that:

1. A division of specially trained officers, known as the Detective Bureau will be designated the responsibility of conducting criminal investigations;
2. The Chief of Police has sole discretion in the assignment to, and the duties of the detective bureau;
3. There will be a designated supervisor within, as well as an officer designated as a detective. The supervisor of detectives will report to the Lieutenant of Administration.
4. The Detective Bureau will be responsible for maintaining, except in extraordinary circumstances, one member to be available for response outside of normal operating hours.

III. DEFINITIONS

- A. Detective- A role assigned by the Chief of Police to a sworn member who is trained and assigned primarily to an investigative function.
- B. Supervisor of Detectives- A supervisory officer also trained in investigative techniques with the primary role of operating the Detective Bureau.
- C. On-Call Detective- The designated member of the Detective Bureau responsible for responding to exigent, after-hours incidents.

IV. PROCEDURES

A. Employee Attire

Generally: Detective Bureau staff should present a professional appearance to the public at all times.

The supervisor of detectives will be responsible for establishing the appropriate and professional appearing standard to be the regular attire of the day. This will be worn during routine duty days.

During days where operations are planned, the supervisor of detectives will determine the appropriate attire and equipment to be worn.

B. Response/Referrals

- a. Detective Bureau Staff will always be cognizant of calls and call volume during their regular hours and in clear emergency circumstances, will respond and assist. Those calls include, but are not limited to serious motor vehicle collisions, serious assaults, medical emergencies where life-saving efforts have commenced, and officers calling for back-up. An assist response does not automatically designate a call to the detective(s).
- b. Detective Bureau Staff will only be placed as primarily responsible for calls for service in extraordinary circumstances when authorized by the Lieutenants of Administration and Operations.
- c. The referral procedure for routine/non-emergent cases will be as follows;
 - 1) The initial case officer will complete and submit an initial report to their shift supervisor detailing their investigation to that point and will brief them as to the issues surrounding the solve-ability of the case.
 - 2) The shift supervisor will determine what/if any steps should be taken by the initial officer to bring the case to/closer to completion.
 - 3) If the investigating officer has exhausted all avenues, the shift supervisor will determine case-solvability. If a crime clearly occurred within the municipality, and there is a likelihood that the offender can be identified and prosecuted, the case may be referred to the supervisor of detectives.
 - 4) The supervisor of detectives will also assess the case for completion by the initial investigating officer, as well as for solve-ability.

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- 5) If the case is completed to the best of the initial officer's ability and the case is solve-able, a determination will be made as to whether the initial investigating officer will be assisted, or if the case will be fully accepted by the Detective Bureau.
 - d. Case/Activity Monitoring- Members of the Detective Bureau will monitor internal police activity and trends, and determine if cases not referred for investigation should be under the purview of the Detective Bureau. Cases transferred at the direction of the supervisor of detectives will be done in consultation with the officer and their supervisor.
 - e. Off-Duty DB Response;
 - 1) The DB will ensure that there is investigator coverage during all times, and that the on-call Lieutenant is notified as to who the appropriate on-call DB member is.
 - 2) In the event of an incident requiring investigation outside of the DB's hours, the shift sergeant or OIC will contact the on-call Lieutenant for consultation. The on-call LT will make a determination of what resources are appropriate for the incident.
 - 3) If the on-call LT determines that the on-call DB's response is appropriate, they will contact the on-call DB to respond.
 - f. External Referrals;
 - 1) Referrals/requests for assistance from outside agencies may be made in exigent circumstances, such as instances of death, incidents where severe injuries are likely to cause death, or in instances of violent felonies.
 - 2) Routine referrals/requests for assistance will be made in consultation with the Lieutenant of Administration.

V. ADMINISTRATIVE RESPONSIBILITIES

1. Supervisor of Detectives- In addition to the responsibilities designated here, the Supervisor of Detectives may have other administrative responsibilities directly related to the operation of the Detective Bureau, those that closely relate to the investigatory function, or other functions as designated by the Chief of Police. Those responsibilities may include the processing and maintaining of court related documents, as well as evidence. The supervisor of detectives will also be responsible for the monthly planning of DB operations, with a primary focus on the days in which all members of the unit are working together, as well as the compiling of reports and statistics as directed by the Chief of Police.
2. Detective- In addition to the responsibilities designated here, the Detective may have other administrative responsibilities directly related to the operation of the Detective Bureau, those that closely relate to the investigatory function

or other functions as designated by the Chief of Police. Those responsibilities may include the processing and maintaining of court related documents, as well as evidence.

INTERVIEWING VICTIMS AND WITNESSES

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I. GENERAL CONSIDERATIONS AND GUIDELINES

The interviewing of a victim or witness is a vital part of the criminal investigation procedure. It can lead directly to the identification, subsequent apprehension and conviction of the guilty offender.

It is the task of a police officer to convince witnesses of the need for their testimony by appealing to their sense of civic responsibility and to their duty as citizens to ensure that the purposes of justice are effectively achieved.

Officers conducting the initial investigation and interviews should be aware that some criminals remain at the scene. If the officer begins to suspect that a person who claims to be only a witness or even a victim may actually be the perpetrator, the officer should be cautious in conducting any questioning. If the suspect is placed in custody, further questioning must be preceded by administration of the Miranda warnings. See department policies on **Interrogating Suspects and Arrestees** and **Stop and Frisk and Threshold Inquiries**

II. POLICY

It is the policy of this department that:

- A. Officers shall attempt to identify and interview all witnesses and victims of crimes.
- B. Officers shall obtain as complete and accurate a record of the witness's or victim's statement as possible.

III. DEFINITIONS

- A. **Victim:** Any person who suffers direct or threatened physical, emotional, financial or property harm as the result of the commission or attempted commission of a crime or delinquency offense, as demonstrated by the issuance of a complaint or indictment; the family members of such person if the person is a minor, incompetent or deceased.
- B. **Victim-witness advocate:** An individual employed by a prosecutor or other criminal justice agency to provide necessary and essential services in carrying out policies and procedures under the general laws of the Commonwealth.
- C. **Witness:** Any person who has been or is expected to be summoned to testify for the prosecution whether or not any action or proceeding has yet been commenced.

IV. PROCEDURE [1.2.3(A)]

A. Conducting Interviews

1. PRE-INTERVIEW CONSIDERATIONS

- a. A victim or witness has the right to consent or refuse to be interviewed and may conclude an interview at any time.¹
- b. Will the interviewer conduct a minor interview, or is a more formal, detailed, recorded interview necessary?
- c. Obtain the services of an interpreter if needed.
- d. Consider the physical and emotional state of the witness/victim.
- e. Determine whether to take notes or tape record the interview.
- f. Will the person being interviewed be asked to make a written statement, or will the interview be transcribed?

2. INTRODUCTION

- a. The interviewing officer(s) should introduce themselves and show identification credentials (badge and identification) in these circumstances:
 - 1) If not in uniform and the officer(s) are not known to the person being interviewed; or
 - 2) If requested by the person being interviewed.
- b. Establish a rapport with the witness or victim with gentle conversation prior to beginning the interview.

3. TAKING NOTES OR RECORDING THE INTERVIEW

a. NOTES

- 1) Explain the role of the notes and the note taking process to the person being interviewed prior to conducting the interview.

- 2) Notes should be taken in a manner that does not interrupt the interviewing process. Some interviewees are reluctant to talk if they notice that the officer is taking down every word they say.
- 3) Brief notes can be made without deterring or distracting the interviewee. However, if a statement appears highly informative due to its nature and content, a verbatim account should be made.

b. AUDIO/VIDEO RECORDING

- 1) Before any interview is audio/video recorded, the interviewee must be told that the conversation will be recorded.²
- 2) If the person being interviewed refuses to be recorded, revert to note taking.
- 3) If any legal or other questions arise pertaining to the tape recording of an interview, consult with the District Attorney's office.

4. CONDUCTING THE INTERVIEW

- a. At the beginning of the interview, record preliminary information either in writing or, if the interview is being recorded, verbally at the beginning of the recording. Include the:
 - 1) The name(s) of officers present during the interview;
 - 2) Date and time of the interview;
 - 3) The location of the interview and
 - 4) The name of the witness being interviewed.
- b. Ask the person being interviewed to fully describe the incident.
- c. Ask specific questions to clarify the statement or to fill in any omissions or unknowns.

5. OBSERVATIONS

- a. Observe and note any emotional outbursts, inflections of the voice and nervous reactions which may indicate areas requiring further probing or clarification.
- b. Assess each interviewee's objectivity or possible bias.
- c. Note any relationship or connection the witness might have with the victim or perpetrator or the property or premises involved in the crime; the overall credibility of the witness/victim; his/her opportunity to make observations; and his/her ability to recall details as opposed to general impressions, etc.

6. TRANSCRIBED AND WRITTEN STATEMENTS

a. WRITTEN STATEMENT

- 1) Obtain a written statement from the witness/victim, if appropriate.
- 2) The statement may be written on a "Statement of Witness" form, or on blank paper. If the statement form is used, have the writer fill in the

blank spaces. If using blank paper, ask the writer to provide the necessary information:

- a) Identification of the writer;
 - b) Writer's address;
 - c) Date and time that the written statement was undertaken; and
 - d) Location of the statement.
- 3) The writer should recount the incident in his/her own words. The writer should review the statement, correct any errors and sign the statement.
 - 4) The statement should be signed by at least one witness, who may be the officer asking for the statement or another police officer.
 - 5) If the person giving the statement cannot write the statement due to injury, illiteracy, or another reason, the statement may be dictated and written, word for word, by a companion or by a police officer.
- b. TRANSCRIBED STATEMENT
- 1) An oral statement may be transcribed:
 - a) By recording the statement in writing as the statement is being dictated; or
 - b) By transcribing the statement from a recorded interview.
 - 2) The transcribed statement may be reviewed by the person who gave the statement, have any errors or omissions corrected, and then be signed by that person.

7. TERMINATING THE INTERVIEW

- a. Interviews shall be ended in a courteous manner. Do not terminate the interview abruptly or dismiss the witness or victim in a curt manner.
 - 1) Summarize what has been covered. Ask the witness or victim if there is anything [s]he wishes to add or emphasize.
 - 2) Inform the witness or victim that it is very important to contact the police if [s]he recalls or uncovers additional information about the crime or the criminal at a later time.
 - 3) Provide information about victim and witness assistance. (See department policy on **Victim/Witness Assistance** .)
 - 4) Where appropriate, inform the victim or witness of the phone number and location of the District Attorney's Victim/Witness Assistance office, especially if the victim or witness has questions of a legal nature.
 - 5) Inform the witness that it is a criminal offense for anyone to threaten or intimidate the witness into altering or changing his or her testimony or into not testifying.³ If anyone attempts to do so, the witness should be told to contact the police immediately.

- b. Thank the witness or victim for his/her cooperation and impress upon him/her the value of his/her services.

B. Interview Locations

1. GENERAL CONSIDERATIONS

- a. The intensity of the interview will be determined by the nature of the incident and the potential weight of the information from the person to be interviewed.
- b. Ideally, interviews should be conducted at the police station. Often times this is not feasible.
- c. Interviews can be conducted successfully at the scene of the incident.
- d. Consideration should be given to the witness's mobility and obligations. It is sometimes necessary to go to the victim or witness, or to a neutral location (other than the police station) where the victim or witness is comfortable.
- e. In all cases, the area of the interview should be relatively free from avoidable distractions and from being overheard by others.

2. INCIDENT SCENE

- a. The names, addresses and telephone numbers of all persons interviewed should be obtained.
- b. Witnesses/victims shall be separated, if possible, to prevent them from discussing what has occurred among themselves before they are interviewed. This may taint individual recollections.
- c. Witnesses or victims may be provided with paper and pen to begin writing their descriptions of the incident prior to their interview.

3. INTERVIEWS AT OTHER LOCATIONS

- a. Homes: Interviews may be conducted in the home of a victim or witness with his or her consent.
- b. Public Locations: Interviews may be conducted at other locations in consideration of investigative process and the needs of the victim or witness. Such places include public buildings, libraries, and offices.

4. POLICE STATION

- a. Ideally, interviews should be conducted at the police station where the best facilities and resources are available to the investigator.
- b. The interview should be conducted in an area which is not prone to distractions or interruptions and where the interview may be recorded if appropriate.
- c. For further information, see the department policy on **Temporary Holding Facilities** .

5. TELEPHONE INTERVIEWS

- a. Officers are discouraged from conducting telephone interviews.
- b. Telephone interviews do not allow officers to:
 - 1) Make a visual confirmation of the identity of the person being interviewed;
 - 2) Observe body language, facial expressions, and other visual clues; or
 - 3) Observe others coaching the person being interviewed.

C. Report Writing

1. All information obtained from witnesses shall be passed on to the follow-up investigator, if any.
2. All pertinent data, including notes, tapes, and written statements shall be included in the officer's official report and submitted in accordance with department practice and procedures.

V. INTERVIEW TECHNIQUES

A. Use of Interpreters

1. FOREIGN LANGUAGES

- a. Before using any person at the scene as an interpreter, make sure that the person chosen to serve as interpreter is reliable.
- b. If possible, take the precaution of asking a second person who knows the foreign language to listen to the interpreter and notify the officer if the interpreter fails to translate any question or answer accurately and completely.

2. INTERPRETERS FOR THE DEAF

- a. In any court proceeding where a deaf person is a party or a witness, the court must appoint an interpreter, unless the deaf person makes a knowing and intelligent waiver.⁴
- b. For short interviews the officer may be able to communicate adequately with a deaf person orally or in writing, or with the services of another person serving as an interpreter.
- c. In the event that a detailed interview is needed, or that a deaf victim or witness is likely to become a suspect, the services of an interpreter are advisable.
- d. Interpreter services are available through the Massachusetts Commission for the Deaf and Hard of Hearing:
 - 1) Emergency services any time: call 1-800-249-9949, voice or TTY.
 - 2) Non-emergency services: call 1-617-740-1600 Voice or 617-740-1700 TTY.

B. Physical and Emotional Needs of Witnesses/Victims

1. Calm the excited and emotionally upset witness or victim. (If necessary, delay the interview until the person has regained composure.)
2. Create a favorable atmosphere for the witness or victim to talk freely.
3. Conduct the interview in a quiet area, if available.
4. Maintain privacy to the greatest degree possible.
5. Do not distract the interviewee or interrupt his/her story unnecessarily.
6. Only one officer should conduct the interview. Any other officers present should remain inconspicuous and not interfere with the interview.

C. Establish Cooperative Relationship

1. Display a sincere interest.
2. Be patient, tactful and respectful.
3. Control personal feelings. Do not exhibit surprise or dismay at anything said by a witness or victim.
4. Provide reassurance.
5. Encourage an untalkative interviewee by asking appropriate questions.
6. Encourage witnesses/victims to give a full description of everything that occurred with a minimum of interruption. When the conversation lags or stops, be patient and wait for the interviewee to volunteer additional information.

D. Conducting the Interview

1. Do not take anything for granted, and do not jump to conclusions.
2. Listen for and note any obvious omissions or gaps in the statements made by a witness or victim, or for any conflicting or inconsistent statements.
3. Note any extreme nervousness or unusual behavior on the part of a witness or victim or any unguarded or spontaneous remarks.
4. It is important to listen not only to what is said, but also to how it is said. By noting these things, an officer will know what portions of the statement may require further probing or clarification.
 - a. Emotional outbursts and inflections of the voice may give a clue to sensitive areas of the interview.
 - b. Sudden silence, uncertainty or confusion, or the shifting of conversation to an unrelated subject may indicate that information is being withheld.
 - c. Nervous bodily reaction or facial characteristics may also signal that a sensitive area has been reached.

E. Questioning Victims/Witnesses

1. Withhold any direct questioning until after the witness or victim has given a complete account, then ask specific questions to clarify earlier statements or to fill in any omissions.
2. Questions should be clear, definite and in plain language.
3. Ask only one question at a time, and wait for a complete reply.
4. Avoid leading questions that imply or suggest a particular answer.
5. Avoid rapid-fire questions that can confuse or bewilder.
6. Avoid questions that can be answered by "yes" or "no," as these limit response.
7. Do not ask questions in a critical or derisive manner, which could deter previously cooperative witnesses or victims.
8. Do not correct the grammar or the language of the witness or victim, which could cause resentment.
9. Do not permit your own emotions, attitudes or opinions to distract the witness or victim or to interfere with your evaluation of his/her response to your questions.

¹ Commonwealth v. Adkinson, 442 Mass. 410, 813 NE2d 506 (2004).

² M.G.L c. 272, §99.

³ M.G.L c. 268, §13B.

⁴ M.G.L c. 221, §92A.

INTERROGATING SUSPECTS AND ARRESTEES

POLICY & PROCEDURE NO. 2.04	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 01/31/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

Interrogations of persons in police custody must conform to the standards set forth in the Miranda decision as well as Due Process. A suspect must "knowingly and intelligently" waive his/her rights to this constitutional protection before the interrogation can begin.

The critical elements to be considered are whether there is a coercive environment and whether the person being questioned is free to leave.

It is important to understand that Miranda procedures only apply if both of the following situations are present:

- A person is in police custody or is otherwise deprived of his/her freedom of movement in a significant manner and
- There is police questioning or its functional equivalent, including any words or actions that are reasonably likely to elicit an incriminating response.

A suspect can stop any police questioning at any time by invoking his/her right of silence or by requesting the services of an attorney.

"Spontaneous" statements made to the police before, during or after the arrest by a person in custody are admissible in evidence even though the arrested person was not warned of his/her rights, provided that such statements are voluntary and are not made in response to police questioning or other actions.

II. POLICY

It is the policy of this department that:

- A. Persons in custody shall be given their Miranda rights prior to any police interrogation; and
- B. The Due Process rights of persons in custody will be respected.

III. DEFINITIONS

- A. Custody: When a person is under arrest, or deprived of his/her freedom in a significant manner.¹
- B. Interrogation: Express questioning of a suspect about a crime or suspected crime as well as any words or actions on the part of the police that the officers should know are reasonably likely to elicit an incriminating response.²

IV. PROCEDURE [1.2.3(B)]

A. Providing Miranda Warnings

1. If officer wish to interview or interrogate a suspect who is in custody or deprived of his/her freedom in a significant way, officers are obligated to give Miranda warnings prior to such interrogation.

The Miranda warnings shall be read from a preprinted card or form in a clear and unhurried manner prior to questioning.

Persons who do not speak English must be given these warnings in a language that they understand.

Sample Miranda Warning Language:

- **You have the right to remain silent;**
- **Anything that you say can be used against you in a court of law;**
- **You have the right to consult with an attorney before being questioned and to have the lawyer present during the interrogation; and**
- **If you cannot afford a lawyer, one will be appointed for you at government expense and you can consult with the appointed lawyer prior to the interrogation and have the appointed lawyer present during the interrogation.**

2. The suspect shall then be asked the following questions:

Do you understand each of these rights that have been explained to you?

Having these rights in mind, do you wish to answer questions now?

3. Persons undergoing the booking process shall be given Miranda warnings as part of the booking procedure. For further information see the department policy on Detainee Processing.
4. If there is any substantial delay between the Miranda warnings and the police questioning, the suspect shall be advised of these rights again before the questioning begins.

5. Whenever an officer has any doubt as to the applicability of the Miranda warnings in any particular case, it is advisable that these warnings be given to the suspect to avoid any subsequent legal barrier to the admissibility of any statements obtained.
6. If, at any time, a suspect requests to read his/her rights or to be informed of his/her rights, these requests shall be granted.
7. JUVENILES: Before a juvenile between the ages of 7 and 17 is questioned, the Miranda warnings shall be given in the presence of the juvenile and his/her parent, guardian or other interested adult. The adult must acknowledge that [s]he understands the rights and the juvenile must be given the opportunity to have a meaningful consultation with the adult. See department policy on **Handling Juveniles** .

B. Non-Miranda Situations

1. SPONTANEOUS STATEMENTS

Officers may note any spontaneous and volunteered statements. When a suspect or prisoner voluntarily makes a statement, officers do not have to prevent him/her from continuing to talk and the Miranda warnings are not a prerequisite for admissibility of any such statements in evidence at court.

- 1) Spontaneous and volunteered statements are statements made by a suspect of his/her own free will and not made in response to police questioning.
 - 2) A person who voluntarily enters a police station and makes incriminating statements need not be given the Miranda warnings.³
 - 3) Spontaneous and volunteered statements may be taken after the suspect is in custody and before, during, or after actual interrogation so long as the statements are clearly voluntary.
2. INVESTIGATORY STOP AND FRISKS: Non-custodial preliminary or investigative questioning need not be preceded by Miranda warnings.⁴ See department policy on **Stop and Frisk and Threshold Inquiries**.
 3. NON-LAW ENFORCEMENT QUESTIONING: Miranda does not apply to statements made in response to questioning by private citizens, unless the private citizen is acting on behalf of the police. For a citizen to constitute an agent of the police, the police must request or encourage the citizen's help.⁵ Thus, where a fellow prisoner initiates questioning about a crime in hopes of trading information for a lighter sentence, any statements made are admissible if the police neither encouraged nor sought the prisoner's assistance.⁶

4. TRAFFIC VIOLATIONS OR TRAFFIC COLLISIONS

A person need not be given Miranda warnings if [s]he has been stopped for violating motor vehicle laws.⁷

An officer's request that a motorist perform field sobriety tests does not require that Miranda warnings be given.⁸

C. Waiver of Rights

1. VALID WAIVERS

Statements made by an arrestee more than six hours after the arrest (safe harbor period) are inadmissible unless the arrestee has been arraigned or has made a valid written waiver of his/her right to be arraigned without unreasonable delay.⁹

- 1) If the arrestee is incapacitated due to a self-induced disability (such as the use of drugs or alcohol) the six hour safe harbor period does not begin until the disability terminates.¹⁰
- 2) The six hour period is also tolled (i.e., suspended or extended) when interrogation is not possible or must be suspended for reasons not attributable to the police, such as a natural disaster or emergency.¹¹

The interrogating officers should be certain that the suspect understands the rights which have been read to him/her as the burden will be on the prosecution to prove that the waiver was valid.¹²

The waiver must be made voluntarily, knowingly and intelligently to meet the conditions of the Miranda decision.

In determining whether a valid waiver was made, the court examines whether in light of the totality of the circumstances surrounding the making of the waiver, the will of the suspect was overborne such that the statement was not a free and voluntary act. The court considers the circumstances of the interrogation and the individual characteristics and conduct of the suspect, such as the length of time which transpired between the giving of the Miranda warnings and the waiver, the suspect's age, mental capacity and experience.¹³

When the suspect waives his/her rights, the interrogating officers shall obtain a written waiver when possible. A waiver may be made orally or in writing, but a written and properly witnessed waiver is more likely to be upheld in court.

Silence on the part of the suspect does not constitute a valid waiver.¹⁴

The physical and emotional condition of the person being questioned is an important consideration in determining the validity of a waiver. The police should refrain from questioning if the suspect is clearly not capable of understanding his/her rights.¹⁵

2. COMPETENCY

A suspect must be competent to waive his/her rights prior to police questioning. The question of competency is a question of fact to be determined by the circumstances in each case.

The competency issue is more likely to be raised under the following circumstances:

- 1) If the suspect is distraught or very disturbed because of any mental or emotional condition;

- 2) If the suspect has been wounded or is the victim of shock or other physical impairment;
- 3) If the suspect is so intoxicated or influenced by alcohol or drugs that [s]he cannot think rationally or act sensibly; or
- 4) If the suspect's intelligence level is so low, or his/her learning and education are so minimal, that [s]he does not comprehend his/her rights.

In any of the circumstances enumerated above, any waiver obtained will be carefully scrutinized by the court.

3. ASSESSING COMPETENCY PRIOR TO INTERROGATION

After the Miranda rights have been read and after the suspect has shown an initial willingness to waive those rights, the police may ask the suspect about the following in order to properly assess the suspect's ability to intelligently understand and waive his/her rights:

- 1) His/her age;
- 2) Whether [s]he is under the influence of any drugs or alcohol;
- 3) Whether [s]he is suffering from any mental or emotional problem;
- 4) His/her education and learning;
- 5) His/her employment;
- 6) Whether [s]he has ever been given Miranda warnings previously; and
- 7) Whether [s]he understands the words used by the officer in reciting the Miranda warnings or what they mean.

D. Access to Counsel

1. REQUEST FOR COUNSEL

If a suspect states that [s]he wishes to consult an attorney,

- 1) [S]he must not be questioned further by police until [s]he has had an opportunity to consult an attorney.
- 2) If the suspect initiates statements or conversation, the police may respond to those statements or conversation.

If a suspect has voluntarily waived his/her right to remain silent, [s]he may still invoke this right by refusing to answer any further questions or by requesting an attorney. At this point the police questioning must cease.

A suspect may answer some questions and refuse to answer others. The officer is not required to discontinue questioning unless the suspect indicates that [s]he wishes to remain totally silent to stop the questioning or to consult with a lawyer.

2. REPRESENTATION BY COUNSEL

If the police are aware that the suspect is represented by an attorney, even on other matters, and that the attorney desires to be present with his/her client during any

questioning, the police must inform the suspect that his/her attorney wishes to be present during questioning.

Once so informed, the suspect may waive his/her right to have his/her attorney present.

3. POST ARRAIGNMENT: Once a suspect has been arraigned, the suspect has a right to counsel, regardless of whether or not the suspect is in custody. The suspect shall not be questioned in the absence of counsel unless [s]he specifically waives that right.¹⁶
4. COUNSEL ATTEMPTING TO CONTACT SUSPECT: Investigators are obligated to notify a suspect of an attorney's attempt to reach them and to immediately relay the message, including a message that the suspect not talk to police.¹⁷

E. Setting of the Interrogation

1. GENERALLY

An interrogation is a controlled process, controlled by the officer conducting the interrogation. It should be conducted in a setting that provides a degree of privacy as well as safety and security for the officer and the suspect as well.

All rooms used for conducting interrogations including rooms designated for this purpose shall be inspected for security issues prior to bringing the suspect into the room and conducting the interview. [42.2.10(b)]

This applies to both uniformed and non-uniformed personnel.

2. DESIGNATED INTERVIEW ROOM

The interview room should be sparsely furnished with chairs for the officer(s) and suspects, and a small table.

If a telephone is in the room, the ringer should be switched off.

Writing materials, department forms, recording equipment and media will be maintained in the interview room. [42.2.10(e)]

Other items should not be left in the interview room.

Weapons must not be allowed inside of the interview room. [42.2.10(a)]

- 1) Persons being interrogated should be pat-frisked for firearms and other weapons prior to being admitted into the interview room.
- 2) Police firearms should be secured in a designated location outside of the room.

3. PERSONNEL

Usually, no more than two officers should be present during an interrogation. [42.2.10(c)]

Live audio and video may be made available for other officers to observe a recorded interrogation.

Interrogations should never be conducted by a single officer without a back-up officer readily available in the event that the interviewing officer needs help.

4. MEANS OF SUMMONSING ASSISTANCE [42.2.10(D)]

If two officers are conducting an interrogation, no other backup officers are required. Depending on the suspect, additional backup officer(s) may be advisable.

A backup officer shall be located in the immediate vicinity of the interrogation, within audible distance, for the duration of the interrogation, in the event that the interviewing officer(s) summons assistance.

Live audio and video may be made available for other officers to observe a recorded interrogation for the safety of the officer(s) conducting the interrogation.¹⁸

For information on recording interviews and interrogations, see the department policy on **Electronic Recording Interrogations** .

5. BREAKS: If an interview or interrogations is of long duration, officer(s) must make arrangements for access to restrooms, water, and provide for comfort breaks while continuing to provide for the security and safety of all parties involved. [42.2.10(f)]

F. Documenting Suspect Statements and Confessions

1. RECORDING REQUIREMENTS

In *Commonwealth v. DiGiambattista*, 442 Mass. 423 (2004), the Supreme Judicial Court has expressed a preference that interrogations conducted in a custodial setting be recorded whenever practicable.

In the absence of recording the court will issue jury instructions that jurors “should weigh evidence of the defendant’s alleged statement with great caution and care.”

This jury instruction is required regardless of the reason that the police did not record the interrogation. Failure to record may create an unnecessary burden for the prosecution.

2. RECORDING INTERROGATIONS

Officers shall video and or audio record all suspect interrogations whenever possible.

Before recording an interrogation, the suspect shall be notified that the conversation will be recorded.¹⁹

For further information see department policy on **Electronic Recording of Interrogations** .

3. SUSPECT REFUSAL TO BE RECORDED

In the event that a suspect refuses to be recorded, see the procedures set forth in the department policy on **Electronic Recording of Interrogations** .

- 1) The officer shall document the fact into his/her report.

- 2) If the suspect submits a written statement the suspect should be asked to include a statement regarding his/her wishes not to be recorded.

4. NOTE TAKING

Notes should be taken in a manner that does not interrupt the interviewing process. Some interviewees are reluctant to talk if they notice that the officer is taking down every word they say.

Brief notes can be made without deterring or distracting the interviewee. However, if a statement appears highly informative due to its nature and content, a verbatim account should be made.

5. WRITTEN STATEMENT OR CONFESSION

Obtain a written statement from the witness/victim, if appropriate.

The statement may be written on a "Statement" form, or on blank paper. If the statement form is used, have the writer fill in the blank spaces. If using blank paper, ask the writer to provide the necessary information:

- 1) Identification of the writer
- 2) Writers address
- 3) Date and time that the written statement was undertaken.
- 4) Location of the statement.

The suspect should recount the incident in his/her own words.

The suspect should review the statement; correct any errors, sign, and date the statement.

The interrogating officer(s) shall sign and date the statement or confession.

If the person giving the statement cannot write the statement due to injury, illiteracy, or other reason, the statement may be dictated and written, word for word, by a companion, or by a police officer.

6. TRANSCRIBED STATEMENT

TYPES OF TRANSCRIBED STATEMENTS

- 1) An oral statement transcribed from a recorded interview is preferred.
- 2) A statement may also be transcribed by writing down the suspects words as the statement is being dictated.

WRITTEN STATEMENTS OR CONFESSIONS AS EVIDENCE

- 1) The transcribed statement shall be reviewed by the person who gave the statement, any errors or omissions corrected, and then signed by that person.
- 2) The interrogating officer(s) shall sign and date all written statements and confessions.

G. Conducting the Interview or Interrogation

1. BEGINNING THE INTERVIEW

- a. At the beginning of the recorded interview, verbally record the following:
 - 1) The name(s) of officers present during the interview.
 - 2) Date and time of the interview.
 - 3) The location of the interview.
 - 4) The name of the witness being interviewed.
- b. If the interview is not being recorded, the information shall be recorded in writing.

2. CONDUCTING THE INTERVIEW

- a. Ask the person being interviewed to fully describe the incident.
- b. Ask specific questions to clarify the statement or to fill in any omissions or unknowns.
- c. Note:
 - 1) any relationship or connection the suspect might have with the victim, other perpetrator or the property or premises involved in the crime;
 - 2) the overall credibility of the witness/victim;
 - 3) his/her opportunity to make observations; and his/her ability to recall details as opposed to general impressions, etc.

3. OBSERVATIONS: Observe and note any emotional outbursts, inflections of the voice and nervous reactions which may indicate areas requiring further probing or clarification.

4. TERMINATING THE INTERVIEW: Interviews should be ended in a courteous manner.

5. DOCUMENTING THE INTERVIEW

The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes:

- 1) Location, date, time of day and duration of interview;
- 2) Identities of officers or others present;
- 3) Miranda warnings given, suspect responses and waivers provided, if any; and
- 4) The nature and duration of breaks in questioning to provide the suspect food, drink, use of the restroom, or for other purposes.

¹ Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602 (1966)

² Com. v. Morse, 427 Mass. 117, 691 N.E.2d 566 (1998)

³ Oregon v. Mathiason, 429 U.S. 492, 97 S.Ct. 711 (1977)

⁴ See, Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602 (1966); Com. v. Podlaski, 377 Mass. 339, 398 N.E.2d 1379 (1979)

⁵ Massiah v. U.S., 377 U.S. 201, 84 S.Ct. 1199 (1964)

⁶ Com v. Gajka, 425 Mass. 751, 682 N.E.2d 1345 (1997)

⁷ Berkemere v. McCarty, 468 U.S. 420, 104 S.Ct. 3138 (1984)

⁸ Com. v. Wholley, 429 Mass. 1010, 709 N.E.2d 1117 (1999); See also, Vanhouton v. Com., 424 Mass. 327, 676 N.E.2d 460 (1999)

⁹ Com. v. Rosario, 422 Mass. 28, 661 N.E.2d 71 (1996)

¹⁰ Com. v. Rosario, 422 Mass. 28, 661 N.E.2d 71 (1996)

¹¹ Com. v. Rosario, 422 Mass. 28, 661 N.E.2d 71 (1996)

¹² Com. v. Nom, 426 Mass. 152, 686 N.E.2d 1017 (1997)

¹³ Com. v. Nom, 426 Mass. 152, 686 N.E.2d 1017 (1997); Com. v. Hooks, 38 Mass. App. Ct. 301, 647 N.E.2d 440 (1995)

¹⁴ Com. v. Roy, 2 Mass. App. 14, 307 N.E.2d 851 (1974)

¹⁵ Com. v. Hosey, 368 Mass. 571, 334 N.E.2d 44 (1975)

¹⁶ Massiah v. U.S., 377 U.S. 201, 84 S.Ct. 1199 (1964)

¹⁷ Com. v. McNulty, 458 Mass. 305 (2010)

¹⁸ M.G.L. c. 272, s. 99(D)(e)

¹⁹ M.G.L. c. 272, s. 99

STOP AND FRISK AND THRESHOLD INQUIRIES

POLICY & PROCEDURE NO. 2.05	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 01/31/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

A police officer may temporarily stop and briefly detain a person for the purpose of inquiring into possible criminal behavior even though the officer does not have probable cause to make a lawful arrest at that time. The purpose of this temporary detention for questioning is to enable the police officer to determine whether to make an arrest, investigate further, or to take no police action at that time.

An officer may frisk such a person for weapons as a matter of self-protection when the officer reasonably believes that his/her own safety, or that of others nearby, is endangered. The issue is whether a reasonably prudent person in those circumstances would be warranted in his/her belief that the officer's safety, or that of others, was in danger.¹

This policy recognizes that police officers are charged with community caretaking functions that do not require judicial justification. These functions are outside of the "law enforcement" function; for example, approaching a vehicle parked in a breakdown lane or checking on motorists in rest areas will not be an investigatory stop.²

Police officers should never hesitate to make an investigatory stop and a necessary frisk under appropriate circumstances in order to meet the practical needs of effective law enforcement.

II. POLICY

It is the policy of this department that:

1. Only when an officer has reasonable suspicion of criminal activity based on specific, articulable facts and reasonable inferences may such officer temporarily stop and detain a person or vehicle; and
2. Once stopped, a suspect may only be frisked for weapons if the officer reasonably believes the person to be armed.

III. DEFINITIONS

- A. Investigative Detention:** As used in this policy, includes what is commonly referred to as "stop & frisk" and also the very similar procedures often referred to as "threshold inquiry."
- B. Stop & Frisk:** The warrantless stopping, questioning and frisking of suspicious persons derived from the U.S. Supreme Court case of Terry v. Ohio.³
- C. Threshold Inquiry:** The warrantless stopping, questioning and frisking of suspicious persons based on a Massachusetts statute -c.41, §98.

IV. PROCEDURE

A. Stops

1. It is a basic police duty to check on suspicious persons or circumstances, particularly in the nighttime and in crime-prone areas.
2. **GROUND FOR MAKING A STOP**
 - a. An officer may make a brief investigative stop and inquiry if [s]he has a reasonable suspicion of any of the following circumstances:⁴
 - 1) When [s]he knows that a crime has been committed;
 - 2) When [s]he reasonably believes that a crime has been or is being committed; and,
 - 3) When [s]he seeks to prevent a crime which [s]he reasonably believes is about to be committed.
 - b. A police officer has the authority to stop a person for an investigative inquiry in any place where the officer has a right to be, including:
 - 1) Any public place;
 - 2) Any place or area open to the public; and,
 - 3) Any private premises entered with a valid warrant, by consent, or under emergency circumstances.
 - c. There is no precise formula for determining the legality of an investigatory stop. However, it must be based upon a reasonable belief or suspicion on the part of the officer that some activity out of the ordinary is taking place, that such activity is crime-related and that the person under suspicion is connected with or involved in that criminal activity.

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- d. An investigatory stop does not require probable cause; rather, it requires the lesser standard of reasonable belief based on specific, articulable facts and reasonable inferences. It may be based upon the officer's own observations or information supplied by others. The information on which the officer acts should be well-founded and reasonable. Lastly, a hunch or pure guesswork, or an officer's unsupported intuition, is **not** a sufficient basis.
 - e. No single factor alone is normally sufficient. The following are some of the factors which may be considered in determining the reasonableness of an investigative stop by a police officer in the field:
 - 1) Personal observations of the officer and his/her police training and experience;
 - 2) The officer's knowledge of criminal activity in the area;
 - 3) The time of the day or night and the place of observation;
 - 4) The general appearance and demeanor of the person and any furtive behavior which indicates possible criminal conduct;
 - 5) The person's proximity to the scene of a recently reported crime;
 - 6) Unprovoked flight of an individual upon noticing the police;⁵
 - 7) The knowledge of the person's prior criminal record or of his/her association with known criminals;
 - 8) Visible objects in the person's possession or obvious bulges in his/her clothing;
 - 9) Resemblance of the individual to a person wanted for a known crime; and,
 - 10) Information received from police sources or from other reasonably reliable sources of information.
 3. The fact that the individual has aroused the police officer's suspicion should cause the officer to make his/her approach with vigilance and to be alert for any possibility of danger.
 - a. A routine police check of suspicious circumstances may uncover the commission of a serious crime or the presence of a dangerous criminal.
 - b. If the stopped person has just committed a major crime, [s]he may be an immediate threat to the officer's safety, or may suddenly attempt to flee from the scene.
 4. LENGTH OF STOP: No hard and fast rule can be formulated to determine the period of time required for an investigative detention, but it should be reasonably brief under the particular circumstances.⁶
 - a. A stop may only last long enough for the officer to make the threshold inquiry into whether the suspicions were or were not well founded using the least intrusive means possible.
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- b. If the answers given by the suspect are unsatisfactory because they are false, contradictory or incredible, they may serve as elements or factors to establish probable cause.⁷
- c. The period of investigative detention should be sufficiently brief so that the "stop" cannot be construed as an "arrest," which would require probable cause.⁸

B. Pat-Down Frisks [1.2.4(b)]

1. If a police officer reasonably believes that his/her own safety or that of others is in danger, [s]he may frisk or pat-down the person stopped and may also search the area within that person's immediate control in order to discover and take control of any weapon that may be used to inflict injury.⁹
2. It is not necessary that the officer be absolutely certain that such person is armed. However, the officer must perceive danger to himself/herself or others because of events leading to the stop or which occurred after or during the stop.
3. If the officer has a reasonable belief or suspicion, based upon reliable information or personal observation, that a weapon is being carried or concealed in some specific place on the person of the individual, [s]he should immediately check that area before performing a general pat-down.
4. A frisk should not be made a pretext to search for evidence of crime; it must be a protective measure.
5. The frisk must initially be limited to an external pat-down of the suspect's outer clothing. However, if such outer clothing is bulky, such as a heavy overcoat, these garments may be opened to permit a pat-down of inner clothing.
6. When a pat-down is conducted on a member of the opposite sex, officers shall use the preferred method for frisking of a person of the opposite sex (e.g., use the back of the hand or a baton).
7. If the officer feels an object which could reasonably be a weapon, [s]he may conduct a further search for that particular object and remove it.
8. If, after completing a pat-down of the suspect, the officer does not feel any object which could reasonably be a weapon, the search shall be discontinued.
9. If, while frisking a stopped person, the officer discovers an illegal firearm, contraband, stolen property or evidence of a crime, and probable cause to arrest develops, an arrest should be made and a full-scale search incident to that arrest should be made.

C. Use of Force

1. If the person fails or refuses to stop when so directed by a police officer, reasonable force and physical restraint (including handcuffs) may be necessary, depending upon the circumstances.¹⁰

2. Actual force may be used to “stop” an individual, as long as the force is both necessary and proportionate to the situation.¹¹ However, this does not include the discharge of firearms or application of other weapons.
3. If an officer is attacked, sufficient and reasonable force may be used to defend himself/herself and to ensure the officer’s personal safety.

D. Questioning Stopped Persons

1. When an officer makes a decision to stop a person for investigative purposes, unless the officer is in uniform, [s]he shall identify himself/herself as a police officer as soon as it is safe and practical to do so and also announce the purpose of the inquiry unless such information is obvious.
 - a. An investigatory or threshold inquiry should begin with exploratory questions regarding the person’s identity and his/her purpose.
 - b. Every officer should acquire the ability to initiate an investigative inquiry in a calm, conversational manner in order to gain as much information as possible without placing the suspect on the defensive.
 - c. Even in a brief conversation with an individual, an alert and perceptive officer can often detect or sense that something is wrong and that further police investigation is required.
2. An officer should always bear in mind, however, that [s]he must have a firm foundation for any initial suspicions in order to justify an investigative detention and inquiry. An officer must be able to articulate and to commit his/her reasons to writing.
3. Once a stop is made, any questioning of the stopped person should be conducted at that location.
 - a. Investigative stops are intended to be on-the-spot inquiries.
 - b. To verify the information obtained from the person, it may be necessary to move a short distance to a radio or telephone.
 - c. Under special circumstances, such as the gathering of a hostile crowd, heavy traffic or the necessity to use the police radio, the person may be placed in the rear seat of a police vehicle.
 - d. As part of a threshold inquiry, the person may be detained for a short time so that an eyewitness may be brought to the scene to make an in-person identification.¹²
 - e. When ordering a person to stop, or if a stopped person is told to move to another location or tries to leave, but the officer orders that person to stay where [s]he is, the person may, at that point, be considered “in custody” (although not under arrest).¹³ Once a person is in custody, additional questioning by police must be preceded by giving the Miranda warnings and eliciting a waiver. (See department policy and procedure entitled **Interrogating Suspects and Arrestees** .)

E. Motor Vehicle Stops

1. When an investigative stop involves a motor vehicle, the vehicle may be stopped and its occupants may be briefly detained and questioned by the police if there is a reasonable suspicion of criminal activity or a motor vehicle violation.¹⁴ All police officers must be especially alert and watchful when making an investigatory stop of a motor vehicle, as many officers have been seriously injured, some fatally, in taking this police action.
 - a. Police cannot randomly stop motorists to check the orderliness of license and registration.
 - b. During the course of the stop, probable cause to search the vehicle may develop - such as through conversation with the occupants or plain view observations.¹⁵
 - c. During a routine traffic stop, police officers may not order the driver or occupant out of the vehicle without a reasonable belief that the officer's safety, or the safety of others, is in danger.¹⁶
 - 1) If the occupant(s) of a vehicle are ordered out of the vehicle, they may be frisked if there is reasonable belief that they may be armed and dangerous and that the police officers or others nearby may be endangered.¹⁷
 - 2) Even after frisking the occupants, if the officers have reason to believe that there is still a possible danger, they should inspect those areas of the motor vehicle readily accessible to an occupant that may contain a dangerous weapon.
 - d. A protective search of the interior of a motor vehicle must be limited to what is minimally necessary to determine whether the suspect is armed and to remove any weapon discovered.¹⁸
 - e. A protective search for weapons in a motor vehicle must be confined to the area from which the occupant might gain possession of a weapon.¹⁹
2. While an officer may detain a passenger during a traffic stop, even without particularized reasonable suspicion that the passenger has committed any crime, police officers may not continue the detention of the passenger beyond the completion of the issued citation, without further reasonable suspicion to investigate matters not related to the traffic offense.²⁰
3. With the exception of properly conducted sobriety checkpoints, the random stop of a motor vehicle in the absence of reasonable suspicion of motor vehicle violations or criminal activity constitutes an unreasonable seizure in violation of the Fourth Amendment, and any evidence obtained as a result of such impermissible stops is excludable in court.²¹


F. Report Writing

1. In every case of investigative detention (stop and frisk), the police officer involved shall document the circumstances in accordance with departmental

procedures to include the identity of the person stopped and all important facts relative to the incident.

2. This is true even in cases where no weapon, contraband or other evidence of crime was discovered or where the person was released after being questioned.

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- ¹Com. v. Matthews, 355 Mass. 378, 244 N.E.2d 908 (1969).
- ²Com. v. McDevitt, 57 Mass. App. Ct. 733 N.E.2d 404 (2003); Comm. v. Evans, 436 Mass. 369, 764 N.E.2d 841 (2002).
- ³Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868 (1968).
- ⁴Com. v. Riggieri, 438 Mass. 613, 782 N.E.2d 497 (2003).
- ⁵Illinois v. Wardlow, 120 S.Ct. 673 (2000).
- ⁶U.S. v. Sharpe, 470 U.S. 675, 105 S.Ct. 1568 (1985); Com. v. Tossi, 14 Mass. App. Ct. 901, 442 N.E.2d 419 (1982).
- ⁷Com. v. Wilson, 360 Mass. 557, 276 N.E.2d 283 (1971).
- ⁸Com. v. Torres, 424 Mass. 153, 674 N.E.2d 638 (1997).
- ⁹See M.G.L. c. 41, §98.
- ¹⁰Com v. Pandolfino, 33 Mass. App. Ct. 96, 596 N.E.2d 390, rev. den. 413 Mass. 1106, 600 N.E.2d 1000 (1992).
- ¹¹Com. v. Reed, 23 Mass. App. Ct. 294, 502 N.E.2d 147 (1986); Com. v. Borges, 395 Mass. 788, 482 N.E.2d 314 (1985).
- ¹²Com. v. Salerno, 356 Mass. 642, 255 N.E.2d 318 (1970).
- ¹³Com. v. Perry, 62 Mass.App.Ct. 500, 503- 504, 818 N.E.2d 185, 188-189 (2004).
- ¹⁴Delaware v. Prouse, 440 U.S. 648, 99 S.Ct. 1391 (1979).
- ¹⁵Com. v. Lantigua, 38 Mass. App. Ct. 526, 649 N.E.2d 1129 (1995); Com. v. Jimenez, 22 Mass. App. Ct. 286, 493 N.E.2d 501 (1986).
- ¹⁶Com. v. Gonsalves, 429 Mass. 658, 711 N.E.2d 108 (1999) rejecting Penn. v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977).
- ¹⁷Com. v. Hawkes, 362 Mass. 786, 291 N.E.2d 411 (1973); Com. v. Lantigua, 38 Mass. App. Ct. 526, 649 N.E.2d 1129 (1995).
- ¹⁸Com. v. Silva, 366 Mass. 402, 318 N.E.2d 895 (1974).
- ¹⁹Com. v. Almeida, 373 Mass. 266, 366 N.E.2d 756 (1977).
- ²⁰Com. v. Ellsworth, 41 Mass.App.Ct. 554, 671 N.E.2d 1001 (1996). United States v. Starks, 301 F.Supp.2d 76 (D.Mass.2004).
- ²¹Delaware v. Prouse, 440 U.S. 648, 99 S.Ct. 1391 (1979).

HADLEY POLICE DEPARTMENT		Department Manual: Policy No. 2.06
Subject: Searches & Seizures		
MASSACHUSETTS POLICE ACCREDITATION STANDARDS		GENERAL ORDER
REFERENCED: 1.2.4, a, b, c, d, e, f, g; 74.3.1 M.G.L. Chapter 276 Section 2D (12/21/20)		
Issue Date: 6/10/21 Effective Date: 6/10/21	Issuing Authority Michael A. Mason Michael A. Mason Chief of Police	

I. General Considerations and Guidelines:

The term “searches and seizures” includes the examination of persons or places for the discovery of contraband, property stolen or otherwise unlawfully obtained or held, or of evidence of the commission of crime, and the taking into legal custody of such property or evidence for presentation to the court. Failure to comply with the legal technicalities which govern these procedures results in more failures to obtain convictions than any other source. The Fourth Amendment to the U.S. Constitution has been interpreted by the U.S. Supreme Court to require that, whenever possible and practicable, with certain limited exceptions, a police officer should always obtain a valid search warrant in advance.¹

The Fourth Amendment of the **U.S. Constitution** provides as follows:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be

searched, and the persons or things to be seized.

Article XIV of the **Massachusetts Constitution** provides as follows:

Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or object of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

It is very frustrating to a police officer to learn that evidence which would most certainly lead to a finding of guilty, has been ruled inadmissible and excluded because of the manner in which it was obtained. In order to ensure that their efforts will not become lost in the maze of legal technicalities, it is imperative that all police officers thoroughly understand the basic constitutional and statutory requirements involved in searching for and seizing criminal evidence.

The Fourth Amendment to the U.S. Constitution prohibits "unreasonable" searches and seizures and the Supreme Court has consistently held that unless they come within one of the few carefully limited exceptions to the search warrant requirement, warrantless searches and seizures are considered unreasonable.² Searches with prior judicial approval with a valid search warrant are preferred. The burden of showing that a valid exception exists rests upon the government when the circumstances of a warrantless search are challenged in the courts.

The following procedures have been prepared to provide basic guidelines that are both legal and practical in the technical area of searches and seizures. In their implementation officers should consider all related department policies on the following topics: ***Arrests, Stop and Frisk and Threshold Inquiries, Search Warrant Affidavits, the Use of Informants and the Collection and Preservation of Evidence.***

II. Policy:

A. It is the policy of the Hadley Police Department that:

1. Warrants should be obtained for all searches whenever possible and practicable; and
2. Searches shall be conducted in strict observance of the constitutional rights of the parties involved, and with due regard for the safety of all officers, other persons and property involved.

III. Definitions:

- A. ***Affidavit:*** A formal declaration or statement of facts, in writing, made voluntarily and confirmed by oath or affirmation before a person having the legal authority to administer such oath or affirmation.
- B. ***Exigent Circumstances:*** Situations in which law enforcement officials will be unable or unlikely to effectuate a search or seizure for which probable cause exists unless they act swiftly and without prior judicial authorization.³
- C. ***Probable Cause:*** The facts observed, information obtained from others and personal knowledge and experience that is sufficient to lead a reasonable and prudent person to believe that a particular crime has been, is being, or is about to be committed, and that sizable evidence of crime is likely to be found in a specific location or on a specific person and which would justify a judge or magistrate to issue a search warrant.

IV. Procedures:

A. Search Warrants

1. Obtaining A Search Warrant

The legal procedure specified by M.G.L. c. 276, s. 1 for the issuance of a search warrant is as follows:

- a. A court or justice authorized to issue warrants in criminal cases may, upon complaint on oath that the complainant believes that any of the property or articles hereinafter named are concealed in a house, place, vessel or vehicle or in the possession of a person anywhere within the commonwealth and territorial waters thereof, if satisfied that there is probable cause for such belief, issue a warrant identifying the property and naming or describing the person or place to be searched and commanding the person seeking such warrant to search for the following property or articles:
 - i. Property or articles stolen, embezzled or obtained by false pretenses, or otherwise obtained in the commission of a crime;
 - ii. Property or articles which are intended for use, or which are or have been used, as a means or instrumentality of committing a crime, including, but not in limitation of the foregoing, any property or article worn, carried or otherwise used, changed or

marked in the preparation for or perpetration of or concealment of a crime;

- iii. Property or articles the possession or control of which is unlawful, or which are possessed or controlled for an unlawful purpose; except property subject to search and seizure under sections forty-two through fifty-six, inclusive, of chapter one hundred and thirty eight;
- iv. The dead body of a human being; and
- v. The body of a living person for whom a current arrest warrant is outstanding.

NOTE: The word "property" as used in this section shall include books, papers, documents, records and any other tangible objects.

- b. A search warrant may also authorize the seizure of evidence.⁴
- c. FORM OF SEARCH WARRANT: A search warrant shall:⁵
 - I Designate and describe the building, house, place, vessel or vehicle to be searched;
 - ii. Particularly describe the property or articles to be searched for;
 - iii. Be substantially in the form prescribed in G.L. c. 276, s. 2A; and
 - iv. Be directed to a sheriff or his/her deputy or to a constable or police officer, commanding him/her to search in the daytime, or if the warrant so directs, in the nighttime, the building, house, place, vessel or vehicle where the property or articles for which [s]he is required to search are believed to be concealed, and to bring such property or articles when found, and the persons in whose possession they are found, before a court having jurisdiction.
- d. An officer requiring a search warrant should consult with his/her supervisor and obtain his/her advice and guidance before proceeding to court. If the court is not in session, the officer-in-charge shall communicate with an authorized court official to make the necessary arrangements to secure a search warrant.
 - i. If legal assistance is required for the preparation of the search warrant affidavit, the District Attorney's office should be

contacted.

- ii. Every search warrant issued and any action taken on such warrant should be recorded in the Hadley Police Department Records Bureau in accordance with standard departmental procedures.

2. **Executing Search Warrants 74.3.1**

- a. After a search warrant is obtained, a **police officer shall**:
 - i. Check the warrant to ensure that it is signed and it clearly describes the place to be searched and the articles to be seized;
 - ii. Execute the warrant immediately, or within a reasonable time, but in any case, **within seven days** from date of issuance;⁶
 - iii. Execute the warrant in the daytime unless it specifically provides for **nighttime search**. Nighttime for this purpose is from **10:00p.m. until 6:00 a.m.**;⁷
 - iv. A search begun in the daytime may continue into the nighttime if such activity is reasonable and not for the purpose of harassment.
- b. *Service of Search Warrant*
 - i. Upon arrival at the location to be searched, officers shall check to make certain that the premises are in fact those described in the warrant.
 - ii. Upon entering, **show a copy of the warrant** (not the original) to the person or persons lawfully on the premises unless the circumstances are such that this is not practical.
 - iii. The number of officers assigned to execute a search warrant should be dependent upon the particular circumstances. **It is a good practice for at least one of the searching officers to be in police uniform**, unless this would jeopardize the success of the search.
 - iv. A search warrant should not be executed in or on any premises in the absence of the owners, unless there is good reason to believe that the occupants do not intend to return for an extended period of time (or that they do not intend to return at all); or that the property or articles designated in the search warrant will be removed or destroyed if the premises are not searched immediately. In all such cases, the manner of entry shall be made with the least possible destruction of property and a copy of the warrant left in a

conspicuous place on the premises.

c. Knock and Announce Requirement For Entry into Dwellings

i. **When serving a search warrant at a private dwelling, police officers must always knock, identify themselves as police officers, announce that they have a warrant to search the premises and demand entrance, except in very limited circumstances.⁸**

[a] Massachusetts Courts have approved that Police Officers may first knock on the door and gain initial entry into the premises by some form of deception or by means of a ruse (e.g., posing as a contractor, delivery person), if it is reasonably believed that this type of planned entry will result in a safe, practical and successful entry of the dwelling with minimal or no damage to any property (e.g., front door) and no injuries to those inside.⁹ Once gaining a peaceful entry in this manner **officers must always announce their presence and purpose by stating in a loud clear voice, “Hadley Police – we are here to serve a Search Warrant.”** The Officer in charge of the operation shall hold the search warrant in his/her hand and display it to those individuals in charge of the premises.

ii. **Officers shall always seek an entry that is as peaceful as possible with minimal or no property damage, but forcible entry is authorized if, after waiting a reasonable time, it becomes apparent that:**

[a] The officers will not be admitted voluntarily by those inside;

[b] The officers or any other persons are reasonably believed to be in danger of imminent physical harm;

[c] The occupants appear to be in the process of escaping; or

[d] Officers reasonably believe that evidence is being, or is in danger of being destroyed.

d. **“No Knock” Entry: See G.L. Chapter 276 Section 2D**

- i. An immediate, forcible entry (or one gained by a ruse or trick) is authorized -- and the usual knock and announce procedure may be disregarded if the searching officers are in possession of credible and reliable information that the person inside the dwelling to be entered has knowledge of the officers' purpose and presence¹⁰ or when acting in conformance with G.L. Chapter 276 Section 2D and following the knock and announce procedure below:
- [a] Would be likely to endanger the safety of the officers or the safety of others on scene;
 - [b] Would be likely to enable the wanted person(s) to effect an escape; or
 - [c] Would be likely to result in the evidence being destroyed during the period between their announcement of their presence and purpose and subsequent forcible entry.

Note: If any of the above situations were to develop at the scene of a search warrant execution, **Officers would be required to articulate and fully document the specific rationale for dispensing with this requirement to knock and announce their presence and purpose prior to gaining entry into the dwelling.**

- ii. **No Knock Warrant:** Officers may apply for what is known as a **"No Knock and Announce" provision for a Search Warrant, from a Judge,** if they have a **strong reason to believe** that complying with the Knock and Announce Rule would create a significant safety risk to those officers executing the search warrant and/or other individuals who may be present on the scene. Situations that may involve applying for a **“No Knock Warrant”** include but are not limited to: [**See also further statutory requirements in (iv) immediately below**]
- The target(s) of the warrant has a criminal history of violence involving firearms or other deadly weapons;
 - Information that has been furnished to the police and corroborated by the informant who assisted in formulating probable cause for the issuance of the search warrant

regarding some type of planned armed resistance against those officers attempting to execute a search warrant;

- The purpose of the search warrant to discover certain physical evidence that by its nature can be easily and quickly destroyed (e.g., narcotics – not including marijuana,) **and**, in addition, it can be demonstrated that innovative counter-surveillance measures are set in place, such as a video surveillance system or physical lookouts outside and/or inside the target location that have been corroborated by the informant relied upon in the affidavit to further this purpose of evidence destruction; or
- The purpose of the warrant is to rescue an individual who has been taken hostage or kidnapped where imminent death or serious bodily injury has been threatened or inferred;

Note: If the circumstances which would justify disregarding the knock and announce rule are deemed to be no longer present when the warrant is executed, the knock and announce rule must then be strictly adhered to. This is known as a “doorway reappraisal” and shall be performed in all search warrant executions.

iii. Upon gaining entry, the searching officers shall immediately identify themselves as Hadley Police Officers and shall state that it is their purpose to serve a valid search warrant issued by the court. Officers shall make this announcement multiple times as they move from room to room until all occupants are accounted for by stating in a loud clear voice, “**Hadley Police – we are here to serve a Search Warrant.**” The Officer in charge of the operation shall hold the search warrant in his/her hand and display it to those individuals in charge of the premises if requested.

iv. **Note: M. G.L. Chapter 276 of the General Laws was amended on 12/31/20 by inserting after section 2C the following section:-**

Section 2D. (a) A warrant that does not require a law enforcement officer to knock and announce their presence and purpose before forcibly entering a residence shall not be issued

except by a judge and only if the affidavit supporting the request for the warrant:

- (i) **establishes probable cause that if the law enforcement officer announces their presence their life or the lives of others will be endangered; and**
- (ii) includes an **attestation that the law enforcement officer filing the affidavit has no reason to believe that minor children or adults over the age of 65 are in the home, unless there is a credible risk of imminent harm to the minor or adult over the age of 65 in the home.**

(b) A police officer executing a search warrant **shall knock and announce their presence and purpose before forcibly entering a residence unless authorized by a warrant from a Judge to enter pursuant to subsection (a).**

(c) An officer **shall not** dispense with the requirements of subsections (a) and (b) **except to prevent a credible risk of imminent harm.**

(d) Note: Evidence seized or obtained during the execution of a warrant shall be inadmissible if a law enforcement officer violates this section.

e. *Search Responsibilities*

The police officer responsible for the execution of a search warrant:

- i. Shall not exceed the authority granted by the warrant;
- ii. Shall make a diligent effort to find all the property listed in the warrant;
- iii. Shall not search beyond the area described in the warrant unless consent is obtained or exigent circumstances exist. (If the warrant authorizes a search of the first floor of a building, e.g., a search of the second floor is unlawful.);
- iv. Shall search only those areas capable of containing the property listed in the warrant (if the warrant authorizes a search for a large TV set, do not search in a small bureau drawer);
- v. Shall carry out the search with the least possible damage to the premises;
- vi. Shall remain on the premises only for the time reasonably necessary to thoroughly search for and seize the property listed in the warrant;
- vii. Shall terminate the search when the listed property has been found or when it reasonably appears that such property is not on the premises;
- viii. Shall make adequate provisions for the security of the searched premises before leaving unless the person in control of such premises refuses or rejects such police protection;
- ix. Shall immediately and directly transport to the police station all seized property and ensure that it is properly marked, recorded and safeguarded in accordance with the departmental policies on *Collection and Preservation of Evidence* and *Evidence and Property Control*;

- x. Shall complete the Return section of the warrant and deliver it to the court as soon as reasonably possible after the completion of the search, but no later than seven days from the date it was issued;¹¹
- xi. Shall note on the warrant the action taken with an inventory of all property seized by authority of the warrant. (If evidence not described in the warrant is seized, attach a separate sheet to the Return listing all such property and state that it was seized during the execution of that warrant); and
- xii. Shall make a full departmental report of all action taken on a search warrant, to be submitted to the officer-in-charge before returning the warrant to the court.

f. Plain View

- i. When police officers lawfully enter a dwelling with a valid search warrant, they may seize objects reasonably believed, by them, to be connected with criminal activity if in plain view even though not mentioned in the search warrant.¹² See Section IV(B)(9) below for the legal requirements to seize items in plain view.

g. Search of Persons on the Premises

- i. In order to ensure an orderly and safe search, all persons present on the premises when the police arrive may be detained and prevented from moving about. However, at least one of the occupants should be permitted to witness all aspects of the search, if this is practical under the particular circumstances
- ii. Persons not named in or referred to in the search warrant may not be searched unless either:
 - (a) Probable cause exists in regard to the individual to be searched (however mere presence at a location where criminal activity has taken place is not enough to constitute probable cause);¹³ or
 - (b) The officer has reasonable suspicion to believe that such person is armed and then [s]he may be frisked for weapons.

h. Search of Area Outside Scope of Warrant

- i. If during the execution of a search warrant it appears that there is probable cause to believe that seize-able property is located in an area of the premises outside of the scope of the present warrant, a

new warrant shall be obtained immediately, unless consent is granted or exigent circumstances are present. While the new warrant is being sought, any occupants of the premises may have their activities restricted.

B. Searches Without a Warrant 1.2.4 (*See Individual Standards Below*)

1. Exceptions to Warrant Requirement

- a. Officers may make a warrantless search only when one of the following major exceptions to the search warrant applies:
 - i. Warrantless stopping, questioning and frisking (investigative detention);
 - ii. Search incident to arrest (including protective sweep);
 - iii. Exigent or emergency circumstances search (including "hot pursuit");
 - iv. Consent searches;
 - v. Motor vehicle searches;
 - vi. Pre-incarceration and inventory searches;
 - vii. Protective custody searches; and
 - viii. Administrative searches.
- b. The following are not considered invasions of any privacy interest and, therefore, do not come under the search warrant requirement of the Fourth Amendment generally:
 - i. The "plain view" doctrine;
 - ii. The "open fields" doctrine; and
 - iii. Abandoned property.
- c. A police officer should never rely on one of these exceptions whenever it is possible, under the particular circumstances, to obtain a search warrant

in advance.

- d. In every case where a search is conducted without a warrant, the police officers involved shall make a written report of the circumstances to include all important facts relative to the incident and an inventory of any evidence seized, in accordance with departmental procedures.

2. Warrantless Stopping, Questioning and Frisking (Investigative Detention)

- a. Both the Fourth Amendment and Chapter 41, section 98 of the Massachusetts General laws authorizes police officers to briefly detain suspicious persons, to question such persons and, if the officer reasonably believes the person may be armed or dangerous, to pat frisk that person for weapons. These procedures are sometimes referred to as a "threshold inquiry." This type of warrantless search and seizure is covered in depth in the departmental policy and procedure on *Stop, Frisk and Threshold Inquiries*. **1.2.4 b**

3. Search Incident to Lawful Arrest 1.2.4 d

- a. CRITERIA: A warrantless search of an arrested person may be conducted under the following conditions:
 - i. The arrest is lawful and the search is reasonably related to the circumstances of the arrest;
 - ii. The search is conducted only for the purposes of:
 - [a] Seizing fruits, instrumentalities, contraband and other evidence of the crime for which the arrest was made;
 - [b] In order to prevent its destruction or concealment; and/or
 - [c] To remove any weapons that the arrested person might use to resist arrest or to affect his/her escape.;¹⁴
 - iii. The search is limited in scope to the person of the arrestee and the immediate surrounding area. Immediate surrounding area means that area from which the arrestee can either obtain a weapon or destroy evidence; and
 - iv. The search is substantially contemporaneous with the arrest and conducted in the immediate vicinity of the arrest; however, if

safety requires, the officer may delay the search and conduct it at a safe location.

- b. **USE OF FORCE:** The officer conducting the search may use the degree of force reasonably necessary to:
 - i. Protect himself/herself and others present;
 - ii. Prevent escape; and
 - iii. prevent the destruction of evidence.
- c. **SEARCH OF POSSESSIONS AND CLOTHING:** A search may also be made of items actually in possession of the arrested person and clothing worn at the time of arrest if such search is related to the offense for which the arrest was made.
- d. **PROTECTIVE SWEEP**
 - i. In addition to a careful search of the area within the arrested person's immediate control, an examination of the entire premises may also be justified at the time of or immediately following a valid arrest if there is a reasonable belief that it was imperative for the officers' safety because of the presence of others in the house or apartment.¹⁵
 - ii. This search is limited to areas where an accomplice or other person who might come to the aid of the arrestee might reasonably be hiding.
 - iii. Any item or object recognizable as criminal evidence discovered in plain view during a justifiable "protective sweep" may be properly seized.¹⁶
- e. An arrest shall not be used as a pretext in order to make a search.

4. Searches In Emergency or Exigent Circumstances 1.2.4 d, e

- a. **CRIMINAL ACTS:** A police officer is authorized to conduct a search without a warrant when faced with an emergency situation where delay would endanger his/her or the public's safety or might result in the escape of the offender or the destruction of evidence.¹⁷
 - i. The authority of the police to make warrantless entries in

emergency situations, whether criminal or no criminal is based upon their fundamental responsibility to preserve the peace and to protect the public safety.¹⁸

- ii. The doctrine that permits warrantless entries and searches because of emergency or exigent circumstances requires justification by the police that it was impractical for them to obtain a search warrant in advance and that the warrantless search was truly necessitated by the emergency circumstances which could not have been anticipated.¹⁹
 - iii. While conducting a lawful search justified by emergency or exigent circumstances, a police officer may seize any incriminating evidence inadvertently discovered in plain view.
- b. **PUBLIC SAFETY:** Many emergencies justifying a warrantless entry and search do not necessarily involve criminal acts; for example, when a police officer hears a call for assistance, when [s]he observes smoke or flame, or when [s]he learns of an actual or potential natural or man-made calamity or disaster, [s]he has the duty and obligation to respond immediately.
- i. **BURNING BUILDINGS:** A warrantless entry into a burning building is permissible in an emergency and officials may remain for a reasonable time to investigate the cause of the fire and any evidence of arson discovered is admissible at trial. Any reentry after the fire has been extinguished and officials have left the scene should be made pursuant to a search warrant, unless the re-entry is justified by a recognized exception to the warrant requirement such as consent, emergency or abandonment.²⁰
 - ii. **EXPLOSIVES/OTHER DANGEROUS ITEMS:** When an officer has reasonable cause to believe premises contain things imminently likely to burn, explode, or otherwise cause death, serious bodily harm, or substantial destruction of property may, without a search warrant, enter and search such premises to the extent reasonably necessary for the prevention of such death, bodily harm or destruction.²¹
- c. **FRESH AND CONTINUED PURSUIT:** The U.S. Supreme Court case of *U.S. v. Santana*²² set out factors supporting justification of exigent circumstances under this doctrine including:
- i. There is fresh and continued pursuit of the suspect;

- ii. A crime of violence was involved;
 - iii. There was a strong possibility that the suspect was armed;
 - iv. The suspect was known or reasonably believed to be in the building;
 - v. There was a likelihood that the suspect might escape unless immediately apprehended; and
 - vi. There was sufficient justification for failure to obtain a search warrant.
- e. Where the above or other emergency factors are not present, police may stake out the building or premises until a warrant is obtained.²³

5. Search by Lawful Consent 1.2.4 a

- a. Because such issues as who may give lawful consent to a police entry and search or whether the consent was given voluntarily will be carefully scrutinized by the court, police should not unduly rely on such consent. On the other hand, when properly elicited, consent to a search may expedite a criminal investigation. Police may engage in a warrantless search after obtaining consent even in circumstances where they do not have probable cause.
- b. For there to be a valid consent to search, the following **two elements** must be satisfied:
 - i. **The consenting party must have sufficient lawful authority over the premises or property to be able to give consent to a search of that premises or property, and**
 - [a] Consent may be obtained from any person who has the right of ownership, possession or control of the premises or property. If there is serious doubt a search warrant should be obtained.
 - [b] JOINTLY OWNED PROPERTY: Generally, if property, such as a house, apartment or business, is owned jointly by two or more persons, any one of them may consent to a search of the common areas of the premises.²⁴
 - [c] SPOUSE: A spouse may give consent to a police search of a jointly owned home, even without the knowledge or

permission of the other spouse.²⁵

- [d] PARENT: A parent may give consent to search premises under the parent's control although it involves searching a child's room and the parent has general access to the child's room.²⁶ However, where the child, whether or not an adult, has exclusive access, often locked, to certain areas or property, the parent's consent may not be enough.²⁷
- [e] CHILDREN: Generally, a child may not give consent to a police search of premises or property owned by the child's parents.
- [f] ROOMMATE: A roommate may be able to give consent to a police search of common areas of the apartment but the roommate probably cannot give consent to a search of areas exclusively reserved for the suspect, such as his/her bedroom, luggage or closet.
- [g] LANDLORD: Generally, a landlord cannot give consent to the search of a tenant's apartment.²⁸ However, a landlord may give consent to searches of common areas such as hallways and stairwells.
- [h] HOTELS: A hotel or motel owner or manager cannot give consent to a search of a guest's lodgings.²⁹

ii. Consent must be freely and voluntarily given.³⁰

- [a] Officers shall notify the person from whom consent is sought of their right to refuse to give consent.³¹
- [b] A consent to search may be given orally but preferably, it should be in writing.³² See Department [Consent to Search Form](#)
- [c] Consent cannot be presumed from silence.
- [d] Consent must be free of any coercion, intimidation, or threat, so officers must avoid even the appearance of intimidation or duress.
- [e] Officers shall not gain consent through the use of misrepresentation or fraud.

[f] Consent shall be requested prior to search and after the police officers have identified themselves.

- c. A consent search shall be limited to the area specified.
- d. Consent may be revoked at any time and the search shall cease upon revocation, unless additional factors or information have come to light which justify a continued warrantless, nonconsensual search. For example, evidence found prior to revocation of consent may be retained and used as a basis for an immediate arrest or as probable cause for a further search (if exigent circumstances exist) or for obtaining a search warrant.

6. Motor Vehicle Searches 1.2.4 c

- a. Officers are prohibited from stopping motor vehicles without reasonable suspicion of criminal activity or motor vehicle violations.³³
- b. If it is at all possible and practicable, a search warrant should always be obtained in the prescribed manner in advance of a motor vehicle search, as this procedure is generally preferred by the courts.
- c. A warrantless search of a motor vehicle may be conducted under the following circumstances:
 - i. **WARRANTLESS STOPPING, QUESTIONING AND FRISKING OF MOTOR VEHICLE OPERATOR OR OCCUPANTS:** A "stop and frisk" type of protective search when the officer reasonably believes that his/her safety or the safety of others is in danger in order to determine whether a suspect is armed, with the search confined to the area of the motor vehicle from which a suspect might gain possession of a weapon.³⁴
 - ii. **SEARCH OF MOTOR VEHICLE INCIDENT TO ARREST OF OPERATOR OR OCCUPANT:** A search incident to a lawful arrest limited to the area from which the person could obtain a weapon or reach destructible evidence.³⁵
 - iii. **EXIGENT CIRCUMSTANCES SEARCH:** A warrantless search of a vehicle may be made when the following elements are satisfied:³⁶
 - [a] The vehicle must be lawfully stopped on a public way or is found parked in a public place,³⁷
 - [b] There is probable cause to believe that the vehicle contains

contraband or other evidence at the initiation of the search,
and

[c] Exigent circumstances are present, movable vehicle
exception

Note: Where exigent circumstances exist, the courts do not require the police to post a guard and seek a warrant prior to searching the vehicle.³⁸

- iv. CONSENT: A search may be conducted with the voluntary consent of the person in lawful control of the vehicle.³⁹
- v. ROADBLOCKS: Roadblocks stops (for example, to detect drivers under the influence of alcohol) are permissible if the selection of motor vehicles to be stopped is not arbitrary, if the safety of the public is assured by taking necessary precautions, if the motorists' inconvenience is minimized and the roadblock procedure is conducted pursuant to a plan devised by law enforcement supervisory personnel.⁴⁰

In addition, if police have a description of a suspect vehicle, they may stop all vehicles fitting that description.

- vi. PLAIN VIEW OBSERVATIONS: If a police officer has lawfully stopped a motor vehicle and is questioning the operator, any incriminating item in or on the vehicle observed in plain view, including anything observed with the use of a flashlight, may furnish probable cause to search the vehicle and seize the item observed without a warrant.⁴¹
 - vii. MOTOR VEHICLE INVENTORY: If the vehicle is impounded, the vehicle shall be searched and all personal property found in the vehicle shall be inventoried and kept in safe custody in accordance with the departmental policy on *Motor Vehicle Inventories*.
 - viii. ADMINISTRATIVE SEARCHES: Motor vehicles are subject to various types of administrative searches which do not require search warrants. For example, the annual motor vehicle inspection procedure is, in effect, a warrantless search.
- d. All police officers shall be especially watchful and alert when stopping and searching a motor vehicle or its occupants as many officers have been seriously injured, some fatally, in taking this police action which should never be considered "routine."

- i. In stopping and searching motor vehicles, officers shall take all reasonable precautions for their personal safety, such as directing the occupants to alight from the vehicle and frisking them for weapons when the officer has a **reasonable belief that they may be armed and dangerous.**⁴²

7. **Booking Inventory Searches** 1.2.4 f

- a. Prior to incarcerating a detainee in a police lockup, police shall conduct an inventory search of his/her person and inspection of his/her belongings in accordance with the departmental policies on ***Detainee Processing*** and ***Protective Custody***. This shall be done to uncover and safeguard any weapons or implements the detainee could use to injure himself or herself or others, to safeguard valuables and to protect the police against false claims of theft or loss of the detainee's belongings.

8. **Administrative Searches** 1.2.4 g

- a. The police may, under certain circumstances, engage in warrantless searches or inspections as part of their administrative functions. For example, it is proper to search a person who is about to visit a detainee, or prior to a courtesy transport. Although, if they do not comply, they may be denied access to those services.

9. **"Plain View" Doctrine** 1.2.4 d, g

- a. Officers may seize contraband or evidence without a warrant under the "*plain view*" exception to the warrant requirement if the following conditions are met⁴³:
 - i. There must be a prior lawful entry;
 - ii. Such entry must bring the officer within "*plain view*" of the item seized; and
 - iii. The item seized must be "*immediately apparent*" as contraband or evidence of crime.
- b. Lawful entry includes:
 - i. Entry with a valid warrant;
 - ii. Entry to make a lawful warrantless arrest;

- iii. Entry as a result of lawful consent; and
 - iv. Entry in an emergency to render necessary aid or assistance.
- c. Items are immediately apparent as contraband if the officer has probable cause to believe they are:
- i. Instrumentalities or means by which any crime was committed, (such as weapons, masks, tools, etc.);⁴⁴
 - ii. Contraband (articles which may not be legally possessed, such as counterfeit money or controlled substances, etc.);⁴⁵
 - iii. Fruits of any crime (such as stolen property);⁴⁶
 - iv. Other evidence of any crime (such as clothing or other items fitting the description of the criminal offender); or
 - v. Property which bears a reasonable relationship to the purpose of the search (such as documents establishing who owns the premises searched if ownership is an element of the crime).⁴⁷

10. Abandoned Property 1.2.4 g

- a. Abandoned or discarded property may be searched by the police and seized. Examples of abandoned property include:
- i. Trash in collection area accessible to the public.⁴⁸
 - ii. The contents of a hotel room wastebasket once an individual has vacated the room.⁴⁹
 - iii. An apartment or hotel room may be searched without a warrant provided the guest or tenant has left with an intention not to return and the landlord or owner has given permission to search.⁵⁰
 - iii. Items thrown on the ground by a suspect.⁵¹

11. Open Fields 1.2.4 g

- a. An open field is that portion of privately owned land surrounding a person's dwelling that is too remote or removed from the physical dwelling to be considered part of the "house" such that it is protected by the Fourth Amendment.⁵²

- i. The “house” that is protected by the Fourth Amendment includes the grounds and buildings immediately surrounding the dwelling.⁵³
- b. Open fields may be searched without a warrant even though the terrain in question is not easily accessible to the public and even though the owner may have posted “No Trespassing” signs and may even have a locked gate.⁵⁴

12. Searches by Persons other than Law Enforcement Officers 1.2.4 g

- a. **PRIVATE INDIVIDUAL:** Evidence obtained by a private individual, as a result of searching someone else’s property, who is not acting as an employee or agent of the government, is admissible.⁵⁵
- b. **POLICE OFFICER ACTING AS SECURITY GUARD:** Evidence discovered as a result of the warrantless search conducted by a police officer acting as a private security guard is not admissible if [s]he acts beyond the scope of the private employer's business.⁵⁶

¹Mincey v. Arizona, 437 U.S. 385, 89 S.Ct. 2408 (1978)

² Stoner v. California, 376 U.S. 483, 84 S.Ct. 889 (1964)

³ U.S. v. Campbell, 581 F.2d 22 (C.A. NY)

⁴ Warden v. Hayden, 387 U.S. 294, 87 S.Ct. 1642 (1967)

⁵ M.G.L. c. 276, s. 3A

⁶M.G.L. c. 276, s. 3A

⁷ Com. v. Grimshaw, 413 Mass. 73, 595 N.E.2d 302 (1992)

⁸ Richards v. Wisconsin, 117 S.Ct. 1416 (1997); Com. v. Gondola, 28 Mass. App. Ct. 286, 550 N.E.2d 880 (1990)

⁹ Com v. Sepulveda, 406 Mass. 180, 546 N.E.2d 879 (1989)

¹⁰ Com. v. Antwine, 417 Mass. 637, 632 N.E.2d 818 (1994)

¹¹ M.G.L. c. 276, s. 3A

¹² Com. v. Bond, 375 Mass. 201, 375 N.E.2d 1214 (1978).

¹³ Ybarra v. Illinois, 444 U.S. 85, 100 S.Ct. 338 (1979)

¹⁴ M.G.L. c. 276, s. 1

¹⁵ Maryland v. Buie, 494 U.S. 325, 110 S.Ct. 1093 (1990)

¹⁶ Com. v. Bowden, 379 Mass. 472, 399 N.E.2d 482 (1980)

¹⁷ Warden v. Hayden, 387 U.S. 294, 87 S.Ct. 1642 (1967); Com v. Moran, 370 Mass. 10, 345 N.E.2d 380 (1976)

¹⁸ Thurlow v. Crossman, 336 Mass. 248, 143 N.E.2d 812 (1957)

¹⁹ Com v. Guaba, 417 Mass. 746, 632 N.E.2d 1217 (1994)

²⁰ Michigan v. Tyler, 436 U.S. 499, 98 S.Ct. 1942 (1978); Michigan v. Clifford, 464 U.S. 287, 104 S.Ct. 641 (1984)

²¹ Com. v. Marchione, 384 Mass. 8, 422 N.E.2d 1361 (1981)

²² U.S. v. Santana, 427 U.S. 39, 96 S.Ct. 2406 (1976); Com v. Moran, 370 Mass. 10, 345 N.E.2d 380 (1976)

²³ U.S. v. Adams, 621 F.2d 41 (1st Cir. 1980)

²⁴ U.S. v. Matlock, 415 U.S. 164, 94 S.Ct. 988 (1973); Com. v. Maloney, 399 Mass. 785, 506 N.E.2d 1147 (1987)

²⁵ Com. v. Martin, 358 Mass. 282, 264 N.E.2d 366 (1970)

²⁶ Com v. Ortiz, 422 Mass. 64, 661 N.E.2d 926 (1996)

²⁷ U.S. v. DiPrima, 472 F.2d 550 (1st Cir. 1973)

²⁸ Niro v. U.S., 388 F.2d 535 (1st Cir. 1968)

²⁹ Stoner v. California, 376 U.S. 483, 84 S.Ct. 889 (1964)

³⁰ Com. v. McGrath, 365 Mass. 631, 310 N.E.2d 601 (1974)

³¹ Com. v. Sanna, 424 Mass. 92, 674 N.E.2d 1067 (1997) (Although there is no legal requirement that a person be advised of their right to refuse to give consent to a police search, this is one of the factors that the court will consider in determining whether the consent was voluntarily given.)

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- ³² Com. v. Reed, 417 Mass. 558, 631 N.E.2d 552 (1994)
- ³³ Delaware v. Prouse, 440 U.S. 648, 99 S.Ct. 1391 (1979)
- ³⁴ Com. v. Gonsalves, 429 Mass. 658, 711 N.E.2d 108 (1999) rejecting Penn. v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977); Com. v. Silva, 366 Mass. 402, 318 N.E.2d 895 (1974)
- ³⁵ Com. v. Clermy, 37 Mass. App. Ct. 774, 643 N.E.2d 1059 (1995)
- ³⁶ U.S. v. Ross, 456 U.S. 798, 102 S.Ct. 2157 (1982); Com. v. Cast, 407 Mass. 891, 556 N.E.2d 69 (1990)
- ³⁷ Com. v. Wunder, 407 Mass. 909, 556 N.E.2d 65 (1990)
- ³⁸ Com. v. Ortiz, 376 Mass. 349, 380 N.E.2d 669 (1978); Com v. A Juvenile (No.2), 411 Mass. 157, 580 N.E.2d 1014 (1991); Com v. Bakoian, 412 Mass. 295, 588 N.E.2d 667 (1992)
- ³⁹ Com. v. Lanoue, 356 Mass. 337, 251 N.E.2d 894 (1969)
- ⁴⁰ Com. v. McGeoghegan, 389 Mass. 137, 449 N.E.2d 349 (1983)
- ⁴¹ Com. v. Cavanaugh, 366 Mass. 277, 317 N.E.2d 480 (1974); Com. v. Doulette, 414 Mass. 653, 609 N.E.2d 473 (1993)
- ⁴² Com. v. Gonsalves, 429 Mass. 658, 711 N.E.2d 108 (1999) rejecting Penn. v. Mimms, 434 U.S. 106, 98 S.Ct. 330 (1977)
- ⁴³ Horton v. California, 496 U.S. 128, 110 S.Ct. 2301 (1990)
- ⁴⁴ Com. v. Accaputo, 380 Mass. 435, 404 N.E.2d 1204 (1980)
- ⁴⁵ Id.
- ⁴⁶ Id.
- ⁴⁷ Com. v. Scalise, 387 Mass. 413, 439 N.E.2d 818 (1982)
- ⁴⁸ Com. v Pratt, 407 Mass. 647, 555 N.E.2d 559 (1990)
- ⁴⁹ Abel v. U.S., 362 U.S. 217, 80 S.Ct. 683 (1960)
- ⁵⁰ Com. v. Lanigan, 12 Mass. App. Ct. 913, 423 N.E.2d 800 (1981)

⁵¹ Com. v. Wedderburn, 36 Mass. App. Ct. 558, 633 N.E.2d 1058 (1995); Com. v. Marrero, 414 Mass. 1102, 606 N.E.2d 915 (1992)

⁵² Hester v. U.S., 265 U.S. 57, 44 S.Ct. 445 (1924); Com. v. John G. Grant & Sons, Inc., 403 Mass. 151, 512 N.E.2d 522 (1988)

⁵³ Rozencrantz v. U.S., 356 F.2d 310 (1st Cir. 1969)

⁵⁴ Oliver v. U.S., 466 U.S. 170, 104 S.Ct. 1735 (1984); Hester v. U.S., 265 U.S. 57, 44 S.Ct. 445 (1924)

⁵⁵ Com. v. Leone, 386 Mass. 329, 435 N.E.2d 1036 (1982)

⁵⁶ Id.

ELECTRONIC RECORDING OF INTERROGATIONS

POLICY & PROCEDURE NO. 2.07	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 01/31/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

In *Commonwealth v. DiGiambattista*, 442 Mass. 423 (2004), the Supreme Judicial Court held that if the prosecution introduces a confession or statement that the police obtained during an interrogation of a defendant who was either in custody or at a “place of detention,” and the police did not electronically record the statement, the defendant is entitled to a cautionary jury instruction. Upon the defendant’s request, the judge must instruct the jury that “the State’s highest court has expressed a preference that such interrogations be recorded whenever practicable and . . . that, in light of the absence of any recording of the interrogation in the case before them, they should weigh evidence of the defendant’s alleged statement with great caution and care.” This jury instruction is required regardless of the reason that the police did not record the interrogation.

These procedures were adopted from the Massachusetts District Attorney’s Association’s recommended guidelines for recording interrogations.

II. POLICY

It is the policy of the department to electronically record all custodial interrogations of suspects or interrogations of suspects conducted in places of detention whenever practical.

III. DEFINITIONS

For the purpose of this policy, the following words and phrases are defined as follows:

- A. **Custody:** Circumstances in which a reasonable person would believe that his or her freedom of action has been curtailed such that he or she is not free to leave.
- B. **Electronic recording:** Preservation by analog (audio and/or VHS videotape) or digital (digital audio tape, CD and/or DVD non-rewritable discs) means through the use of audio or audio/video recording equipment.
- C. **Interrogation:** An interrogation occurs when a law enforcement officer's questions, actions or words (other than those normally attendant to arrest and custody), are reasonably likely to elicit an incriminating response from a suspect.
- D. **Place of detention:** A police station, state police barracks, prison, jail, house of correction, or a department of youth services secure facility where persons may be held in detention in relation to a criminal charge(s).
- E. **Suspect:** A person who has either been charged with a crime or a person for whom there is a reasonable basis to believe that [s]he may in the future be charged with a crime. Witnesses, victims and other persons who provide information to a law enforcement officer are not considered suspects unless and until there develops a reasonable basis to change their status.

IV. PROCEDURES

- A. **Applicability:** These guidelines require officers to record, whenever it is practical, two types of interrogations:

- 1. Custodial interrogations of suspects; and
- 2. Interrogations of suspects occurring at places of detention.

B. Wiretap Violations

- 1. The Massachusetts **wiretap statute, G.L. c. 272, §99, generally prohibits** anyone from secretly recording another person's oral statements.
- 2. Unless one of the narrow exceptions in the wiretap statute applies, a law enforcement officer who electronically records a suspect's interrogation must do either of the following:
 - a. Notify a suspect that his or her statements are being recorded; or
 - b. Conduct the interrogation in such a way that it is obvious to the suspect that his or her statements are being recorded.
- 3. Once the suspect knows or reasonably should know that [s]he is being recorded, the law enforcement officer may record the interrogation without asking for or receiving explicit consent to do so.

C. Creating a Clear and Complete Record

- 1. To the extent it is practical, the officer should electronically record the entire interrogation of a suspect.

2. To assist in the creation of the record, officers should do the following:
 - a. Start the recording device.
 - b. Inform the suspect that [s]he is being recorded.
 - c. State the date, time, location and names of persons present. If a video recording device is used which imprints the time on the tape or disk, verify that the correct time is displayed.
 - d. State the full name of the suspect.
 - e. Execute appropriate departmental forms including, but not limited to, Miranda warning and waiver, and waiver of prompt arraignment (if applicable).
 - f. If the officer must suspend the recording for any reason, [s]he should record the reasons for stopping (e.g., taking a break or a malfunction), the time the recording device is turned off, the time it is turned back on, and what transpired while the recording device was turned off.
 - g. If the officer uses or refers to documents or other items during the interrogation, the officer should describe those documents or items on the record and mark them with a unique number (similar to an exhibit number at trial) and the officer's initials. If the officer is unable to write on the actual document or item, the officer may write on a bag, envelope or case in which the document or item is placed or on a piece of tape attached to the document or item.
 - h. Conclude the recording by stating the date and the time the interrogation is completed.

D. Suspect Refuses to be Recorded.

1. GENERALLY: If a suspect refuses to make a recorded statement, the officer should record the refusal (if it is practical) and document it on a refusal form.
2. SUSPECT REFUSES BEFORE RECORDER IS TURNED ON
 - a. If the suspect refuses to be recorded before the recording device is turned on, the officer should, if it is practical, turn on the recording device to record the refusal.
 - 1) The officer should identify himself or herself and the suspect; state the date, time and location; inform the suspect of any applicable rights (such as Miranda); and inform the suspect that there are potential benefits to recording the interrogation, including the fact that a recording will create a clear and complete record of what was said to the suspect, and what the suspect said during the interrogation.
 - 2) The officer should then ask the suspect on the record if [s]he is willing to make an electronically recorded statement.
 - 3) The officer should advise the suspect that if at any time [s]he changes his or her mind and decides that [s]he does want the interview to be

recorded, [s]he should let the officer know, and the officer will turn on the recording device.

- b. If the suspect still refuses, the officer should turn off the device, execute a signed refusal form, and proceed with the interview.
3. SUSPECT REFUSES TO HAVE HIS OR HER REFUSAL RECORDED.
 - a. If the suspect objects to having his or her refusal electronically recorded, the officer may proceed without recording the refusal or the interrogation.
 - b. The officer should advise the suspect of the benefits of recording, execute a signed refusal form, and proceed with the interview.
 4. SUSPECT REFUSES AFTER THE RECORDING DEVICE HAS BEEN TURNED ON.
 - a. If, during the course of a recorded interrogation, a suspect decides that [s]he will no longer answer questions unless the recording device is turned off, the officer should again advise the suspect of the benefits of recording the interrogation.
 - b. If the suspect still refuses, the officer should turn off the recording device, execute a refusal form, and proceed with the interview.

E. Discretionary Decision Not to Record

1. An officer may decide not to record an interrogation, even where it is practical to do so, if that officer reasonably believes that recording the interrogation will jeopardize the safety of an officer, the suspect, or any other person.
2. If an officer decides, without conferring with the suspect, that it is unsafe under the circumstances to record the interrogation, the officer should document in his or her interview or case report the reason(s) why the interrogation was not recorded.
3. If, after conferring with the suspect, an officer decides that it is unsafe under the circumstances to record the interrogation, the officer should, nonetheless, advise the suspect of the benefits of recording the interrogation.
4. If the suspect still does not want the interrogation to be recorded, the officer should:
 - a. Document in his or her interview or case report the reason(s) why [s]he did not record the interrogation;
 - b. Execute a signed refusal form; and
 - c. Proceed with the interview.

F. Recording Devices

1. Officers should choose a recording device that has a removable storage tape or disk that can be easily duplicated.

2. RECORDING DEVICE MALFUNCTIONS

- a. If the recording device malfunctions, the officer conducting the interrogation must make a decision whether and how to continue the interrogation, and [s]he must document what occurred.
- b. If the recording device can be restarted, the officer should state on the record that the device malfunctioned, how long the device was not working, and whether or not the suspect made any statements that were not recorded.
- c. If the recording device cannot be restarted, the officer should include in his or her interview or case report the fact that the device malfunctioned and whether or not the suspect made any statements that were not recorded.
- d. If the recording device cannot be restarted, the officer should ask the suspect whether [s]he wishes to continue the interrogation without a recording device, or whether [s]he wishes to suspend the interrogation until an operable recording device is available.
- e. If the suspect consents to continuing the interrogation without a recording device, that consent and the interrogation should be documented in some manner, such as in a signed statement by the suspect or in the officer's interview or case report.

3. INOPERABLE OR UNAVAILABLE RECORDING DEVICE

- a. If there is no recording device available or the recording device is inoperable, the officer should defer the interrogation until an operable recording device can be obtained.
- b. If it is impractical to defer the interrogation, and the suspect consents to continuing the interrogation without a recording device, that consent and the interrogation should be documented in some manner, such as in a signed statement by the suspect or in the officer's interview or case report.

G. Preservation and Copying of Original Recordings

1. COPYING

- a. The officer who conducted the interrogation must take steps to preserve the original recording.
- b. The storage medium should be removed from the recording device, clearly labeled, and appropriately stored.
- c. If the interrogation is recorded digitally, the officer should preserve at least one whole copy which must be clearly labeled and appropriately stored.
 - 1) To the extent it is practical, statements from multiple suspects should not be recorded on the same tape or disk.
 - 2) As soon as it is practical, an officer who records the statements of a suspect should create at least one exact copy of the original recording. The copy should be clearly labeled as a copy and appropriately stored.

- 3) Once the copy has been made, the copy, and not the original, should be used to make additional copies. Additionally, copies, and not the original, should be used to prepare a written transcript, to comply with discovery obligations, and for all other purposes.

2. STORAGE

- a. The officer who conducted the interrogation shall preserve in the original case file all written forms and notes or records of all statements by a suspect that were not electronically recorded.
- b. All electronically recorded interrogations shall be preserved, according to the state records retention law and department policy, as criminal evidence.
- c. The original storage device shall be labeled as such and any copies labeled as such.
- d. Each original and copy shall be authenticated by the interrogator with the following information:
 - 1) Date and time of recording;
 - 2) Location of the interrogation;
 - 3) Name of person interrogated;
 - 4) Name of person(s) conducting the interrogation; and
 - 5) Department assigned case number or incident report number.

HADLEY POLICE DEPARTMENT

ELECTRONIC RECORDING - REFUSAL FORM

Name: _____

Date of Birth: ___ / ___ / ___ Type of Recording Device: _____

Person(s) Present: _____

Date: _____ Time: _____ Location: _____

_____ I have requested that this interview **not** be recorded.

_____ I have requested that this interview **no longer** be recorded.

To be read to suspect: There are potential benefits to the electronic recording of interviews. For example, the electronic recording of this interview will create a complete record of what was said to you today and what you said in return.

As you know, we have a recording device available for the purpose of electronically recording this interview and are ready and willing to electronically record this interview.

At your request, we will conduct this interview without electronically recording (or any further recording of) your statements. If, at any time, you change your mind and decide that you do want to electronically record this interview, please let me know and we will turn on the recording device. I am going to ask you to initial and sign this form:

Do you understand the information that I have read to you?

YES NO

Do you still request that this interview **not** be recorded?

YES NO

Signature: _____

Date: _____

Witness: _____

SEARCH WARRANTS & AFFIDAVITS

POLICY & PROCEDURE NO. 2.08	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/06/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

An affidavit is a formal declaration, or statement of facts, in writing, made voluntarily and confirmed by oath or affirmation before a person having the legal authority to administer such oath or affirmation.

An affidavit must contain the facts, information and underlying circumstances which have led a police officer reasonably to believe that a particular crime has been, is being, or is about to be committed, and that seizable property connected with that crime is likely to be found in the place or upon the person to be searched.

The basic requirements for affidavits and search warrants are found in the Fourth Amendment to the U.S. Constitution which provides as follows:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

Similar wording is also found in Article XIV of the Massachusetts Declaration of Rights, contained in the state Constitution.

II. POLICY

It is the policy of this department that:

- A. Officers applying for search warrants have a sound knowledge of the legal requirements associated with obtaining a search warrant in order to prevent suppression of evidence, support the Constitutional rights of citizens and to maintain public confidence in the department; and

- B. Officers shall apply for a search warrant whenever practical.

III. PROCEDURES

A. Search Warrants Generally

1. AUTHORITY TO ISSUE WARRANTS

- a. Justices of the Supreme Judicial Court, the Superior Court Department and the various District Court Departments, and Clerk/Magistrates, Assistant Clerk/Magistrates, Temporary Clerk/Magistrates, and Temporary Assistant Clerk/Magistrates of the District Court Departments are authorized to issue search warrants.¹
- b. A judge or clerk may issue a search warrant for execution anywhere in the Commonwealth.
- c. Warrants for body cavity searches may only be issued by a judge on a strong showing of particularized need supported by a high degree of probable cause.²
- d. Warrants in criminal cases must identify the property to be searched for and name or describe the person or place to be searched.

2. OBTAINING A SEARCH WARRANT

- a. The legal procedure for obtaining a search warrant is specified by M.G.L. c. 276, s. 1.
- b. The officer seeking the warrant must submit a warrant application and affidavit upon oath that [S]he believes that the property or articles named in the application for the warrant are concealed in a house, place, vessel or vehicle or in the possession of a person anywhere within the Commonwealth and/or territorial waters.³
- c. The affiant must satisfy the justice or clerk before whom the warrant is sought that there is probable cause to believe that the property or person sought is located at the place to be searched.

3. SERVING THE WARRANT: Officers conducting search based upon a search warrant are limited to searching the locations named in the body of the warrant and only in such places that the property sought may be concealed. (For instance, if searching for a stolen refrigerator it would not be reasonable to search a drawer, however, if searching for drugs almost any place could be reasonable)

B. Affidavit Requirements

1. FORMAT: The standard affidavit form provided by the various courts to be prepared to support an application for a search warrant must be substantially in accordance with the provisions of M.G.L. c. 276, s. 2B as set forth in the attached form (see sample Affidavit for Search Warrant).

2. INTRODUCTION

- a. The officer submitting the affidavit shall clearly identify himself/herself and briefly describe the officer's education.
- b. The officer must explain in the affidavit any expertise or special training which pertains to his/her belief that a given crime has been committed and that given items are connected to that crime.

3. ESTABLISHING PROBABLE CAUSE

- a. The officer should disclose all relevant information in the affidavit and do so in a complete, yet concise and logical (perhaps chronological) fashion.
- b. The affidavit must disclose facts and information which furnishes probable cause to believe that a specific crime has been, is being, or will be committed.
 - 1) Many cases have been lost because an officer had sufficient basis for probable cause but did not furnish enough information in his/her affidavit.
 - 2) **Any fact that is not set out in the affidavit cannot be inserted or used later for the purpose of establishing probable cause** .
 - 3) The Supreme Judicial Court declared that the "contents of an affidavit supporting a search warrant cannot be buttressed by oral testimony as to what was stated to the magistrate at the time the search warrant was issued."⁴
- c. The affidavit must disclose facts and information which furnish probable cause to believe that a particular person or that particular items are connected to that crime and that:
 - 1) That person or those items are (or will be) at a particular place; or
 - 2) Those items are (or will be) found on particular person or persons.
- d. Probable cause to justify the issuance of a search warrant must exist at the time the warrant is issued. If the information specified in the affidavit is "stale", it may prevent a finding of probable cause to conduct a search.⁵
 - 1) A sixteen-day lag between the commission of a murder and the issuance of a search warrant for a murder weapon was too long for a finding of probable cause that the gun was still at the defendant's premises.⁶
 - 2) The Appeals Court held that where the affidavit furnished information of continuing illegal activity and a substantial basis for concluding that the property sought was probably still on the premises to be searched, the time factor or "staleness" was not found to be of serious importance and the warrant issued in this case was declared valid.⁷
- e. The affidavit should disclose how and when the facts and information came to the officer's attention.

- 1) If information from a confidential informant is relied on, the informant must be reliable and have a basis of knowledge. See **Informants** in this policy and the departmental policy on **Use of Confidential Informants**.
 - 2) The affidavit must disclose why the persons who provided those facts and information are reliable.
- f. If there are additional pages attached to the affidavit, the affidavit should to refer to them as "see attached pages" in appropriate places.⁸ There is no requirement that all attached pages be signed.⁹
- g. The affidavit must describe with particularity:
- 1) The place or person(s) to be searched.
 - a) Describe the place to be searched in detail including address, location, type of building, color, construction, etc. Include a photo of the building if practical. Include the apartment number, floor, location, etc. if applicable.
 - b) Describe the person to be searched. Include a photograph, if available. Traditional characteristics include such things as race, height, weight, hair color, scars, tattoos, and other personally identifiable features.
 - 2) The item or items for which the search will be conducted..
 - a) The degree of specificity required when describing goods to be seized may necessarily vary according to the circumstances and types of items required.¹⁰
 - b) Include a request to authorize a search for documents supporting ownership and control of the property if that information is pertinent.
4. INACCURATE INFORMATION
- a. Misstatements in an affidavit that amount to a knowing and intentional falsehood or reckless disregard for the truth will render a search warrant invalid.¹¹
 - b. Inaccuracies which do not affect the integrity of an affidavit do not destroy probable cause for a search.¹²
 - c. Negligent misrepresentations in affidavits do not require suppression.¹³ However, they may have to be explained during a motion, hearing, or trial.
5. AFFIDAVIT REVIEW
- a. The affidavit should receive the approval of the Officer-in-Charge, or other designated supervisor or OIC, before submission to the court.
 - b. Whenever practical, secure the advice and guidance of the department's legal advisor, if any.
 - c. Review by the District Attorney's Office is highly recommended.

6. SUBMISSION OF THE AFFIDAVIT: The officer submitting the affidavit shall personally appear before a judge or magistrate and sign the affidavit.

C. Application for Search Warrant Form

1. TRIAL COURT FORM

- a. The Trial Court provides a form, TC-SW-1 which may be used for preparing a search warrant. (Copy attached to end of this Policy)
- b. Instructions for preparing the warrant are included on the cover page.
- c. An affidavit form is included which may be used, but is not required.
- d. The "Application for Search Warrant" form and actual "Search Warrant" are a two-part carbon form which transfers from the application to the actual warrant.

2. COMPLETING THE APPLICATION

- a. Include the applicant's name and position, along with the "District" or "Superior" Court Department, depending upon where the application will be sought.
- b. The "Division" indicates the actual court where the warrant will be returned. (Dan - division applies to District Court only, let's discuss)
- c. Include the exact number of pages making up the affidavit(s) in line 1.
- d. Enter all that apply regarding the type of property to be searched for in line 2.
- e. Enter a detailed description of the property to be searched for in line 3.
- f. Identify in detail the place(s), vehicles, and persons to be searched in line 4, including any and all persons present if appropriate.
- g. Indicate by checking the appropriate box if the application has been previously submitted.

3. ISSUING JUSTICE OR CLERK MAGISTRATE

- a. The issuing official should check off whether or not:
 - 1) The search may be conducted at night, between the hours of 10:00 p.m. and 6:00 am.
 - 2) Entry may be made without knocking and announcing.
 - 3) Any persons present may be searched.
- b. The issuing official must sign the search warrant.
- c. The issuing official issuing the warrant is responsible for retaining the affidavit and delivering it to the court to which the warrant is returnable.

D. Informants

1. **GENERALLY:** In order to establish the credibility of an informant whose information is being used to establish probable cause in a search warrant, the affiant must prove that the informant is reliable and has a basis of knowledge.
2. **RELIABILITY:** Factors that support the informant's reliability:
 - a. Whether the informant provided accurate, useful information in the past. If so, did that information in the past contribute to successful arrests, searches or convictions?
 - b. Whether the informant is admitting his/her own involvement in crime (a statement against penal interest). However, if the identify of the informant is unknown, any statements against his/her penal interest cannot buttress his/her credibility.¹⁴
 - c. Whether the informant is an inherently reliable person, such as the victim, an eyewitness, a reputable citizen or a person named in the affidavit.

Note: Be sure not to name a confidential informant, as this may jeopardize such person's safety and reduce their usefulness in the future.
3. **BASIS OF KNOWLEDGE:** Factors that establish an informant's basis knowledge:
 - 1) Did the informant make personal, direct observations, or is the informant relating hearsay information?
 - 2) How recently did the informant acquire his/her information (is it still valid or has it become stale)?
 - 3) How detailed is the informant's information?
4. **CORROBORATION:** The existence of any corroboration that supports the informant, such as:
 - 1) Similar information received from other informants.
 - 2) Direct observations or investigations by the police.

E. Property Which May Be Seized

1. **GENERALLY**
 - a. A copy of the search warrant must be present at the scene of the search before the search can begin. It must be presented upon demand of the occupant.¹⁵
 - b. The search warrant is the guide to what may be search for where the search may take place.
2. **PROPERTY THAT MAY BE SEARCHED FOR**
 - a. Under the provisions of G.L. c. 276, s. 1, the following types of property or articles may be seized under a search warrant:¹⁶

- 1) Property or articles stolen, embezzled, obtained by false pretenses, or otherwise obtained in the commission of a crime.
 - 2) Property or articles which are intended for use, or which are or have been used, as a means or instrumentality of committing a crime, including, but not in limitation of the foregoing, any property or article worn, carried, or otherwise used, changed or marked in the preparation for or perpetration of or concealment of a crime.
 - 3) Contraband, property or articles, the possession or control of which is unlawful, or which are possessed or controlled for an unlawful purpose; except property subject to search and seizure under Chapter 138 (alcoholic beverages), sections 42 through 56, inclusive (see c. 138, s. 56 for warrantless arrest and seizure of alcohol until warrant obtained. Note: c. 138, s. 46 makes it a fineable offense to search for or seize illegal alcoholic beverages in a dwelling without a warrant).
 - 4) The dead body of a human being.
 - 5) The body of a living person for whom a current arrest warrant is outstanding.
- b. The word "property" includes books, papers, documents, records and any other tangible objects.
3. MERE EVIDENCE
- a. In addition to items listed in c. 276, s. 1, the police may seek a search warrant authorizing the seizure of "mere evidence."
 - b. The phrase "mere evidence" refers to any item or object that would tend to prove the commission of a crime or the identity of the criminal. For example, while executing a search of a murder suspect's home pursuant to a warrant, officers found and seized bloody clothing. Although that clothing did not fit into any of Items (a) through (e) above, it was seizable as "evidence" of the commission of a crime and, having been located in the defendant's home, the clothing also tended to establish the identity of the criminal.¹⁷
4. ITEMS NOT MENTIONED IN THE WARRANT: Illegal items not mentioned in the warrant may be seized if found in plain view while searching for items specified in the warrant.

F. Return of Warrant

1. RETURNING THE WARRANT
 - a. A return of the warrant must be made to the court of issue by the officer executing the warrant within seven days of the warrant's issuance.
 - b. The back of the warrant must be completed and includes the following:
 - 1) The date that the warrant was issued;
 - 2) A list of the property taken pursuant to the search warrant; and,

- 3) A list of persons present when the inventory was made.
 - c. The officer making the return must appear before the clerk magistrate to whom the return is made and swear that the inventory is a true and detailed account of all the property taken pursuant to the search warrant.
2. IMPOUNDING THE WARRANT
- a. The affidavit is not a public document until the warrant is returned. At that time it is open to public inspection "to ensure that the Commonwealth can demonstrate by a writing that any given search and seizure was reasonable and was based on probable cause."¹⁸
 - b. A search warrant affidavit may be impounded.
 - c. A judge must determine whether good cause for impounding exists and must tailor the scope of the impoundment order so that it does not exceed the need for impoundment.¹⁹

G. Department Reporting Requirements

1. In every case where a search is conducted with a warrant, the police officers involved shall make a written report of the circumstances to include all important facts relative to the incident and an inventory of any evidence seized.

Attachment: Sample Search Warrant Affidavit

THE COMMONWEALTH OF MASSACHUSETTS

(COUNTY) SS.

(NAME) COURT

I, (name of applicant) being duly sworn, depose and say:

I am (describe position, assignment, office, etc.).

I have information, based upon (describe source, facts indicating reliability of source and nature of the information; if based on personal knowledge and belief, so state).

Based upon the foregoing reliable information (and upon my personal knowledge) there is probable cause to believe that the property hereinafter described (has been stolen, or is being concealed, etc.) and may be found (in the possession of A.B. or any other person) at premises (identify).

The property for which I seek the issuance of a search warrant is the following: (here describe the property as particularly as possible).

Wherefore, I respectfully request that the court issue a warrant and order of seizure, authorizing the search of (identify premises and the persons to be searched) and directing that if such property or evidence or any part thereof be found that it be seized and brought before the court; together with such other and further relief that the court may deem proper.

Signature:

Name

Then personally appeared the above named _____ and made oath that the foregoing affidavit by him subscribed is true.

Before me this ____ day of _____, 200__.

Justice or Special Justice, Clerk/Magistrate or Assistant Clerk/Magistrate of the _____ Court.

¹ M.G.L. c. 218, s. 33

²Rodriguez v. Furtado, 410 Mass. 878, 575 N.E.2d 1124 (1991)

³M.G.L. c. 276, s. 2B

⁴Com. v. Penta, 352 Mass. 271, 225 N.E.2d 58 (1967)

⁵Com. v. Higgenbotham, 11 Mass. App. Ct. 912, 415 N.E.2d 229 (1981); Com. v. Morton, 26 Mass. App. Ct. 949, 526 N.E.2d 1074 (1988)

⁶U.S. v. Charest, 602 F.2d 1016 (1st Cir. 1979)

⁷Com. v. Blye, 5 Mass. App. Ct. 817, 362 N.E.2d 240 (1977); Com. v. Malone, 24 Mass. App. Ct. 70, 506 N.E.2d 163 (1987)

⁸Com. v. Dane Entertainment Services, 23 Mass. App. Ct. 1017, 505 N.E.2d 892 (1987) rev. den'd 400 Mass. 1101, 508 N.E.2d 620 (1987)

⁹ Com. v. Truax, 397 Mass. 174, 490 N.E.2d 425 (1986)

¹⁰ Com. v. Rutkowski, 406 Mass. 673, 675, 550 N.E.2d 362, 364 (1990)

¹¹ Franks v. Delaware, 438 U.S. 154 (1978)

¹² Com. v. Rugaber, 369 Mass. 765, 343 N.E.2d 865 (1976); Com. v. Hanneus, 390 Mass. 136, 453 N.E.2d 1053 (1983)

¹³ Com. v. Valdez, 402 Mass. 65, 521 N.E.2d 381 (1988)

¹⁴ Com. v. Allen, 406 Mass. 575, 579, 549 N.E.2d 430, 433 (1990)

¹⁵ Com. v. Guaba, 417 Mass. 746 (1994)

¹⁶M.G.L. c. 276, s. 1

¹⁷Com. v. Murray, 359 Mass. 541, 269 N.E.2d 641 (1971)

¹⁸Com. v. Monosson, 351 Mass. 327, 221 N.E.2d 220 (1966)

¹⁹Newspapers of New England v. Clerk-Magistrate, 403 Mass. 628, 531 N.E.2d 1261 (1988) cert. den'd 490 U.S. 1066, 109 S.Ct. 2064 (1989)

EXECUTING SEARCH WARRANTS

POLICY & PROCEDURE NO. 2.09	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 03/17/2021

I. GENERAL CONSIDERATIONS AND GUIDELINES

The execution of search warrants can be a demanding and potentially dangerous task. Sufficient care should be taken in analyzing the circumstances surrounding the offense, the suspects, and the location at which the warrant will be served, and in planning an appropriate response.

Dangers lurk in every size jurisdiction, with guns, explosives and other potentially deadly threats facing unsuspecting or unprepared officers. Assigning an insufficient number of officers, or relying on untrained personnel, may increase the risk of deadly consequences. It is essential to have a process to evaluate and classify search warrants, so as to tailor search warrant execution procedures.

The officer seeking the warrant should make certain that the judicial official contacted has the authority to issue search warrants in that locality and that the official has not made any errors on the face of the warrant or in the course of its issuance. The warrant should be scrutinized with great care to ensure that:

- The correct form has been used.
- All the blanks have been filled in.
- The information set forth is accurate and legally sufficient.
- The warrant has been properly signed by the issuing magistrate or judge.

It is the responsibility of the officer obtaining the warrant to make certain that the warrant is correct and has been issued properly.

II. POLICY

It is the policy of this police department to:

- A. accomplish a thorough and legal search; respect the constitutional rights of the person(s) the warrant is being served upon;
- B. minimize the level of intrusion experienced by those who are having their premises searched;
- C. provide for the safety for all persons concerned; and
- D. establish a record of the warrant execution process.

III. DEFINITIONS

- A. Search Site: The premises to be searched, as explicitly stated in the search warrant.
- B. Search Personnel: Law enforcement officers and supporting personnel taking part in the execution of a search warrant.
- C. Evidence Collector: Member of the search team responsible for the possession, packaging, sealing, and marking of all items seized.
- D. Case Officer: The officer primarily responsible for the investigation, and preparing, planning, and implementing the search warrant.
- E. Tactical Coordinator: The officer responsible for planning and supervising tactical operations to include dynamic entry and other tasks requiring special weapons and tactically trained officers.
- F. Protective Sweep: Quick and limited search of premises incident to an arrest or service of a warrant performed in order to identify weapons or other dangers to officers or others. Officers must be able to articulate a reasonable basis for conducting a protective sweep.

IV. PROCEDURES

A. Warrant Service Planning

- 1. CASE OFFICER
 - a. The case officer shall advise and receive approval from his or her supervisor before serving the warrant.
 - b. Selection of officers to serve the warrant shall be based on the officers' prior training and experience in conducting warrant service, consistent with the demands of the warrant service in question. All warrants involving felony charges, narcotics related charges, or the possible involvement of dangerous weapons, shall have a K-9 team present, when possible.

- c. Efforts shall be made to obtain adequate personnel to serve the warrant safely and efficiently.
 - d. The case officer shall ensure the complete preparation for serving the warrant, in accordance with its nature and complexity, and in consultation with the prosecutor, if necessary.
 - e. The case officer shall determine the best date and time for warrant execution. The warrant shall be executed as soon as practicable as defined by state law.
 - f. The case officer shall determine equipment, team personnel, and any specialized team requirements.
 - g. The case officer shall ensure that the entire search warrant execution process is documented until the search team leaves the premises. A written record may be supported by photographs and, if practical, videotaping of the entire search process.
 - h. Prior to the execution of the warrant, the case officer shall make a final assessment of the warrant's accuracy in relationship to the location to be searched.
2. INTELLIGENCE
- a. Gather intelligence on the target site, to include the structure, immediate area surrounding the structure, and surrounding neighborhood.
 - b. Assess the capabilities and backgrounds of suspects, to include criminal records and history of weapons usage and potential for violence.
 - c. Prior to execution of the warrant, the case officer shall attempt to determine if any circumstances have changed that make executing the search warrant undesirable at that time.
 - d. Where possible, pre-search surveillance shall be conducted up to the point at which the warrant is executed.
3. SEARCH WARRANT
- a. Secure a warrant and ensure that it is thoroughly reviewed for accuracy, legal integrity, and completeness. For further information, see the department policy on **Search Warrant Affidavits** .
 - b. Search warrants must be served within seven (7) days of issue.¹
 - 1) The need for a no-knock warrant or a no-knock entry should be considered prior to applying for the warrant and again prior to execution.
 - 2) The need for a no-knock warrant shall be clearly specified in the application and affidavit for a warrant if probable cause exists at the time of application. **A warrant including a No-Knock provision shall only be issued by a judge and must :**

- a) Establish probable cause that the life or lives of the officers or persons on the premises will be endangered if an announcement is made.
- b) Include an attestation that the law enforcement officers filing the affidavit has no reason to believe that minor children or adults over the age of 65 are within the location, unless there is a credible risk of imminent harm to the minor or adult over the age of 65 within that location.
- 3) Officers must reassess the need for announcing entry immediately prior to executing the warrant. If the probable cause no longer exists for the No-Knock provision, the officers must announce prior to entry.
- 4) An officer shall not dispense with the requirements of subsection a and b except to prevent a credible risk of imminent harm as defined in section 1 of chapter 6E.
- 5) Evidence seized or obtained during the execution of a warrant shall be inadmissible if the law enforcement officer violates this section.
- c. Should nighttime service, between the hours of 10:00 p.m. and 6:00 a.m. be deemed necessary, justification shall be included in the affidavit and must be authorized in the search warrant.
- d. The use of a tactical team, if available, should be considered whenever a warrant calls for no-knock entry, nighttime entry, or service involving either drugs or subjects deemed particularly dangerous.

B. Preparation for Executing the Warrant

1. BRIEFING

- a. The case officer and tactical coordinator, where required, work cooperatively to ensure proper preparation, planning, and service of the warrant.
 - 1) They shall detail procedures for executing the warrant to all team members in a warrant service briefing. The briefing shall be conducted by both the case officer and tactical coordinator, if participating.
- b. Identify personnel, resources, or armament necessary for gaining entry, safety and security of officers, or for conducting the search.
- c. If a joint agency task force operation, all officers participating in the warrant service shall be present and identified as members of the warrant service team.

2. TARGET

- a. Delineate information concerning the structure to be searched and surroundings, to include floor plans where available, mockups, photos, and diagrams of the location identifying entrances, exits, obstructions,

fortifications, garages, outlying buildings, suspect vehicles, and all other points of concern.

- b. Identify suspects and other occupants who may be present at the location—incorporating photos or sketches whenever possible—with emphasis on suspect threat potential, as well as the presence of children, the elderly or others who may not be involved with suspects.
 - c. Make a complete review of the tactical plan, to include the staging area and route of approach.
 - d. Develop procedures for exiting the location under emergency conditions.
3. ENTRY AND SEARCH
- a. Other police departments, including MSP STOP team may be used when executing more hazardous search warrants.
 - b. The entry team shall at all times include uniformed officers who shall be conspicuously present where the warrant is served. All non-uniformed officers shall be clearly identified as law enforcement officers by a distinctive jacket or some other conspicuous indicator of office.
 - c. All members of the search team shall wear body armor or ballistic vests as designated by the case officer.
 - d. Individual assignments shall be made for entry, search, management of evidence, custody and handling of seized vehicles, custody of prisoners, and post-execution duties, such as securing the location and conducting surveillance on the site for additional suspects.
 - e. The specific items subject to the search will be defined in the warrant, with any available information on their location.
 - f. Contingency plans shall be made for encountering hazardous materials, canines, booby traps, fortifications or related hazards, and shall include measures to take in case of injury or accident, to include the nearest location of trauma or emergency care facilities.

C. Entry Procedures

1. If an advance surveillance team is at the target site, contact shall be made to ensure that the warrant can be served according to plan.
2. The search personnel shall position themselves in accordance with the execution plan.
3. Notification: An easily identifiable police officer shall knock and notify persons inside the search site, in a voice loud enough to be heard inside the premises, that [s]he is a police officer and has a warrant to search the premises, and that [s]he demands entry to the premises at once.
4. Following the knock and announce, officers shall delay entry for an appropriate period of time based on the size and nature of the target site and

time of day to provide a reasonable opportunity for an occupant to respond (normally between fifteen and twenty seconds).

5. If there is reasonable suspicion to believe that the delay would create unreasonable risks to the officers or others, inhibit the effectiveness of the investigation, or would permit the destruction of evidence, entry may be made as soon as practicable.

D. On-Premises Activities

1. ENTRY

- a. The supervisory officer shall ensure that a protective sweep of the site is performed immediately.
- b. Upon entry, the occupant shall be given a copy of the search warrant. If the property is not occupied at the time of the search, a copy of the warrant shall be left in a conspicuous location at the site.

2. VIDEO DOCUMENTATION PRIOR TO SEARCH

- a. After the site has been secured, a photographic and/or videotape record of the premises shall be made prior to conducting the search.
- b. If damage occurs during an entry to premises, photographs of the damage should be taken where possible.

3. SEARCH PROCESS

- a. Search personnel shall then follow the plan that details the likely whereabouts of the items to be seized and the order of operation for conducting the search.
- b. Items specified in the warrant may be searched for in places where they may reasonably be expected to be located and seized, as well as other items that are reasonably recognized as evidence.

4. EVIDENCE DOCUMENTATION

- a. The search must be accomplished in an organized fashion.
- b. Evidence may be photographed in place prior to recovery.
- c. An officer, designated in the plan, shall be responsible for collecting, preserving, and documenting all items seized until possession is transferred to the evidence custodian, laboratory, or other authority.
- d. Cash and currency taken as evidence shall be counted, documented, and placed in a sealed envelope or container by two officers.

5. SEARCH CONCLUSION

- a. Officers should exercise reasonable care in executing the warrant to minimize damage to property.

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- b. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, arrangements shall be made to guard the premises until it can be secured.
 - c. If items are taken from the search site, an itemized receipt shall be provided to the resident/occupant, or in the absence of the same, left in a conspicuous location at the site.
 6. AFTER ACTION BRIEFING: In a timely manner upon conclusion of the warrant service, the case officer and tactical coordinator may conduct a debriefing of all participating officers.
 7. REPORTING
 - a. The case officer shall, thereafter, prepare and submit an after action report on the warrant service, results of the search, and recommendations for further investigative actions.
 - b. If damage occurs, justification for actions that caused the damage and a detailed description of the nature and extent of the damage shall be documented. Photographs of the damage should be taken where possible.

¹ M.G.L. c. 276, §2A; M.G.L. c. 276, §3A.

EYEWITNESS IDENTIFICATION S

POLICY & PROCEDURE NO. 2.10	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/06/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

Police identification procedures are an important consideration for establishing the identity of a criminal offender. They are equally significant in clearing an innocent suspect. The police must, therefore, be careful to ensure that their eyewitness identification procedures are not conducted in an unnecessarily or impermissibly suggestive manner and that they do not contribute to mistaken identification.¹

The identification of criminal offenders must be approached with extreme caution as the court may exclude evidence if it is improperly obtained. If improper identification procedures are used, a court may not only exclude the out-of-court identification, but can also, in certain circumstances, exclude subsequent in-court identification. The court will carefully examine the identification procedure and the manner in which it was conducted to determine whether the police influenced the witness, intentionally or unintentionally.

II. POLICY

It is the policy of this department that:

- A. Persons subjected to procedures which are intended to lead to the identification of persons who are suspected of or charged with criminal offenses are afforded their Sixth Amendment right to counsel, when required.
- B. The Due Process provisions of the Fifth and Fourteenth Amendments, which require identification procedures utilized by the police to comply with standards of fairness so as not to be unduly suggestive, are observed.

III. DEFINITIONS

- A. Show-up: The presentation of one suspect to an eyewitness in a short time frame following the commission of a crime.
- B. Photo Array: The showing of several photographs of different individuals to an eyewitness for the purpose of obtaining an identification.
- C. Lineup: The presentation of a number of individuals to an eyewitness for the purpose of obtaining an identification.
- D. Voice Lineup: The presentation of a number of individuals to a witness for the purpose of obtaining an identification of a suspect's voice.

IV. PROCEDURES

A. Right to Counsel During Identification Procedure

1. There is no requirement for an attorney to be present when an identification in the field is made of a suspect who has been apprehended during the period immediately after the commission of a crime. Immediately is generally considered to be within two hours.
2. There is no right to counsel under circumstances where an identification takes place accidentally, i.e., in a manner that was not contrived, planned, or anticipated by the police.
3. There is no right to counsel for identification procedures involving photographs or composite drawings, whether conducted before or after the initiation of adversarial criminal proceedings.
4. Right to counsel begins when any "adversarial judicial proceeding" has been initiated "whether commenced by way of formal charge, preliminary hearing, indictment, information, or arraignment." ²
 - a. Once a suspect has been arraigned or indicted, his/her right to have counsel present at any in-person identification procedure attaches.
 - b. No right to the presence of counsel exists prior, or simply because a complaint has been filed, even if an arrest warrant has issued.
 - 1) If counsel is present or readily available, it may be advisable to have counsel present, unless doing so will seriously delay the police investigation.
 - 2) The presence of the suspect's attorney may contribute to a more fair and objective identification proceeding.
 - 3) If counsel fails to object to certain aspects of the identification when it is conducted, the suspect may be held to have waived any objection later at a court proceeding.

B. Due Process Considerations

1. Due process requirements dictate that identifications be conducted in a fair, objective, and non-suggestive manner. Due process considerations are violated when identification procedures arranged and/or conducted by the police are so unnecessarily suggestive and conducive to irreparable mistaken identification as to deny the defendant due process of law.³
2. In determining whether a specific identification procedure is unnecessarily suggestive, all of the circumstances surrounding the procedure must be considered.
3. The factors which will influence the court's determination of whether a specific identification procedure was unduly or unnecessarily suggestive include:
 - a. Whether police conduct was reasonable in light of the circumstances, e.g., suspect under arrest or only temporarily detained;
 - b. Amount of time between incident and identification;
 - c. Isolation of the suspect; whether the suspect is singled out in some manner;
 - d. Whether the police communicated to the witness their belief that the suspect committed the crime for which identification is sought to be made;
 - e. Whether the suspect is viewed by two or more witnesses simultaneously;
 - f. Existence of police urging witness to make identification; and
 - g. Existence of any exigency.

C. Show-up Identification

1. PROMPTNESS
 - a. Show-up identification procedures are a common police tool and should be used:
 - 1) Promptly after a crime has been committed where it is essential to an on-going police investigation; or
 - 2) Under exigent circumstances, such as the near death of the only available witness.
 - b. Show-ups allow a witness to view a suspect while the memory is fresh.
 - c. A show-up may be as likely to clear an innocent person as it is to identify a guilty one.
2. FAIRNESS
 - a. Every field show-up or other one-on-one confrontation between a suspect and a witness that is arranged by the police must be as fair and non-suggestive as possible.⁴
 - b. There is no requirement that an attorney be present.⁵

3. DETAINING THE SUSPECT

- a. A suspect may consent to a show-up.
- b. A person may be stopped and detained pursuant to a valid threshold inquiry. See department policy on **Stop, Frisk and Threshold Inquiries** .
- c. A suspect may be brought back to the scene of a crime or detained while a witness is brought to the suspect for the purpose of a show-up.⁶

4. LOCATION OF THE SHOW-UP

- 1) Bringing the Suspect to the Victim
 - 2) The suspect may be transported to the victim's location.⁷
 - 3) Although more intrusive than bringing the witness to the suspect, it is permissible if reasonable for the circumstances.
 - a) It is recommended that the suspect not be brought back to a crime scene. The crime scene may be contaminated by the suspect's presence.
 - b) DNA, hairs, or other trace evidence may be left at the scene by the suspect being brought there by police.
 - 4) A suspect should not be brought to the residence of a victim or witness.
- d. Bringing the Witness to the Suspect
- 1) Transporting the witness to the suspect's location is the preferred method.
 - 2) Detention for a threshold inquiry is less intrusive and suggestive than detention and transportation.
- e. Field Views: Officers may transport victims or witnesses in police vehicles to cruise the area where a crime has just occurred in order for them to attempt to point out the perpetrator.⁸
- f. Emergencies: When a show-up identification is arranged in an emergency situation, where a witness or a victim is in imminent danger of death or in critical condition in a hospital, and the circumstances are such that an immediate confrontation is imperative, the emergency identification procedure shall be conducted in an appropriate manner consistent with the following:
- 1) Seek the permission of the hospital authorities or the patient's own physician to conduct the identification.
 - 2) Emergency identifications are subject to the fundamental requirements of fairness and must not be tainted by any suggestive remarks or gestures by the police.

5. SHOW-UP

- a. Police Actions

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- 1) Police officers must not do or say anything that might convey to the witnesses that:
 - a) The suspect has admitted guilt;
 - b) Stolen property has been recovered;
 - c) Physical evidence has been seized; or
 - d) Officers believe that the suspect is guilty.
 - 2) Officers should caution the witness that the subject may not be the offender.
- b. Viewing the Suspect
- 1) The suspect should be viewed by one witness at a time and out of the presence or hearing of other witnesses.
 - a) Witnesses who have viewed the suspect should not be permitted to communicate with those who have not.
 - b) The same suspect should not be presented to any witness more than once.
 - 2) Where multiple witnesses are available to identify the subject, officers should permit the subject to be identified by only one or two witnesses. Once one or two witnesses have identified the subject, further identifications should be attempted by means of a photo array or lineup. The multiple methods of identification will provide corroboration.
- c. Caution: Clothing or articles found at the crime scene should not be placed on or in contact with a suspect.
6. REPORTS
- a. A report of every attempted show-up, whether an identification is made or not, shall be submitted.
 - b. Officers shall make written notes of any identification and any statements made by witnesses at the time of show-up with the suspect. Officers should be particularly alert to note any spontaneous exclamations.
 - c. Once a witness has indicated his/her opinion regarding the identity of the subject, the officer should ask the witness how certain [s]he is of the identification.
 - 1) Officers should not ask the witness to use a numerical scale, but rather encourage him/her to indicate certainty in his/her own words.
 - 2) All statements by the witnesses should be incorporated into the officer's report.
 - d. All significant circumstances should be reported, including the time, place, and all persons present at the scene of the show-up.

D. Photographic Identification

1. GENERALLY

- a. The use of photographs to establish or verify the identity of a criminal offender is a valuable investigative procedure. Although there is no right to an attorney during a photographic identification procedure, the same due process considerations requiring the procedure to be fair, objective, and non-suggestive apply.⁹
- b. Photographs for identification purposes should be displayed to witnesses as soon as possible after the commission of a crime. This is when their memory is still fresh and the opportunity for a positive identification is at its greatest.

2. CREATING A PHOTO ARRAY

- a. Place the suspect's photograph in a group of at least six other similar type photographs of individuals (commonly referred to as "fillers").
 - 1) Fillers should be reasonably similar in age, weight, and general appearance.
 - 2) The goal in building the array is not to select filler photographs that look like the suspect, but rather ones that fit the description given by witnesses.
 - 3) Avoid using fillers that so closely match the suspect that a person familiar with the suspect would have difficulty distinguishing the fillers.
 - 4) If the subject has an unusual feature, such as a facial scar or disfiguration, attempt to select some fillers with the same type of feature, or artificially add or conceal the feature.
 - 5) Do not include more than one photograph of the same person.
- b. Try to use photographs of the same size and basic composition.
 - 1) It is preferable to avoid mixing color and black and white photographs.
 - 2) Avoid mixing mug shots with other images.

3. INSTRUCTIONS TO VICTIM/WITNESS

- a. The officer should carefully instruct the witness prior to showing him/her the array.
- b. Preferably, the instructions should be read from a departmental form (Photo Array Instruction Form, Appendix B), and the witness should be asked to sign the form indicating that [s]he understands the instructions.
- c. The officer should also sign and date the form.

4. SHOWING A PHOTO ARRAY

- a. Another officer should actually show the photographs.

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- b. If possible, the officer should be unaware of which photograph depicts the suspect.
 - 1) This technique, called blind administration, has been recommended by the National Institute for Justice, and is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect.
 - 2) The technique also allows the prosecution to demonstrate to the judge or jury at trial that it was impossible for the officer showing the photographs to indicate to the witness, intentionally or unintentionally, which photograph [s]he should select.
 - 3) The investigating officer should either leave the room while the array is being shown by the second officer, or should stand back where the witness will not see him/her.
 - 4) If an investigating officer is present when a second officer is showing an array, [s]he must remain completely silent.
 - c. When showing photographs to a witness:
 - 1) The officer should show them one at a time to the witness.
 - 2) The officer should ask the witness simply whether or not [s]he recognizes the person, and tell the witness to take his/her time.
 - 3) When the witness signals for the next photograph, the officer should move the first photograph so that it is out of sight and ask the witness whether [s]he recognizes the next photograph.
 - 4) The procedure should be repeated until the witness has viewed each photograph, or until the witness identifies a subject.
 - 5) If the witness identifies a subject before all the photographs have been viewed, the officer should ask the witness whether [s]he wishes to view more photographs.
 - d. If a witness asks to view the array a second time, the officer administering the identification should ask the witness if [s]he was able to make an identification from the original viewing.
 - 1) If the witness is unable to make an identification, but feels that it would be helpful to repeat the procedure, then it is permissible to show the photographs a second time.
 - a) In such a case, the photographs should be shown to the witness in a different order.
 - e. Once a witness has identified a suspect, the officer should ask the witness how certain [s]he is of the identification.
 - 1) Officers should not ask the witness to use a numerical scale, but rather encourage him/her to indicate certainty in his/her own words.
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- 2) All statements by the witnesses should be incorporated into the officer's report.
 - 3) The witness should be asked to initial and date the back of the photograph selected.
- f. In order to ensure the fairness of the procedure and to enhance the reliability of in-court identification, the photo array should be preserved in the same configuration as when the identification was made, together with full information about the identification process.
5. REPORTING
- a. A report of every photo array, whether an identification is made or not, shall be submitted. The report shall include:
 - 1) A summary of the procedure;
 - 2) The persons who were present;
 - 3) Instructions given to the witness by the officer (this should be accomplished by attaching the Photo Array Instruction Form to the report);
 - 4) Any statement or reaction by the witness; and
 - 5) Any comments made by the witness regarding the identification procedure.
 - b. When an investigation has failed to identify a suspect, it may be advisable to have those eyewitnesses who had a good opportunity to clearly observe the criminal offender come to the police station to look through photographic files. However, officers should not resort to this procedure until other investigative avenues have been exhausted.
 - 1) Remove or hide any information on the photographs that might in any way influence the witness.
 - 2) Ensure that the files contain only one photograph of each individual and that the photographs are reasonably current.
 - 3) Do not refer to the photographs as "mug shots."
 - 4) If photographs of various formats are used, ensure that several of each format are used.
 - 5) Permit the witness to look at a number of photographs before making his/her selection.
 - 6) Do not call to the attention of the witness any particular photograph.
 - 7) A report shall be filed following the procedure, regardless of whether an identification is made. The report should describe the photographs viewed by the witness(es).
 - 8) Officers should be extremely cautious before charging a subject based on this type of identification alone.

E. Lineup Identification

1. GENERALLY

- a. All police lineups for possible eyewitness identification shall be conducted under the direction of Sergeant or other supervisor of higher level, and, when feasible, after consultation with the District Attorney's office.
- b. A suspect cannot be detained and compelled to participate in a lineup without probable cause to arrest.¹⁰

2. SUSPECT RIGHTS

- a. Before any suspect who has been arraigned or indicted is shown to eyewitnesses in a lineup, the suspect must be specifically informed of:
 - 1) His/her right to have an attorney present at the lineup; and
 - 2) His/her right to be provided with an attorney without cost if [s]he is unable to afford such legal counsel.
- b. Unless a valid waiver is voluntarily and knowingly made, in writing if possible, no such identification may proceed without the presence of the suspect's attorney.¹¹
- c. A suspect has no right to have counsel present at a lineup if [s]he has not been arraigned or indicted.
- d. If the suspect has a right to have an attorney present, permit him/her to call for his/her own attorney or take him/her to court so that an attorney may be appointed.
- e. If an attorney has been retained by the suspect or appointed by the court, such attorney shall be notified of the time and place of the identification procedure and the circumstances relating to the offense charged.
- f. If the suspect knowingly and voluntarily waives his/her right to have an attorney present (preferably in writing), the lineup may then be held with every effort to ensure that the suspect is protected from any prejudicial procedures.

3. REFUSAL TO PARTICIPATE IN A LINEUP

- a. After a person has been arrested, [s]he may be required to participate in a lineup regarding the crime for which [s]he was arrested.¹²
- b. A suspect may lawfully refuse to participate in a lineup only if [s]he has a right to have counsel present (post arraignment/indictment) and the counsel is absent through no fault of the suspect or his/her attorney.
 - 1) If the suspect refuses to participate:
 - a) [S]he should be informed that [s]he has no legal right to do so and that his/her refusal can be used as evidence against him/her in court.

- b) If the suspect refuses to participate in the lineup, arrangements may be made for an alternative identification procedure.
- c) In serious criminal cases, the District Attorney's office may be asked to apply for a court order to compel the suspect to participate in a lineup.

4. PREPARING THE LINEUP

- a. Select a group of at least five or six other persons who fit the description of the subject as provided by the witness(es).
 - 1) The goal in building the lineup is not to select fillers that look like the suspect, but rather ones that fit the description given by witnesses.
 - 2) Avoid using fillers that so closely match the suspect that a person familiar with the suspect would have difficulty distinguishing the fillers.
 - 3) If the subject has an unusual feature such as a facial scar or disfiguration, attempt to select some fillers with the same type of feature, or artificially add or conceal the feature.
- b. Do not display a suspect in any lineup that is not suitable and properly composed.
- c. Advise the accused that [s]he may take any position in the lineup that [s]he prefers and may change positions prior to being viewed by each new witness.
- d. If there are two or more suspects of a particular crime, present each suspect to witnesses in separate lineups. Different fillers should be used to compose each lineup.
- e. The witness shall view the suspect and fillers one at a time. The line-up shall be set up in such a way so that the participants who are not being viewed by the witness are out of sight.
- f. All persons in the lineup must be numbered consecutively and be referred to only by number.
- g. A complete written record of the lineup proceedings shall be made and retained, including the name of each lineup participant.
- h. The entire lineup procedure shall be recorded, photographed, or videotaped for possible future court presentation.

5. SUSPECT'S ATTORNEY

- a. When an attorney for the suspect is present, the attorney should be permitted to make reasonable suggestions regarding the composition of the lineup and the manner in which it is to be conducted. Any suggestions made by the suspect's attorney should be included as part of the lineup report.
- b. Allow counsel representing the accused sufficient time to confer with his/her client prior to the lineup.

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- c. Once the lineup is commenced, the suspect's attorney should function primarily as an observer and [s]he should not be permitted to converse with the lineup participants, or with the witnesses, while the lineup is underway.
 - d. The suspect's attorney at a lineup is not entitled to hear any discussions between a witness and the police.
 - e. The suspect's attorney is not legally entitled to the names or addresses of the witnesses attending a lineup if the suspect has not yet been arraigned or indicted.¹³ If an attorney in such a situation insists on having information about lineup witnesses, advise him/her to direct his/her request to the District Attorney's office.
6. INSTRUCTIONS FOR THE WITNESS
- a. The officer should carefully instruct the witness prior to showing him/her the lineup.
 - b. Preferably, the instructions should be read from a departmental form (Lineup Instruction Form, Appendix A), and the witness should be asked to sign the form indicating that [s]he understands the instructions.
 - c. The officer should also sign and date the form.
7. CONDUCTING THE LINEUP
- a. Ensure that witnesses are not permitted to see the accused or shown any photographs of the accused immediately prior to the lineup.
 - b. Ensure that only one witness views the lineup at a time and that witnesses are not permitted to speak with one another during the proceedings.
 - c. Scrupulously avoid using statements, clues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witness' decision-making process or perception.
 - d. If possible, the officer should be unaware of which person in the lineup is the suspect.
 - 1) This technique, called blind administration, has been recommended by the National Institute for Justice, and is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect.
 - 2) The technique also allows the prosecution to demonstrate to the judge or jury at trial that it was impossible for the officer showing the lineup to indicate to the witness, intentionally or unintentionally, which person [s]he should select.
 - a) The investigating officers may be present during the line-up, but must position themselves in such a way that they cannot be seen by the witness(es).
 - b) If an investigating officer is present, [s]he must remain completely silent while the witness is viewing the lineup.
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- e. The witness shall view the suspect and fillers one at a time. The participants who are not being viewed by the witness should be out of sight.
 - f. Make a written notation of any identification made (or any failure to make an identification), including any spontaneous exclamation or reaction by a witness, and any comments made by the witness regarding the identification procedure.
 - 1) Once a witness has indicated his/her opinion regarding the identity of the subject, the officer should ask the witness how certain [s]he is of the identification.
 - 2) Officers should not ask the witness to use a numerical scale, but rather encourage him/her to indicate certainty in his/her own words.
 - 3) All statements by the witnesses should be incorporated into the officer's report.
 - g. During a lineup, each participant may be directed to wear certain clothing, to put on or take off certain clothing, to take certain positions or to walk or move in a certain way.¹⁴
 - 1) If officers are to ask the participants to wear an article of clothing, they must guard against circumstances where the article only fits the suspect.
 - 2) All lineup participants shall be asked to perform the same actions.
 - 3) Each lineup participant may also be directed to speak for voice identification purposes. See **Voice Identification** in this policy.
8. REPORTING
- a. A report of every lineup, whether an identification is made or not, shall be submitted.
 - b. The report shall include a summary of the procedure, the persons who were present for it, instructions given to the witness by the officer (this should be accomplished by attaching the Lineup Instruction Form to the report), any statement or reaction by the witness, and any comments made by the witness regarding the identification procedure.

F. Voice Identification

1. GENERALLY

- a. Although considerably less common than visual identifications, voice identification lineups may be helpful to criminal investigations where the victim or other witness was blind, the crime took place in the dark, the subject was masked, the witness' eyes were covered by the perpetrator, or the witness was never in the same room with the perpetrator but did hear his/her voice.

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- b. If officers wish to conduct a voice identification lineup procedure with a witness who also saw the subject, the officer must first consult with the District Attorney's Office.
2. SUSPECT RIGHTS: As with any in-person identification or confrontation, if the suspect has been arraigned or indicted, [s]he has a right to the presence of counsel at the voice identification procedure.
 3. PREPARATIONS
 - a. Where a voice identification is attempted, the following procedures should be employed to the fullest extent possible:¹⁵
 - 1) At least six persons whose voices will be listened to by the witness should participate in the voice identification lineup. One-on-one confrontations should be avoided.
 - 2) The suspect and other participants shall not be visible to the witness. This may be accomplished by using a partition, or similar means.
 - 3) All participants, including the suspect, shall be instructed to speak the same words in the same order.
 - 4) If the victim or witness recalls hearing the perpetrator use specific words, those words shall not be ones the suspect and other participants are instructed to speak; the lineup participants should speak neutral words in a normal tone of voice.¹⁶
 - 5) When both a visual and voice lineup are done, the lineup participants shall be called in a different order and by different numbers.¹⁷
 - 6) If there are two or more suspects of a particular crime, present each suspect to witnesses in separate lineups. Different fillers should be used to compose each lineup.
 4. CONDUCTING THE VOICE IDENTIFICATION LINEUP
 - a. If possible, the officer should be unaware of which person in the lineup is the suspect.
 - 1) This technique, called blind administration, has been recommended by the National Institute for Justice, and is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect.
 - 2) The technique also allows the prosecution to demonstrate to the judge or jury at trial that it was impossible for the officer showing the lineup to indicate to the witness, intentionally or unintentionally, which person [s]he should select.
 - a) The investigating officers may be present during the line-up, but must position themselves in such a way that they cannot be seen by the witness(es).
 - b) If an investigating officer is present, [s]he must remain completely silent while the witness is viewing the lineup.

- b. Officers should avoid any words or actions that suggest to the voice witness that a positive identification is expected or whom they expect the witness to identify.
5. INSTRUCTIONS TO THE WITNESS
 - a. The officer should carefully instruct the witness prior to conducting the voice identification lineup.
 - b. Preferably, the instructions should be read from a departmental form (Voice Identification Instruction Form, Appendix D), and the witness should be asked to sign the form indicating that [s]he understands the instructions.
 - c. The officer should also sign and date the form.
6. REPORTING
 - a. The result of any voice identification lineup procedure shall be detailed in the officer's report.
 - b. The report shall include a summary of the procedure, the persons who were present for it, instructions given to the witness by the officer, any statement or reaction by the witness, and any comments made by the witness regarding the identification procedure.

G. Drawings and Identi-Kit Composites

1. An artist's sketch, computerized drawing, composite, or other depiction should be considered in a major crime investigation when a witness displays a good recollection of the physical appearance and features of the criminal offender but has not been able to identify a suspect from available photographs.
2. Due process principles applicable to all identification procedures apply to artist's sketches, computerized drawings and composites.
3. Two or more witnesses may collaborate in preparing the drawing or sketch, provided that officers do not use procedures that are unnecessarily or unduly suggestive.
4. Prior to doing so, officers should first separate the witnesses and take a detailed statement and description from each one.

H. Police Station and Courtroom Identification

1. Prior to conducting any courthouse identification procedure, police may consult the District Attorney's office.
 - a. The same right to an attorney and the same due process suggestiveness considerations that apply to all other identification procedures also apply to station house and courtroom identifications.
 - b. If the suspect has been arraigned or indicted, [s]he has a right to have counsel present at any in-person identification/confrontation.
 - c. Prior to arraignment or indictment, no right to counsel exists.¹⁸

2. Live confrontations and informal viewings of the suspects by witnesses must be done in such a manner as to minimize any undue suggestiveness.
 - a. Officers shall not state or suggest that the suspect has been arrested or booked or that [s]he has made any confession or incriminating statement or that any incriminating evidence has been uncovered.
 - b. The witness' identification, particularly if it takes place in a police station or courtroom, must be a result of his/her recollection of the appearance of the perpetrator and must not be unduly influenced by information or suggestions originating from the police.

I. Hypnotically Aided Identification

1. Hypnotically aided testimony is not admissible at trial. Memory recalled prior to hypnosis which was the subject of a hypnotic session may be excluded as hypnotically aided.¹⁹
2. In light of the serious consequences which could result from asking or permitting a witness to undergo a hypnotic session, such a procedure shall not be undertaken until the entire matter has been reviewed by the Chief of Police [or the Deputy Chief], the District Attorney's office, and appropriate hypnosis experts.

¹ Com. v. Hill, 64 Mass. App. Ct. 131, 831 N.E.2d 923 (2005).

² Com. v. Lopes, 362 Mass. 448, 287 N.E.2d 118 (1972).

³ Com. v. Ellis, 432 Mass. 746 (2000); Com. v. Odware, 429 Mass. 231, 235 (1999).

⁴ Com. v. Storey, 391 N.E.2d 898, 378 Mass. 312 (1979).

⁵ Com. v. Bumpus, 238 N.E.2d 343, 354 Mass. 494 (1968).

⁶ Com. v. Crowley, 29 Mass. App. Ct. 1, 566 N.E. 2d 1043.

⁷ Com. v. Crowley, 29 Mass. App. Ct. 1, 566 N.E. 2d 1043.

⁸ Com. v. Walker, 14 Mass. App. Ct. 544, 441 N.E. 2d 261 (1982).

⁹ U.S. v. Ash, 413 U.S. 300 (1973).

¹⁰ Com. v. Bumpus, 209 N.E.2d 167, 362 Mass. 672 (1972).

¹¹ Com. v. Torres, 442 Mass. 554 (2004).

¹² U.S. v. Wade, 388 U.S. 218 (1967).

¹³ U.S. v. Wade, 388 U.S. 218 (1967).

¹⁴ U.S. v. Wade, 388 U.S. 218 (1967).

¹⁵ Com. v. Marini, 378 N.E.2d 51, 375 Mass. 510 (1978).

¹⁶ U.S. v. Wade, 388 U.S. 218 (1967).

¹⁷ Com. v. Demaria, 703 N.E.2d 1203, 46 Mass. App. Ct. 114 (1999).

¹⁸ Com. v. Key, 19 Mass. App. Ct. 234, 472 N.E. 2d, 1381 (1985).

¹⁹ Com. v. Kater, 447 N.E.2d 1190, 388 Mass. 519 (1983).

Appendix A

Lineup Instruction Form

1. You are being asked to view a group of people.
 - a. You will be viewing them one at a time.
 - b. Please look at all of them.
 - c. They are in random order.
 - d. Please take as much time as needed in making a decision about each person before moving on to the next one.
2. You should remember that it is just as important to clear innocent persons from suspicion as to identify guilty parties.
3. The individuals you view may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change.
4. The person who committed the crime may or may not be one of the people you are about to view.
5. Regardless of whether or not you select a person, the police department will continue to investigate the incident.
6. The procedure requires the officer to ask you to state, in your own words, how certain you are of any identification.
7. If you do select someone, please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
8. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case.
9. Do you have any questions before we begin?

Witness Signature _____

Date

Officer Signature _____

Date

Appendix B

Photo Array Instruction Form

1. You are being asked to view a set of photographs.
 - a. You will be viewing the photographs one at a time.
 - b. Please look at all of them.
 - c. They are in random order.
 - d. Please take as much time as needed in making a decision about each photograph before moving on to the next one.
2. You should remember that it is just as important to clear innocent persons from suspicion as to identify guilty parties.
3. The individuals in the photographs you view may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change.
4. The person who committed the crime may or may not be in the set of photographs you are about to view.
5. Regardless of whether or not you select a photograph, the police department will continue to investigate the incident.
6. The procedure requires the officer to ask you to state, in your own words, how certain you are of any identification.
7. If you do select a photograph(s), please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
8. Regardless of whether you select a photograph(s), please do not discuss the procedure with any other witnesses in the case.
9. Do you have any questions before we begin?

Witness Signature _____

Date

Officer Signature _____

Date

Appendix C

Instruction Card for Show-up Identification Attempt

1. You are going to be asked to view someone. Please take as much time as you need.
2. You should remember that it is just as important to clear innocent persons from suspicion as it is to identify guilty parties.
3. The person who committed the crime may or may not be the person you are about to view.
4. Regardless of whether or not you identify the person, we will continue to investigate the incident.
5. When we are done, our procedures require me to ask you to state, in your own words, how certain you are of any identification.
6. If you do select someone, please do not ask us questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
7. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case.
8. Do you have any questions before we begin?

Appendix D

Voice Identification Lineup Instruction Form

1. You are being asked to listen to several people speak.
 - a. You will be hearing them one at a time.
 - b. Please listen to all of them.
 - c. They are in random order.
 - d. Please take as much time as needed in making a decision about each person before moving on to the next one.
2. You should remember that it is just as important to clear innocent persons from suspicion as to identify guilty parties.
3. The individuals you hear may not sound exactly as they did on the date of the incident.
4. The person who committed the crime may or may not be one of the people you are about to hear.
5. Please pay no attention to the content of the words spoken. They have been chosen at random.
6. Regardless of whether or not you select a person, the police department will continue to investigate the incident.
7. The procedure requires the officer to ask you to state, in your own words, how certain you are of any identification.
8. If you do select someone, please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
9. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case.
10. Do you have any questions before we begin?

Witness Signature _____

Date

Officer Signature _____

Date

BREAKING AND ENTERING

POLICY & PROCEDURE NO. 2.11	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/06/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

Burglars generally fall into two categories - the opportunist and the professional. The opportunist is the criminal who is always on the lookout for a place that is easy to break into with the least hazard of detection and where [s]he can obtain cash, jewelry, and portable items that have an immediate resale or pawn value.

The professional commits his/her break only after considerable planning. The thief usually has information on the valuable items to seize, knows the habits of the persons living or employed in the building selected, and has adequate tools to make his/her entry effectively.

The most important consideration in the prevention and control of burglary and related crimes is citizen cooperation. All citizens of the community should be encouraged to take necessary precautions to make their property secure by utilizing adequate locks, alarms, and lighting to deter criminals, and by marking their property with names, numbers or symbols which they can identify.

Citizens should be constantly encouraged to immediately notify the police when they observe suspicious persons or circumstances, even if their suspicions later prove to be unfounded.

II. POLICY

It is the policy of this department to:

- A. Respond promptly to all alarms and reports of possible or actual breaking and entering;
- B. Work with the public to educate citizens and businesses concerning ways to prevent crimes, especially those involving breaking and entering; and

- C. Investigate and prosecute all crimes, including those involving breaking and entering.

III. PROCEDURE

A. Responding to Burglaries in Progress

1. **RESPONSE:** Whenever an officer responds to a call for a burglar alarm or breaking and entering in progress, the officer shall minimize the use of sirens when nearing the scene to avoid communicating his/her presence to suspects.
2. **FIRST ARRIVING OFFICER**
 - a. The first arriving officer should park a short distance from the target building, approach unseen, and make visual and auditory observations of the building.
 - b. The officer shall be observant of:
 - 1) Vehicles in the driveway or in the area near the building;
 - 2) Persons who seem suspicious or out of place; and
 - 3) Known criminals present in the area.
 - c. Officers shall not enter the building without adequate assistance, unless some person lawfully therein is in immediate danger of physical harm from the intruder.
3. **EXTERIOR OF BUILDING**
 - a. When the back-up officers arrive, they shall take strategic positions, observing all building exits and windows.
 - b. They shall check for any visible signs of entry at the doors, windows or on the roof.
 - c. They shall also check for the possibility that entry has been gained through the wall of an adjoining building, if possible.
 - d. Officers should secure access to and from the building.
 - e. Officers should stop and identify anyone leaving the building.
4. **VOLUNTARY EXIT FROM THE BUILDING**
 - a. It is always preferable for the suspect to come out voluntarily and [s]he shall be given that opportunity, if possible. This will avoid the possibility of injury to a police officer or to other persons in the vicinity.
 - b. Officers must exercise extreme caution to ensure that plain clothes officers arriving at the scene are properly identified as police officers, and not mistaken for criminals.
 - c. If at all possible, the owner of the residence or the commercial establishment shall be contacted by the police, and the dispatcher shall relay to the officers at the scene such information as:

- 1) The known or likely presence of any lawful occupants such as a family member, guest or babysitter;
- 2) The known or likely presence in the building or on the grounds of any guard or watchman;
- 3) The location of any safe or major valuables the robbers may be after;
- 4) The location of any firearms on the premises; and
- 5) The location of main power switches, particularly the location of electric light switches.

B. Entering a Building

1. GENERALLY

- a. Officers shall notify the dispatcher prior to entering the building.
- b. Police should normally announce their presence prior to entering a building to search. An exception may be appropriate in the case where officers need to maintain a tactical advantage.

2. CANINE SUPPORT

- a. If the services of a Canine Officer are available, [s]he may be called to the scene at the discretion of a supervisor or OIC.
- b. If a Canine Officer is to conduct the search, officers should avoid entering the building prior to his/her arrival in order not to leave confusing scents and, in any event, all other officers should be withdrawn from the building before the police dog enters.
- c. The advice of the Canine Officer should be sought concerning recommended methods of conducting a building search with the use of the dog.
- d. For further information, see the department policy on **Police Canine Operations**.
- e. If it becomes necessary to enter the building, the entering officers must work closely together, covering one another in the darkened interior. This will reduce the danger of one officer's injuring another accidentally.

3. POLICE OFFICER ENTRY

- a. Officers should enter the building tactically, stepping inside quickly to minimize exposure time in the doorway area (fatal funnel).
- b. Officers should use flashlights tactically to avoid drawing fire at the source of the light.
- c. Once inside, officers should wait a few moments to become accustomed to the darkness, and listen in an attempt to hear the suspect.
- d. Officers entering from multiple points of entry must coordinate their movements to avoid being mistaken for a suspect in the building.

4. SEARCHING THE BUILDING

- a. Carefully and methodically check the entire building to determine if a crime has been committed and if the suspect is still therein.
- b. Any place in the building that can provide a hiding place should be carefully checked.
- c. If a suspect is located, [s]he shall be carefully searched and handcuffed immediately. The officer should notify dispatch.
- d. It should not be assumed that the suspect is working alone. The search shall be continued until the entire building and its immediate vicinity have been thoroughly searched.
- e. A thorough search of the premises shall be made for any weapon which the suspect may have discarded once [s]he realized [s]he would be apprehended.

5. CRIME SCENE

- a. After the building has been searched and persons within located and apprehended, if appropriate, the scene may be a crime scene.
- b. If the scene is to be processed by detectives, officers should:
 - 1) Secure the crime scene for investigators, if appropriate; and
 - 2) Conduct a preliminary investigation.
 - 3) For further information, see the department policy on **Preliminary Investigations** .
- c. The owner should be notified to secure the building and to provide police with a detailed list of any missing or damaged items.

C. Responding After the Suspect Has Departed

1. Preliminary Investigation

- a. The officer shall obtain, as completely as possible, a description of:
 - 1) The suspect;
 - 2) Any vehicle used; and
 - 3) The direction of travel, if known.
- b. This information shall be provided immediately to the dispatcher for the attention of all other on-duty officers.
- c. Officers should preserve the scene and conduct a preliminary investigation.
- d. The officer making the preliminary investigation shall ascertain as accurately as possible and carefully note:
 - 1) The date and time the crime was committed;
 - 2) The point and method of entry;

- 3) The method of exit;
 - 4) A description of any property taken, including its value and all identifying numbers or marks; and
 - 5) Any property damaged.
2. PROCESSING THE CRIME SCENE
 - a. The crime scene shall be secured until processed for forensic evidence by a detective or the State Police Crime Scene/Detective Unit.
 - b. The crime scene should be photographed.
 - c. Breaking and entering tools and evidence should be collected.
 - d. Investigators should check the scene and process as appropriate for:
 - 1) Latent fingerprints;
 - 2) Footwear impressions;
 - 3) Tool marks; and
 - 4) DNA.
3. NEIGHBORHOOD CANVASS
 - a. The investigating officer shall interview neighbors by canvassing door-to-door to determine whether anyone made observations of any suspicious conduct.
 - b. The investigator shall search for residences or businesses in the area for video that covers the building or approaches to or from the building.
4. PROPERTY SEARCH
 - a. Checks of local secondhand stores, pawn shops and other establishments, especially those known or suspected of dealing in stolen goods, may be a good source to locate stolen property.
 - b. On-line sources such as E-bay and Craig's List may reveal stolen property and those disposing of it.

D. Arrest of Suspect/Recovery of Stolen Goods

1. INTERVIEWING SUSPECT
 - a. Whenever any burglary (or receiving stolen goods) suspect is questioned, [s]he shall also be questioned with regard to any other burglaries in which [s]he or persons known to him/her participated.
 - b. [S]he shall also be encouraged to cooperate by revealing the identities of persons who received or "fenced" any items taken in the break.
2. RECOVERED PROPERTY
 - a. Stolen items shall not be immediately returned to their lawful owner unless authorized by a supervisor or OIC.

- b. The property shall be:
 - 1) Photographed;
 - 2) Marked and packaged;
 - 3) Logged into evidence; and
 - 4) Submitted to the property and evidence function to be held as evidence.
 - 5) The owner shall be notified that the items have been recovered. (See department policies on **Collection and Preservation of Evidence** as well as **Evidence and Property Control** .)
3. CRIMINAL CHARGES
 - a. Any person arrested for breaking and entering and in whose possession or under whose control stolen items are found shall also be charged with buying, receiving or concealing stolen goods. If prosecution of the breaking and entering should fail (due to unavailability of witnesses, etc.), a conviction for the lesser crime of receiving can still be obtained.
 - b. When charging an individual with breaking and entering with intent to commit a felony or misdemeanor, the charge of criminal trespass must be included, or a defendant's verdict may be set aside.¹

E. Reporting

1. A report shall be made by the officer conducting the preliminary investigation in accordance with department procedures.
2. Assisting officers shall submit a supplemental report of any pertinent observations or actions which are important to the case.
3. A detailed supplemental report shall be submitted by the investigating officer.

¹Com. v. Vinnicomb, 28 Mass. App. Ct. 934, 549 N.E.2d 1137 (1990).

MOTOR VEHICLE THEFT

POLICY & PROCEDURE NO. 2.12	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/06/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy applies to stolen motor vehicles as well as stolen vehicle registration plates.

Auto theft has become one of the most aggravating and, without doubt, one of the costliest crimes now confronting both the police and the public. The loss from auto thefts has traditionally been far greater than all other crimes against property combined. The related crime of using an automobile without the authority of the owner is also the cause of great public frustration and inconvenience.

For police purposes, auto theft and unauthorized use of motor vehicles can be divided into five categories: joy riding; use in the commission of a crime; stripping and "chop shops"; professional car theft; and defrauding the insurance company.

All citizens of the community should be constantly reminded to lock their vehicles, take their keys, and avoid leaving any valuables in open view in parked automobiles.

II. POLICY

It is the policy of this department to:

- A. Reduce the opportunity for the crime of motor vehicle thefts by being alert and patrolling areas where thefts are likely to occur;
- B. Ensure the speedy apprehension and conviction of criminals; and
- C. Educate citizens in crime prevention, especially ways to prevent motor vehicle theft.

III. PROCEDURES

A. Motor Vehicle Theft Related Crimes

1. Officers shall be familiar with the following common offenses related to auto theft and unauthorized use of motor vehicles:
 - a. Using motor vehicle without authority;¹
 - b. Larceny of a motor vehicle or trailer;²
 - c. Knowingly receiving, buying, maliciously damaging, possessing, concealing or obtaining control of a stolen motor vehicle or trailer;³
 - d. Stealing any parts or accessories from a motor vehicle taken without authority;⁴
 - e. False, altered, forged or counterfeit certificate of title and related offenses;⁵
 - f. Defacing identifying numbers of motor vehicle or trailer or any part thereof; selling or transferring motor vehicle or trailer or part thereof where identifying number is defaced; buying or receiving motor vehicle or trailer or part thereof with defaced identifying numbers;⁶
 - g. Making false written statement on form alleging theft or conversion of a motor vehicle, which form bears a notice of penalty of perjury;⁷
 - h. Making or causing to be made a false report of crime to police officers;⁸
 - i. Removal or concealment of a motor vehicle to defraud insurer;⁹
 - j. Sale of master keys;¹⁰
 - k. Failing to display valid plates;¹¹
 - l. Operating an uninsured vehicle¹²; and
 - m. Refusal to stop and give information to a police officer.¹³

B. Theft Reporting Requirements

1. REPORTING PARTIES
 - a. Vehicles may be reported stolen by the owner, operator, or person in whose custody the vehicle was at the time of theft. The stolen vehicle report must be filed in the municipality in which the vehicle was stolen.
 - b. Leased or rented vehicles shall be reported stolen by the owner (or owner's agent), or lessee. The stolen vehicle report may be filed in the municipality from which the vehicle was stolen or in the municipality from which the vehicle was rented or leased.
 - c. If the party who stole the vehicle is known to the reporting party, the officer should:
 - 1) Advise the reporting party that the officer will seek criminal charges for larceny of a motor vehicle or using without authority, based upon the filing of the report;

- 2) Advise the reporting party that [s]he should be available as a witness in the case; and
- 3) Seek a show cause hearing or criminal complaint against the suspect based upon the report of the reporting party.

2. STOLEN VEHICLE REPORT

- a. In taking a stolen vehicle report or a report of a stolen registration plate, officers shall use the **RMV** Stolen/Recovered Motor Vehicle Report form.
 - 1) The officer shall require the reporting party to review and sign the stolen vehicle form under the pains and penalties of perjury. Any false statement made therein is a crime.¹⁴
 - 2) If the person refuses to sign the report, the officer will submit an incident report only.
 - 3) The reporting party shall be advised that the vehicle will NOT be entered into CJIS as stolen, and no other police action, apart from the incident report, will be taken.
- b. In addition to the information on the Stolen/Recovered Motor Vehicle Report form, the officer should obtain other identifying characteristics that could lead to the recognition and recovery of the vehicle, which may include:
 - 1) Any unusual or unique markings or stickers;
 - 2) Any previous damage that would distinguish vehicle;
 - 3) Any special accessories that have been installed; and
 - 4) Descriptions of any items of personal property left in the automobile.
- c. The vehicle identification number (VIN) and the registration number must be very carefully noted as any transposition or substitution of numbers or letters can create much confusion. If the vehicle reported stolen is or has recently been registered, the accuracy of such numbers can be checked against the RMV's vehicle registration database.

3. ENTERING STOLEN VEHICLES/REGISTRATIONS IN CJIS

- a. Stolen vehicles may be entered into the CJIS and NCIC Vehicle File when:
 - 1) The vehicle is reported stolen and an up-to-date theft report is on file; and
 - 2) A signed theft report has been filed.
- b. A CJIS and CIC vehicle entry must be entered as soon as possible once the minimum data required for entry and the record documentation is obtained.
- c. Mandatory Fields for a Stolen Vehicle Entry
 - 1) VYR = Vehicle Year;

- 2) VMA = Vehicle Make;
- 3) VST = Vehicle Style;
- 4) VCT = Vehicle Category;
- 5) DOT = Date of Theft ; and
- 6) One of either of the following:
 - a) VIN = Vehicle Identification Number (When a VIN is not available at the time of entry, the VIN must be entered within 90 days or the stolen record will be automatically purged.); or
 - b) LIC - License Plate Number, in which case all of the following information must be provided:
 - i. LIS = License State;
 - ii. LIY = License Year; and
 - iii. LIT = License Type.
- d. Optional Fields
 - 1) Caution: Insert an "X" to indicate that the operator or occupant(s) are dangerous. The reason for caution must appear in the "Remarks" field.
 - 2) Remarks: Reason for caution or other free text information. Maximum 44 characters.
 - 3) Wanted: If the vehicle category is "3" (wanted) - the number "2" must be entered for a felony, or left blank.

C. Theft Prevention

1. Officers should be observant for suspicious activity in areas where large numbers of vehicles are parked and left unattended, such as malls, employee parking lots and apartment complexes, particularly during hours of darkness.
2. Traffic enforcement and the stepping up of traffic citations are a deterrent to car thefts. Such enforcement can serve to discourage young people from becoming involved, as it increases the chances that they will be stopped by the police.
3. Because active car thieves can steal scores of vehicles in a period of just a few weeks, the successful prosecution of just a few car thieves can contribute to a substantial drop in the rate of vehicle thefts.

D. Vehicle Recovery

1. RECOGNIZING STOLEN VEHICLES IN TRAFFIC
 - a. The recognition of stolen cars is a skill which should be acquired by every alert officer. Attention should be directed to the actions of the driver and the type of vehicles being sought, rather than just the observation of license numbers.
 - 1) Be alert for the reckless driver or the traffic violators.

- 2) Note the overly cautious driver who appears to be avoiding undue attention.
 - 3) Observe the driver who does not seem familiar with the car. For example, [s]he may drive off without lights because [s]he cannot immediately find the light switch.
 - 4) Any extremes of driver behavior or unusual reaction of passengers should arouse suspicion of police.
 - 5) Note any damage to vehicles (e.g., broken vent windows, wired- on license plates).
 - 6) Watch for operation of vehicles by known thieves.
- b. Officers using police vehicles equipped with MDTs should query all suspicious vehicles.
2. RECOGNIZING UNATTENDED STOLEN VEHICLES
- a. Vehicles parked in unusual locations or at unusual times.
 - b. Vehicles suffering damage to door locks or windows.
 - c. Vehicle ignition “punched” or steering column cover damaged or removed.
 - d. Vehicle registration not matching the registration number’s vehicle description.
 - e. Registration plate loosely attached or held on by only one screw.
 - f. Major vehicle parts (fenders, doors, tires, etc.) missing.

E. Handling Recovered Vehicles

1. RECOVERY: When a stolen vehicle is recovered, the following procedure shall be followed:
 - a. Consider processing the vehicle for latent finger prints or other evidence that may identify the perpetrator.
 - 1) In some cases, vehicles may be processed at the scene of recovery.
 - 2) If the vehicle must be towed, tow the vehicle, if possible, without entering it. This is particularly important if the vehicle is to be processed for DNA, hairs, or fibers.
 - 3) If the vehicle must be entered, the tow operator should, at a minimum, wear gloves. In cases of serious crimes, consider providing the tow operator with Tyvek clothing, boot covers and hood as well, to avoid contaminating the crime scene.
 - 4) Avoid handling anything not absolutely necessary to effect the tow.
 - b. Impound the vehicle if it was used in the commission of a crime.
 - c. Methodically search the vehicle for evidence that may identify the perpetrator and evidence of other crimes.

- d. Tow the vehicle in accordance with department procedures.
 - e. Complete the recovered motor vehicle portion of the Stolen/Recovered Motor Vehicle Report form. Be sure to include the recovery conditions.
2. NOTIFICATIONS
- a. Vehicles Stolen from This Department's Jurisdiction
 - 1) If the recovered vehicle was stolen from this department's jurisdiction, the dispatcher shall notify the reporting party.
 - 2) The stolen entry shall immediately be cancelled in LEAPS/NCIC.
 - 3) The notification shall be noted on the recovery form and in the recovery log entry.
 - b. Vehicles Stolen from Other Jurisdictions
 - 1) If the recovered vehicle was stolen from another jurisdiction, the dispatcher shall notify the entering agency.
 - 2) The dispatcher shall place a "Locate" on the stolen vehicle record.
 - 3) The notification shall be noted on the recovery form and in the recovery log entry.
3. RELEASING THE VEHICLE TO THE OWNER
- a. The vehicle owner shall not be allowed to take possession of the vehicle until all appropriate searches and examinations of the vehicle have been conducted, and only if the vehicle is not to be held as evidence.
 - b. The owner must provide identification and sign the vehicle recovery portion or the report form.
 - c. In the event of an arrest or anticipated prosecution, the investigating officer shall advise the owner of the recovered vehicle that [s]he may be needed to testify at court.

¹M.G.L. c. 90, §24(2)(a).

²M.G.L. c. 266, §28.

³M.G.L. c. 266, §28.

⁴M.G.L. c. 266, §28.

⁵M.G.L. c. 90D, §§32(a) and 32(b).

⁶M.G.L. c. 266, §139.

⁷M.G.L. c. 268, §39.

⁸M.G.L. c. 269, §13A.

⁹M.G.L. c. 266, §27A.

¹⁰M.G.L. c. 266, §14.

¹¹M.G.L. c. 90, §6.

¹²M.G.L. c. 90, §34J.

¹³M.G.L. c. 90, §25.

¹⁴ M.G.L. c. 268, §39.

CHILD ABUSE INVESTIGATIONS

POLICY & PROCEDURE NO. 2.13	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/14/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

The purpose of this policy is to provide officers with guidelines for recognizing instances and accepting reports of child abuse and neglect and coordinating the investigation of such cases with appropriate child protective service agencies and prosecuting attorneys' offices.

Law enforcement and social welfare agencies share a responsibility in seeing that children do not become the targets of adult violence and parental neglect. Routine sharing of information by these agencies in a strategic manner, where permissible and appropriate, can often prevent child abuse or neglect from taking place.

II. POLICY

It is the policy of this police department that:

- A. Reports of child abuse and neglect shall be thoroughly investigated in accordance with this policy; and
- B. Appropriate measures shall be taken, consistent with state law, which will best protect the interests of the child.

III. DEFINITIONS

- A. **Abandonment:** Leaving a child alone or in the care of another under circumstances that demonstrate an intentional abdication of parental responsibility.
- B. **Abuse:** The non-accidental commission of any act by a caretaker upon a child under the age of eighteen (18) which causes or creates a substantial risk of physical or emotional injury, or constitutes a sexual offense under the laws of the

Commonwealth, or any sexual contact between a caretaker and a child under the care of that individual. This definition is not dependent upon location (i.e., abuse can occur while the child is in an out-of-home or in-home setting).ⁱ

C. Caretaker: A child's:

1. Parent;
2. Step-parent;
3. Guardian; or
4. Any household member entrusted with the responsibility for a child's health or welfare; or
5. Any other person entrusted with the responsibility for a child's health or welfare, whether in the child's home, a relative's home, a school setting, a day care setting (including babysitting), a foster home, a group care facility, or any other comparable setting. As such, "caretaker" includes (but is not limited to) school teachers, babysitters, school bus drivers, camp counselors, etc. The "caretaker" definition is meant to be construed broadly and inclusively to encompass any person who is, at the time in question, entrusted with a degree of responsibility for the child. This specifically includes a caretaker who is him/herself a child (i.e., a babysitter under age eighteen (18)).ⁱⁱ

D. Child: A person who has not reached his/her eighteenth birthday, not including unborn children.ⁱⁱⁱ

E. DCF: Department of Social Services.

F. Mandated Reporter: A person mandated by statute and/or CMR to make a report to the Department of Social Services if the person has reasonable cause to believe that a child is suffering physical or emotional injury resulting from abuse inflicted upon him/her which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse, or from neglect, including malnutrition, or who is determined to be physically dependent upon an addictive drug at birth. Public safety personnel are mandated reporters.^{iv}

G. Neglect: Failure by a caretaker, either deliberately or through negligence or inability, to take those actions necessary to provide a child with minimally adequate food, clothing, shelter, medical care, supervision, emotional stability and growth, or other essential care, provided, however, that such inability is not due solely to inadequate economic resources or solely to the existence of a handicapping condition. This definition is not dependent upon location (i.e., neglect can occur while the child is in an out-of-home or in-home setting).^v

IV. PROCEDURES

A. Initial Complaint Response

1. REPORTERS

- a. Reports may be received from a variety of sources including:

- 1) Family members;
 - 2) Neighbors;
 - 3) Department of Social Services;
 - 4) District Attorneys; and
 - 5) Anonymous sources.
- b. Statutory law requires that instances or suspected instances of child abuse or neglect be reported by public and private officials, such as physicians, dentists, school employees, clergy-persons and others. Officers shall record and respond to all reports of child abuse, neglect and abandonment, irrespective of the source or method of reporting. Police officers must report such abuse or neglect to the Department of Social Services:^{vi}
- 1) Verbally, within twenty-four hours; and
 - 2) In writing within forty-eight hours using the DCF reporting form accompanied by a copy of the incident report.

2. PRELIMINARY INVESTIGATION

- a. Reporter Interview
- 1) A preliminary interview will be conducted with the reporting individual, when known, to determine the basis for the report, including the determination of such factors as:
 - a) The physical condition of the child;
 - b) A description of the abusive or neglectful behavior;
 - c) Evidence of parental disabilities, such as alcoholism, drug abuse, mental illness or other factors that demonstrate or suggest their inability to care for the child;
 - d) Description of suspicious injuries or conditions;
 - e) The nature of any statements made by the child concerning parental maltreatment; and
 - f) Any evidence of parental indifference or inattention to the child's physical or emotional needs.
 - 2) When the source of the report cannot be identified, officers must investigate to determine if cause exists for further investigation.
- b. Caretaker Preliminary Interview
- 1) A preliminary interview of a caretaker alleged to be abusing or neglecting a child should be conducted where the abuse or neglect is taking place.
 - 2) Officers should be observant for physical signs of abuse or neglect. Such signs may include:

- a) Visible injuries on the child;
 - b) The child clothed in dirty or ragged clothing;
 - c) Home or facility in disarray;
 - d) Lack of food in the home, cabinets or refrigerator; and
 - e) Signs of drug or alcohol abuse.
- c. Preliminary Report Findings
- 1) Where such preliminary investigation leads the officer to believe that the report is unfounded or untrue, the officer shall note the findings in a report.
 - 2) Where reasonable suspicion exists to believe that a child is being abused or neglected:
 - a) The officer shall file a verbal and/or written report with DCF; and
 - b) A coordinated investigative effort should be undertaken with DCF.
- d. Immediate action shall be taken by officers when:
- 1) The complaint warrants arrest or criminal prosecution;
 - 2) Child protective personnel are not available, and time is of the essence;
 - 3) The child is in danger, and child protective personnel cannot enter the home;
 - 4) The suspected perpetrator may flee;
 - 5) Police presence is required to maintain order or to protect the safety of child protection officers; or
 - 6) When the child must be taken into protective custody against parental wishes.

B. Follow-up Investigation

1. **BACKGROUND INVESTIGATIONS:** The following sources may provide valuable information in conducting a child abuse or neglect investigation:
 - a. Check active or expired restraining or other court protective orders with regard to the child or other members of the family.
 - b. A criminal records check to include a local and Board of Probation check should also be performed on the suspect.
 - c. Check the victim's medical records. Certain types of injuries are particularly characteristic of physical abuse and are most incriminating when they do not correlate with parental explanations of how they occurred. They include:
 - 1) "Pattern" injuries that may be linked to specific objects used in an attack, such as hot irons, coat hangers; fingertip marks caused by tight

gripping; straight, curved or curvilinear or jagged lesions indicating whipping; bite marks; and scald or peculiar burn marks;

- 2) Injuries to specific body parts, such as the genitals, buttocks or rectum, as well as trauma to the torso, upper arms and thighs in the absence of other common injuries often suffered by children in play accidents, such as skinned knees, elbows, and forehead;
 - 3) Signs of old injuries to various parts of the body in different stages of healing, particularly those that are not common to childhood;
 - 4) Bone fractures of small children and related injuries that are inconsistent with the child's level of maturity and risk of injury, such as spiral fractures (suggesting vigorous shaking), fractures to the rear and upper skull (suggesting blows to the head), subdural hematomas without scalp contusions (suggesting violent shaking with resultant head whiplash), and fractures of long bones and joints that are suggestive of violent pulling, twisting or jerking of the extremities;
 - 5) A history, pattern or extent of injury that does not correlate with the alleged cause of death or means of injury;
 - 6) Inordinate delay in seeking medical attention, evidence of administration of home remedies for relatively serious injuries, history of prior visits to different emergency rooms, frequent changes of physicians and prior diagnosis of "failure to thrive"; and
 - 7) At autopsy, the presence of old injuries or other internal injuries that were not detectable through external examination.
- d. Social welfare officers may provide information on family background, employment, economic and domestic stability and previous contacts with child protective service agencies.
- e. School teachers may also provide some insight through records of the child's attendance, grades, demeanor, socialization, motivation and perceived emotional stability. Several behavioral indicators are suggestive of child abuse, including:
- 1) Recurrent injuries or complaints of parental physical mistreatment;
 - 2) Marked changes in the child's behavior or level of achievement;
 - 3) Strong antagonism toward authority;
 - 4) Exaggerated reactions to being touched;
 - 5) Withdrawal from peers, or assaultive or confrontational behavior;
 - 6) Delinquent acts, running away from home or truancy; and
 - 7) Refusal to dress for physical education or dressing inappropriately.
- f. Family members, neighbors, and other individuals who may have personal knowledge of the family situation may provide information.

2. ACCUSED CARETAKER/FAMILY INTERVIEW

- a. A DCF, State Police Detective and/or prosecutor/investigator should participate in the interview with the police investigator.
- b. The interview should be conducted in a non-accusatory, informal, fact-finding manner, and questions should be presented in an open-ended format to allow parents or caretakers complete latitude in responding.
- c. In determining whether to accept a parent's explanation, officers should consider the following questions. Findings consistent with those in parentheses may indicate a greater likelihood of abuse.
 - 1) Is it reasonable to believe that the child's injuries were self-inflicted or accidental given the child's maturity, manual dexterity and ability to walk or stand? (No)
 - 2) Was the caretaker's story consistent with other evidence? (No)
 - 3) Do caretaker(s) claim ignorance of critical details of the incident? (Yes)
 - 4) Does the home or facility appear to be clean and well maintained? (No)
 - 5) Does the family live a socially isolated environment without the support of neighbors, friends or family? (Yes)
 - 6) Do the parents appear to support one another in a positive home environment? (No)
 - 7) Do there appear to be frequent or ongoing crises in the family? (Yes)
 - 8) Does the child in question appear to be regarded by the care taker(s) in a negative way? (Yes)
- d. Some caretakers may explain or excuse the incident as a legitimate attempt to discipline the child. In order to be reasonable and acceptable, discipline should:
 - 1) Be appropriate to the misbehavior involved but never involve serious bodily injury;
 - 2) Be consistent with the child's ability to understand its relevance to acts in question; and
 - 3) Be administered with prudence and caution rather than recklessly, brutally or without sufficient regard for the child's power of endurance.

3. INTERVIEWING CHILDREN

- a. NOTE: A DCF, State Police Detective and/or prosecutor/investigator should participate in the interview with the police investigator.
- b. Officers conducting interviews with children in suspected child abuse cases should be familiar with the following special issues that arise when conducting these interviews:
 - 1) Interview settings and method should be appropriate for the age of the child.

- 2) Children should be interviewed separately from their parents.
 - 3) Repeated interviews with the child should be avoided whenever possible.
 - 4) Avoid questions that can be answered with a “yes” or “no” response. Use open-ended questions whenever possible.
 - 5) Sit with the child rather than across a table. Conduct the interview in a casual and non-threatening manner.
 - 6) Do not lead the child or suggest answers, probe or pressure the child for answers, or express concern, shock or disbelief in response to answers.
 - 7) Reassure the child that [s]he is not to blame and is not in trouble for what happened or for being asked questions.
- c. Multidisciplinary Team Interview (SAIN Interview)
- 1) An interview may be conducted by a Child Interview Specialist in a non-threatening setting. The interview is viewed by the police investigator, DCF investigator, assistant district attorney, and other appropriate participants.
 - 2) Participants may input questions to the interviewer to obtain a response from the child.
 - 3) Such an interview may minimize the trauma of these sessions to the child being interviewed.
 - 4) A SAIN (Sexual Abuse Intervention Network) interview may be arranged through the District Attorney’s office.
4. PHYSICAL EVIDENCE: Collecting physical evidence to document abuse is very important for prosecuting these cases. In this regard, officers should be aware of the following:
- a. Injuries should be photographed in color. Photos taken during medical examinations may be taken by medical personnel or by a same-sex officer. All injuries should be described in writing and diagrammed.
 - b. X-rays should be taken if deemed appropriate by a medical doctor, and any that have been taken should be collected and preserved.
 - c. Photographs of home conditions bearing on the child’s maltreatment should be taken.
 - d. Any instruments that were used in the physical attack should be identified and preserved, as well as any clothing that bears evidence such as blood or semen stains.
 - e. Any other items that have bearing on the abuse or neglect, such as guns, knives, drugs, poisons or related items in possession of the suspected perpetrator, should be identified and collected.

- f. Evidence collected shall be documented and submitted to the property and evidence function. See the department policy on Collection and Preservation of Evidence.

C. Removal of Children

1. Children may be removed in the case of an emergency.
 - a. Examples of such incidents are cases of abandonment or severe abuse or neglect, where the child is in imminent danger of death or serious bodily harm, and time is of the essence.
 - b. Parental permission should also be sought, but is not required in order to remove the child under emergency circumstances.
 - c. The assistance of the Department of Social Services shall be sought.
2. Police may remove children from a home in compliance with a judicial order.
 - a. In cases where protective custody is warranted and time permits, the Department of Social Services shall be notified and a court order for protective custody shall be sought prior to the child's removal.

Officers may accompany DCF workers and preserve the peace in support of a judicial order to remove chi

ⁱ 110 CMR 2.00.

ⁱⁱ 110 CMR 2.00.

ⁱⁱⁱ 110 CMR 2.00.

^{iv} 110 CMR 2.00; M.G.L. c. 119, §51A.

^v 110 CMR 2.00.

^{vi} MGL c. 119, §51A.

ELDER ABUSE INVESTIGATIONS

POLICY & PROCEDURE NO. 2.14	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/14/2019

I. GENERAL CONSIDERATIONS AND GUIDELINES

According to the 2000 census, approximately one of every six Massachusetts residents is age 60 or older. Elders are often the victims of abuse, neglect and financial exploitation. In addition, certain elders have lost the ability for self-care and are unable to meet their essential needs. These self-neglecting elders, along with elder victims and elder perpetrators, present unique challenges for law enforcement.

II. POLICY

It is the policy of this department that:

- A. Officers shall accord all persons, including elders, all the individual rights to which they are entitled;
- B. Officers shall attempt to protect elders from harm and shall refer them to agencies or persons able to provide services where appropriate;
- C. Officers shall coordinate their efforts with local protective services agencies to ensure the elders' safety;
- D. Officers shall adhere to the mandated reporting requirements of G.L.c.19A, §15, the Elder Abuse Reporting Statute, and its implementing regulations found at 651 CMR 5.02; and
- E. **[OPTIONAL]** The Department shall designate one or more officers to have primary responsibility for elder concerns.

III. DEFINITIONS

- A. Elderly Person: An Elderly Person is an individual who is sixty years of age or over.

IV. PROCEDURE

A. Generally

1. COMPETENCY

- a. Competent elders have the same right to self-determination as do other **adults**.
- b. Officers should not make assumptions about the elder's capabilities, but should be aware of the potential for diminished capacity and other **complicating factors**.

2. ELDER VICTIMS FILING REPORTS

- a. An elder victim may not be competent to tell his/her story.
- b. An elder victim may be reluctant to report an abusive family member or caretaker who acts as the victim's sole or primary support.
- c. An elder victim may be too embarrassed to admit that a loved one is abusing him/her.

3. ELDER PERPETRATOR

- a. An elder perpetrator may also have diminished capacity and poor impulse control caused by a disease process.
- b. The department's Domestic Violence Policy and Procedures apply to elders.

4. CARETAKER STRESS

- a. Adult children who have family, career and other obligations of their own **may also be responsible for taking care of their parents**.
- b. The associated stress can occasionally lead to neglect and more dangerous behaviors.

B. The Mandated Reporting Law

1. GENERALLY

- a. Officers shall familiarize themselves with the following terms, as defined in the **reporting law and implementing regulations**.
- b. The failure to report suspected instances of abuse or neglect is punishable by a fine of up to \$1,000. ¹
- c. For a mandated reporter, the law grants immunity from civil and criminal liability based on the filing of a report, so long as the reporter did not inflict the abuse.

2. DEFINITIONS²

- a. **ABUSE**: An act or omission which results in serious physical or emotional injury to an elderly person or financial exploitation of an elderly person or **the failure of an elder to meet one or more of his/her essential needs**. The

statute provides an exception for treatment provided or refused in **accordance with religious beliefs. "Abuse" includes physical, emotional and sexual abuse, caretaker neglect, self-neglect, and financial exploitation. G.L. c.19A, §14**

- b. **EMOTIONAL ABUSE:** The non-accidental infliction of serious emotional injury to an elder. There must be an established relationship between the emotional abuse and its effect on the elder. 651 CMR 5.02
 - c. **FINANCIAL EXPLOITATION:** An act or omission by another person, which causes a substantial monetary or property loss to the elder, or causes a substantial monetary or property gain to the other person which would **otherwise benefit the elder. Exploitation may result even if the elderly person consented to the act or omission if the consent was obtained through misrepresentation, undue influence, coercion or the threat of force. G.L. c.19A, §14.**
 - d. **NEGLECT:** The failure or refusal by a caretaker to provide one or more of the necessities essential for physical well-being which has resulted in or may immediately result in serious physical harm. 651 CMR 5.02
 - e. **PHYSICAL ABUSE:** The non-accidental infliction of, or threat of, serious physical injury to an elder. 651 CMR 5.02
 - f. **SELF-NEGLECT:** The failure or refusal of an elder to provide for himself or herself one or more of the necessities essential for physical and emotional well-being, including food, clothing, shelter, or personal care, which has resulted in, or where there is a substantial reason to believe that such failure or refusal will immediately result in, serious harm and prevents the elder from remaining safely in the community. 651 CMR 5.02(6) (2004)
 - g. **SEXUAL ABUSE:** Sexual assault, rape, sexual misuse, sexual exploitation of an elder, or threats of sexual abuse. 651 CMR 5.02
3. **REPORTING**
- a. Police are required, as mandatory reporters, to report suspected instances of elder abuse.³
 - 1) **This occurs if there is reasonable cause to believe that an elder, who is 60 years of age or older, is suffering from or has died from abuse or a reportable condition.**
 - 2) A police officer must immediately make a verbal report to the Department of Elder Affairs or the local protective services agency during normal business hours or to the elder abuse hotline (1-800-922-2275) after normal business hours and on weekends.
 - b. A written report must be filed within 48 hours of the verbal report.
 - c. **Mandated reporters are informed in writing of the disposition of reports.**

C. Special Circumstances

1. PHYSICAL LIMITATIONS

- a. Many elders, whether self-neglecting, abuse victims or perpetrators, have **physical limitations that make it difficult for them to communicate.**
- b. Some elders have speech impairments caused by stroke or other **debilitating conditions.**
- c. Others suffer from a loss of hearing or vision or other frailties that may impair their ability to communicate.
- d. Officers must be aware of and sensitive to the physical limitations of individual elders and make efforts to communicate with them in a sensitive **and respectful manner.**
- e. When needed, assistance from the appropriate protective services agency should be sought.

2. DIMINISHED CAPACITY

- a. Some elders have diminished cognitive capacity due to the effects of **dementia or Alzheimer's disease.**
- b. Depending on the extent of the dementia or Alzheimer's, an elder may or **may not be able to provide reliable information about his/ her situation.**
- c. Some elders suffer from mental illness, which could further impact their **cognitive abilities.**
- d. Police officers need to be able to identify when an elder's diminished capacity prevents him/her from providing reliable information and obtain assistance from the appropriate protective services agency.

3. WORKING WITH RESISTANCE

- a. Many elders are resistant to outside intervention.
- b. This resistance may be due to any number of factors, including:
 - 1) A life-long sense of independence;
 - 2) The effects of mental illness;
 - 3) Fear or embarrassment to admit that they have been abused; and/or
 - 4) Desire to protect the perpetrator.
- c. When encountering resistance, it is important to build rapport by determining and responding to those issues that are important to the elder. **Often, this approach will diminish the resistance and enable the officer to address more serious matters.**
- d. When needed, assistance should be sought from the protective services **agency.**

D. Taking an Elder into Custody

1. CRIMINAL: An elderly person may be taken into custody if the elder has committed a crime.
2. NON-CRIMINAL
 - a. An elderly person may be taken into custody for emergency mental health if:⁴
 - 1) The officer has reason to believe that the failure to hospitalize the elder would create a likelihood of serious harm by reason of mental illness; or
 - 2) The elder has escaped or eluded the custody of those lawfully required to care for him/her.
3. If the situation warrants, an officer should consider whether the procedures outlined in the Civil Commitment Statute would be appropriate and refer to the department's policy on **Handling the Mentally Ill** .

E. Interrogating Elderly Suspects

1. CRIMINAL INTERROGATION
 - a. Whenever an elderly person is suspected of committing a crime and is going to be questioned, police officers must be particularly careful in advising the subject of his/her Miranda rights and eliciting any decision as to whether he or she will exercise or waive those rights.
 - b. It may not be obvious that the person does not understand his/her rights.
 - c. The department's Interrogating Suspects and Arrestees policy and procedure should be consulted.
2. MENTAL CONDITION OR DISABILITY
 - a. Before interrogating a suspect who has a known or apparent mental condition or disability, police should attempt to determine:
 - 1) The nature and severity of that condition or disability;
 - 2) The extent to which it impairs the subject's capacity to understand basic rights and legal concepts, such as the Miranda warnings; and
 - 3) Whether there is an appropriate "interested adult," such as a spouse, adult child, guardian or legal custodian of the elder who could assist the elder in understanding his or her Miranda rights and in deciding whether or not to waive any of those rights in a knowing, intelligent and voluntary manner.
 - b. Where competency may be in question, officers should be aware that any waiver obtained will be carefully scrutinized by the court.
 - c. Consultation with the local district attorney's office may be appropriate in such circumstances.

F. Considerations When Arresting a Caretaker

1. In cases involving abuse of an elder by a caretaker, officers must address the issue of whether or not the victim can be left alone safely if the abuser is arrested.
2. If the elder cannot be left alone, the appropriate protective services agency must be contacted in order to arrange for the temporary care of the elder.

G. Selected Criminal Laws: Following are several of the criminal statutes which officers dealing with the elder population may encounter with some frequency:

1. Assault and Battery upon an Elderly or Disabled Person (G.L. c.265, §13K);
2. Indecent Assault and Battery on a Person 14 or Older (G.L. c.265, §13H);
3. Assault and Battery with Dangerous Weapon; Victim Sixty or Older (G.L. c.265, §15A);
4. Assault with Intent to Rob or Murder While Armed; Victim Sixty Years or Older; Minimum Sentence for Repeat Offenders (G.L. c.265, §18);
5. Robbery by Unarmed Person; Victim Sixty or Older (G.L. c.265, §19);
6. Entering Dwelling House by False Pretenses; Intent to Commit Felony; Larceny (G.L. c.266, §18A);
7. Larceny by Stealing; Victim Sixty-Five or Older (G.L. c.266, §25); and
8. Larceny; General Provisions and Penalties (G.L. c.266, §30(5)).

¹ M.G.L.c.19A, §15.

² M.G.L.c.19A, §14; 651 CMR 5.02.

³ See M.G.L. c. 19A, §15. Officers are mandated to report abuse and neglect of elders in nursing homes and other long-term care facilities to the Department of Public Health; M.G.L. c. 111, §72G; M.G.L.c.19A, §15; 651 CMR 5.02.

⁴ M.G.L. c.123, §12(a).

DOMESTIC VIOLENCE

POLICY & PROCEDURE NO. 2.15	ISSUE DATE: 11/01/17
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HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 06/26/2023

POLICY

It is the policy of the Hadley Police Department to establish guidelines for law enforcement officers to respond to domestic violence calls. The primary focus shall be on victim safety, followed closely by offender accountability; accordingly, a proactive, pro-arrest approach in responding to domestic violence is a priority.

It is the policy of the Hadley Police Department that officer shall be expected to do the following:

- Establish arrest and prosecution as a preferred means of police response to domestic violence;
- Enhance the safety of victims, their children, and anyone else living in the home;
- Take appropriate action for any violation of permanent, temporary, or emergency orders of protection;
- Promote the safety of law enforcement personnel responding to incidents of domestic violence. and;
- Provide victims and witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment. Community stakeholders are individuals and entities in the community who work to foster effective intervention in and prevention of domestic violence. Entities include, but are not limited to, law enforcement agencies, prosecutors, parole, probation, community based domestic violence and sexual assault programs, social service agencies, adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses and employers; and

- Complete thorough investigations and effect arrest of the dominant aggressor upon establishment of probable cause.

PROCEDURES

I. DEFINITIONS

A. **Abuse:** is defined by G.L. c. 209A, § 1 as the occurrence of one or more of the following acts between family or household members:

1. Attempting to cause or causing physical harm;
2. Placing another in fear of imminent serious physical harm; or
3. Causing another to engage involuntarily in sexual relations by force, threat or duress.

B. Family or Household Members:

1. For the purposes of this policy, for all portions EXCEPT the charge of Domestic Assault and Battery under G.L. c. 265, section 13M, the term “family or household member” shall include any of the following:
 - a. Persons who are or were married to one another;
 - b. Persons who are or were residing together in the same household;
 - c. Persons who are or were related by blood or marriage;
 - d. Persons who have a child in common regardless of whether they have ever married or lived together; or
 - e. Persons who are or have been in a substantive dating or engagement relationship. This includes relationships involving an individual or individuals, who identify as gay, lesbian, bisexual, or transgender.
2. For the purposes of this policy, for the charge of Domestic Assault and Battery under G.L. c. 265, section 13M ONLY, the term “family or household member” shall include any of the following:
 - a. Persons who are or were married to one another;
 - b. Persons who have a child in common regardless of whether they have ever married or lived together; or
 - c. Persons who are or have been in a substantive dating or engagement relationship. This includes relationships involving an individual or individuals, who identify as gay, lesbian, bisexual, or transgender.

Important Note: In essence, the broader G.L. c. 209A, section 1 is inclusive of all types of domestic violence including family, household members, and intimate partners. However, if charging “Domestic Assault and Battery” under G.L. c. 265, section 13M, it only applies to those persons who meet the “intimate partner” definition. All other domestic violence situations would be charged with a simple A&B, A&B DW, or whatever is appropriate given the circumstance.

C. Firearms: shall not be limited to its definition in G.L. c. 140, § 121, but rather shall include any of the following:

1. Firearms;
2. Rifles;
3. Shotguns;
4. Machine guns;
5. Ammunition;
6. High capacity feeding devices; or
7. Antique firearms.

D. Harass: as defined in G.L. c. 268, section 13B means to engage in any act directed at a specific person or persons, which seriously alarms or annoys such person or persons and would cause a reasonable person to suffer substantial emotional distress. Such act shall include, but not be limited to, an act conducted by mail, telephonic or telecommunication devices, electronic communication, internet communication, instant message, or facsimile communication.

E. Licenses: as defined in G.L. c. 140, sections 122, 122B, 129B, and 131, shall include all of the following:

1. Class A license to carry firearms;
2. Class B license to carry firearms;
3. Class C firearms identification card;
4. Class D firearms identification card;
5. License to possess a machine gun;
6. License to sell firearms;
7. License to sell ammunition; or
8. License to perform as a gunsmith.

F. Serious Bodily Injury: as defined in G.L. c. 265, sections 13A(b), 15A(b), and 15D(a), shall mean bodily injury that results in a permanent disfigurement, loss or impairment of a bodily function, limb or organ, or creates a substantial risk of death.

G. Strangulation: as defined in G.L. c. 265, section 15D(a) shall mean the intentional interference of the normal breathing or circulation of blood by applying substantial pressure on the throat or neck of another.

H. Suffocation: as defined in G.L. c. 265, section 15D(a) shall mean the intentional interference of the normal breathing or circulation of blood by blocking, or “block of” the nose or mouth of another.

II. CIVIL LIABILITY

According to G.L. c. 209A, § 6: "No law officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter and the statewide policy as established by the Secretary of Public Safety."

III. DISPATCHER RESPONSE

The likelihood of injury associated with domestic violence situations requires that officers immediately proceed to the place of the dispute.

A. Whenever possible, two officers should be dispatched to the scene. [81.2.4 (e)]

B. Dispatch officers or call takers should do the following:

1. Assign a priority response to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a police officer of any department; [41.2.1; 81.2.6 (a)]
2. Immediately notify a supervisor of any domestic violence calls; [81.2.5 (a)]
3. Preserve documentation of the facts and circumstances of each call, including tapes, for use in potential administrative and criminal investigations;
4. Maintain current contact information of local domestic violence victim advocacy organizations for responding officers to provide to victims;
5. Attempt to elicit any and all information from the caller that may help the responding and investigating officers assess the situation, including the following:
 - a. Immediate safety of the caller, the victim, and others at the scene;

- b. Nature of the incident (verbal or physical), nature of injuries, and whether violence is ongoing;
 - c. The type of weapons that are involved, or present, if applicable;
 - d. Potential hazards to responders, including animals;
 - e. Whether the caller or alleged assailant is under the influence of alcohol or drugs, or if there are mental health issues;
 - f. Caller's and alleged assailant's description;
 - g. Presence or absence of the alleged assailant, and direction and mode of travel, if applicable;
 - h. Other people involved or witnesses at the scene, including children;
 - i. Alleged assailant's criminal history (BOP check);
 - j. Number of times the Hadley Police Department has been called to this scene because of this suspect;
 - k. Existence of a protection order currently on file against the suspect or caller (check BOP);
 - l. Outstanding warrants against the caller or assailant if any exist (check CJIS and Warrant Management System); **[81.2.9]**
 - m. Caller and alleged assailant's date of birth or social security number; and
 - n. Record of firearms identification cards and/or licenses to carry having been issued to resident(s).
6. Inform the caller of an approximate time of the officer's arrival;
 7. Keep the caller on the telephone, if the caller is a victim or witness to a domestic violence incident in progress, in order to relay ongoing information provided by caller to the responding officers and remain aware of the victim's safety;
 8. Make the safety of the domestic violence victim a primary concern;
 9. Address threats of violence, whether immediate or remote, by working with the victim to focus on ways to enhance safety, such as waiting for officers at another location or leaving the location if the suspect returns;
 10. Keep in mind the caller could be the victim or assailant; and
 11. Do not cancel the original call for service if a subsequent request to cancel the original call is received – advise the responding officers of the second call and instruct them to continue to respond, investigate, and assess the situation to ensure that all parties are safe.

IV. POLICE RESPONSE

A. ON-SCENE CONSIDERATIONS

1. INITIAL OBSERVATIONS

- a. Upon arrival, responding officers should approach the scene with a high degree of caution. Upon approach, officers shall make observations of the surrounding area for evidence such as weapons, damaged furniture, broken windows, and any other items that may be evidence of a domestic violence incident.
- b. Officers shall listen for sounds of an argument, threats, or an ongoing physical assault. All evidence, utterances, statements, and observations should be documented in an incident report – and photographically if appropriate. [42.2.1 (a)]

2. ENTERING A PRIVATE PREMISES

When investigating a report of domestic violence, officers should wait for a second officer unless exigent circumstances exist. Officers may enter private premises without a warrant in the following circumstances:

- a. at the request of someone in lawful control of the premises;
- b. Where there is imminent danger of violence that could result in death or serious physical injury;
- c. where a breach of the peace has been committed in an officer's presence;
- d. when a police officer has probable cause to believe a felony has occurred and is in fresh pursuit of the fleeing felon;
- e. in order to quell an ongoing disturbance and restore peace; or
- f. after repeated attempts to contact residences and contacting the patrol supervisor.

"Private premises" shall include, but not be limited to, a house, an apartment, a condominium, a hotel room, a mobile home, a dormitory room, or a house trailer.

3. OFFICER'S Demeanor

- a. The responding officers shall maintain a professional, non-biased, and objective demeanor throughout their investigation. Officers should immediately state their reason for being present to the persons at the scene – including any children. This action can help defuse the situation.

- b. Upon entering, officers shall prevent the physical movement of the parties as much as possible and control their access to any potential weapons.
- c. Be cognizant that individuals under the influence of drugs or alcohol or suffering a mental health disorder may pose additional safety risks to themselves or others on scene. Special precautions and tactics may need to be implemented as learned through in-service training.
- d. Should an arrest be pending, attempt to remove children or the arrestee from the scene prior to affecting the arrest. Reinforce with the children that the incident was not their fault and that the police are there to help the family. If the child called 911, reinforce they did the right thing by calling the police.
- e. Additional layers of control and oppression experiences by individuals which can exacerbate their response to law enforcement may include, but not limited to the following:
 - Immigration status;
 - Language skills including English as a second language;
 - Cultural identity;
 - Physical limitations and disabilities; and
 - Sexual orientation and gender identity.
- f. These individuals may fear the police and present angrily or as abusers themselves. It is important to be aware of and deter any biases. Statewide resources for these, and other special populations, can be found in the Appendix of this policy.

B. OFFICER'S RESPONSIBILITY ON SCENE

1. SEPARATE THE PARTIES

- a. The responding officers must take immediate control of the situation and should separate the parties to prevent any further violent action. The parties should be interviewed independently. However, if there are two officers present at the scene, they should, if practical, remain within view of each other to enhance officer safety and to avoid any subsequent conflict.
- b. Throughout the investigation, the officers should allow each party to present his or her story individually, avoiding any unnecessary interruptions by the other party. Separating the parties also allows each to relate matters to an

officer without being overheard, influenced or intimidated by the other party.

2. LANGUAGE BARRIERS

- a. Officers should determine whether interpretative language services are needed and should seek out such services where available.
- b. The practice of using children or other family members as interpreters is strongly discouraged unless it is a medical emergency. Using family members as interpreters could prove dangerous to the child and/or adult victim. Officers can call **QWEST**, a multilingual communications network provided to assist the department at **(888) 892-2850** for interpretive language services 24 hours a day. [\[81.2.5 \(f\)\]](#)

3. REMAIN ON SCENE

Officers shall remain on the scene or present wherever the incident occurred as long as the officers have reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of an officer. Whenever any officer has reason to believe that a family or household member has been abused or is in danger of being abused, such officer shall use all reasonable means to prevent further abuse. Law enforcement officers should remain on scene for a “reasonable period of time” to prevent abuse. If the suspect has fled the scene, a reasonable period is the amount of time necessary:

- To assess that the suspect has left the scene; and
- To carry out the responsibilities outlined in the remainder of this policy.

4. MEDICAL TREATMENT

- a. Officers shall assist the victim in obtaining medical treatment for any sustained injuries by arranging for appropriate transportation by ambulance to a health care facility. Officers should consider responding to the Emergency Room to properly document any sustained injury. In addition, consideration should be given to whether a sexual assault forensic exam needs to be completed. A list of MA Sexual Assault Nurse Examiner [SANE] sites may be found in the Appendix of this policy).
- b. In cases of serious injury, the preferred method of transportation is via ambulance. Officers are authorized by G.L. c. 209A, § 6 to transport victims of domestic violence to the emergency room of the nearest hospital, or to arrange for appropriate transportation to a health care facility. Officers

should receive approval from their supervisor prior to transporting a victim of domestic abuse in a cruiser, except in an emergency.

5. INTERVIEWING WITNESSES [42.2.2]

Officers shall attempt to identify and interview the party who called the police, neighbors, and other potential witnesses. All parties present and involved should be documented in the incident report. It is not unusual for some witnesses to be unsupportive of the victim. Do not tell the suspect who called the police.

6. GATHER INFORMATION FROM THE SCENE [42.2.2]

Officers shall attempt to obtain the following information at the scene. If that is not possible, obtain the information during the follow-up investigation:

- Determine the relationships of all parties, including children, at the scene. If children are not immediately observed, ask if there are children present in the household.
- If children are present,
 - record their names and dates of birth;
 - check on the children to ascertain whether or not they have sustained an injury;
 - unless it involves a medical emergency or safety concern, consider conducting a “minimal facts” interview on scene if appropriate; and
 - if the child needs a more comprehensive interview, contact the District Attorney’s Office/Children’s Advocacy Center to schedule a forensic interview.
- Obtain at least two phone numbers where the victim can be reached. Include a cell phone number, a daytime phone number, or the number of a close relative or friend. Include these numbers in the incident report so the bail bondsperson or court personnel may inform the victim of the abuser's release on bail. [55.2.5]
- Inform the victim that if they intend to leave the residence, and wish to be informed of the abuser's release, the victim must inform the police department of a number where they may be reached, or where a message may be left safely. [55.2.5]
- Consult with the victim whether their phone number should remain confidential and take steps to ensure that it is, if necessary.
- Do not rely on prior phone numbers in your in-house system, as they may be outdated.

- Obtain information about the suspect's ownership of, presence of, or access to firearms, and their location.
- Officers should gather information regarding suspect's past behavior/dangerousness. This information should be documented in an incident report and/or high risk assessment worksheet (See Appendix of this policy) and provided to the Bail Commissioner in determination of bail and to the Prosecutor for use at arraignment. That information includes but is not limited to the suspect's:
 - Criminal history;
 - History of abusing the current victim;
 - History of abusing other victims;
 - History of non-fatal strangulation;
 - History of forced sex;
 - History of extreme possessiveness or jealousy;
 - Possession of weapons;
 - History of use of/or threats with a weapon;
 - Use of weapons in prior abuse of the victim;
 - Past threats against or abuse of pets;
 - Past attempts or threats to kill;
 - Past attempts or threats to commit suicide; and
 - Current or past vacate, restraining, no-contact or other protective orders, including those held against the suspect by someone other than this victim.
- After ascertaining past reported and non-reported criminal history, seek appropriate criminal action for current and prior incidents.
- Refer victims to appropriate resources listed in the Appendix of this policy.

7. INFORMATION DOCUMENTATION [42.2.2]

- a. Officers shall properly document important information, i.e., spontaneous utterances (direct quotes) by the victim, the suspect, children, and other witnesses.
- b. In collecting evidence of domestic abuse, officers should use photographs to document injuries sustained by the victim and the condition of the crime scene.
- c. Contemporaneous records of injuries and crime scene condition are critical to the prosecution of alleged abusers:

- When documenting the scene photographically, officers are reminded to take both close-up and full-scene pictures. Follow-up photographs of injuries should be taken 2-3 days after the incident to document progression of injuries;
 - Collect physical evidence (including weapons used, even when simple household item) and document collection in the incident report.
- d. If the incident involves strangulation, the officer shall complete a strangulation worksheet. (See Appendix of this policy) [42.2.3]
- e. Officers shall complete a High Risk Assessment Worksheet (see Appendix of this policy) where there is a current or previous relationship between the parties and the responding officer:
- Believes a violent incident may have occurred,
 - Senses the potential for danger is high,
 - Is responding to repeat names or location, or
 - Simply believes one should be conducted.
- f. In cases where a domestic violence arrest has been made, copies of all worksheets will be submitted with the arrest packet for use by the Bail Commissioner for bail purposes, the District Attorney and Probation Department for use at the detainee's arraignment and prosecution. [82.2.1 (d); 82.2.1 (e); 82.2.4]

8. GETTING TO A SAFE PLACE

- a. Officers shall assist the victim and dependent children in locating and getting to a safe place, including but not limited to a designated meeting place for entry into emergency shelter or a family member's or friend's residence (or a similar place of safety). The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances. [55.2.5]
- b. The location and street addresses of all domestic violence programs are absolutely confidential and shall not be required to be revealed in any criminal or civil proceeding. See G.L. c. 233, section 20L. For the purposes of this provision, a domestic violence program is defined as any refuge, shelter, officer, safe home, institution, or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal or support counseling. See G.L. c. 233, section 20K. [54.1.1 (d); 54.1.1 (e); 55.1.3 (b); 82.2.1 (c)]

- c. If a report is made at a domestic violence program, the incident occurred at that program or an officer transported someone to a program, the officer shall not include this address in the incident report. **Under no circumstances should a law enforcement officer release information to the public or otherwise regarding the location of a domestic violence program.**

9. NOTICE OF RIGHTS

Officers shall give abuse victims immediate and adequate notice of rights by handing to them and reading them their rights (see Appendix of this policy). This form should be signed by the victim. Where the person's native language is not English, the statement shall be provided in said person's native language whenever possible. [55.1.1; 55.1.3 (a); 55.1.3 (b); 55.2.1 (a); 55.2.1 (b)]

10. ACTIVATING THE EMERGENCY JUDICIAL RESPONSE SYSTEM

Officers shall assist the victim by activating the Emergency Judicial Response System when a judge is not available through court. This should be done even when the alleged abuser has been arrested. [55.2.2]

Note: If a victim is unable to appear in court because of severe hardship due to the victim's physical condition, officers can seek an order by contacting the court. A representative may appear in court on behalf of the victim to seek an emergency or temporary order. Officers shall advise a victim that a representative may appear on their behalf.

11. ISSUANCE OF AN ABUSE PREVENTION ORDER

Upon issuance of any applicable order under G.L. c. 209A, police shall immediately take possession of all firearms and licenses in the control, ownership or possession of the defendant. Such firearms and licenses may not be returned until the order has been completely vacated or the firearms provision modified by order of the court.

- Violations of Orders: In the interest of immediacy and the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officer witnesses or has probable cause to believe has violated an order—including a violation, which stems from the possession of firearms, weapons, or licenses.
- If after your assessment, the situation does not meet the substantive dating relationship, consider if the facts and circumstances apply regarding a 258E protection order.

12. SUBSTANTIVE DATING RELATIONSHIPS

- a. Officers will gather information to determine whether or not a substantive dating relationship exists. Officers will examine the same factors which the courts review when making this determination:
 - the length of time of the relationship;
 - the type of relationship; and
 - the frequency of interaction between the parties.
- b. This includes the interaction between the parties through the use of technology; and, if the relationship has been terminated by either person, the length of time that has elapsed since the termination of the relationship.
- c. If the officer determines that a "substantive dating relationship" exists or did exist, then the officer shall take the proper action, including arrest when appropriate, regardless of whether the victim seeks a restraining order.
- d. Even in cases where there is no substantive dating relationship, a crime, such as stalking or criminal harassment, may have been committed.

A. RESPONSIBILITIES OF THE ON-DUTY SUPERVISOR

1. RESPONSE

- a. The on-duty supervisor shall ensure that all provisions of G.L. c. 209A, other related statutes and this policy are fully adhered to.
- b. The on-duty supervisor shall be responsible for monitoring all domestic violence calls.
- c. Whenever possible, the on-duty supervisor shall respond to the scene for the purpose of providing advice or any other assistance.

2. ASSURANCES FOR PRACTICE [82.2.1 (e)]

Supervisors will ensure that the provisions of all applicable laws and this policy are adhered to. Specifically, supervisors will ensure that:

- a. Dispatch logs will be reviewed to ensure that an incident report has been filed, even in cases where no arrest was made. Calls, which are received as allegations of domestic violence or a domestic disturbance, will not be reclassified because no probable cause to arrest existed. Incident reports will be filed in those cases.

- b. A supervisor, or a specially trained domestic violence investigator within the department, will review incident and arrest reports, in order to ensure compliance with the provisions of G.L. c. 209A and this policy. If, upon review of an incident report, it is believed that probable cause exists, the supervisor will ensure that criminal charges are initiated according to the statute and this policy.
- c. Whenever a domestic violence incident is identified as posing a significant danger the case should be assigned for follow-up, presented at roll call and forwarded to a “High Risk Team”, if applicable.
- d. Whenever a supervisor identifies a particular defendant as being high risk to the victim or the public, the case should be promptly referred to the District Attorney’s Office. [41.1.2]
- e. Whenever a dual arrest is made, the supervisor shall review the case to determine if one of the parties is a dominant aggressor before approving the dual arrests and reports.

3. REFERRALS

- a. Supervisors shall ensure that the appropriate and mandated reports are filed for children, persons with disabilities, and the elderly.
- b. Supervisors shall ensure proper safety plans are in place for the survivor and other family members. These measures shall be in place immediately enabling those affected to make informed decisions.
- c. The safety plan may include all, some or additional items:
 - Drive-bys
 - Welfare spot checks
 - Arresting the abuser
 - Serving 209A orders
 - Assisting in obtaining 209A order
 - Arranging transportation for medical, shelter, or other locations
 - Referral to a Domestic Advocate

4. FOLLOW-UP INVESTIGATIONS

Supervisors shall:

- a. Determine if a follow-up is needed;

- b. Ensure it is conducted in a complete and thorough fashion; and
- c. Review and ensure proper charges are filed whenever appropriate [42.1.4]

V. ARREST GUIDELINES [74.3.1]

A. THE DECISION TO ARREST

1. **GENERALLY**

- a. The safety of the victim, children, and other family members shall be paramount in any decision to arrest.
- b. As in other types of criminal investigations, uncorroborated statements by a victim can constitute probable cause that the crime occurred.
- c. The decision to arrest must be based on whether probable cause exists that the crime occurred, not on whether or not the victim wishes to seek complaints or wishes to testify at a future date. [1.2.7]

2. **SUBSTANCES ABUSE AND/OR MENTAL HEALTH ISSUES**

When assessing credibility in order to establish probable cause, officers should remember that a victim who is under the influence of drugs or alcohol, or who suffers from mental illness, is not an inherently unreliable witness.

3. **ARREST: MANDATORY OR PREFERRED [74.3.1; 1.2.7]**

An officer's authority or mandate to arrest is set forth in G.L. c. 209A, section 6(7).

a. **Mandatory:**

In the interest of immediacy, and the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officers witness or have probable cause to believe has violated an emergency, temporary or permanent vacate, refrain from abuse, stay away or no-contact order or judgment, a suspension and surrender order, or protection order issued by any jurisdiction. G.L. c. 209A, section 7.

b. Preferred:

When there is no outstanding restraining order, arrest shall be the preferred response whenever officers witness or have probable cause to believe that a person:

1. Has committed a felony;
 - Aggravated Assault and Battery c265, §13A(b)
 - Assault and Battery By Means of a Dangerous Weapon c265, §15A
 - Assault and battery upon an Elder or a Person with a Disability c265, § 13K
 - Assault and Battery on a Family or Household Member, Subsequent Offense Only c265, §13M(b)
 - Assault by Means of a Dangerous Weapon c265, §15B
 - Intimidation of a Witness c268, §13A
 - Kidnapping c265, §26
 - Stalking c265, §43
 - Strangulation or Suffocation c265, §15D

2. Has committed a misdemeanor involving abuse, as defined in G.L. c. 209A
 - Assault and Battery on a Family or Household Member c265, §13M(a) (see definition)

B. IF THE SUSPECT HAS FLED THE SCENE

1. GENERALLY

- a. When probable cause to arrest exists and the suspect has fled the area, patrols, including other jurisdictions where the suspect is believed to be going, shall be advised in efforts to locate and arrest the suspect.

- b. One department's statement that probable cause to arrest exists shall be honored by another department. The second department shall immediately attempt to affect the arrest as requested by the investigating department.

- c. Officers will attempt to make a warrantless arrest within a reasonable period of time. However, as soon as is practical, the investigating department shall seek an arrest warrant from the appropriate court, in cases involving abuse as defined under G.L. c. 209A.

- d. When probable cause exists to believe a crime involving abuse occurred, it is not proper procedure to advise the victim to seek complaint applications on his or her own.

2. THE MASSACHUSETTS PROBATION SERVICE ELECTRONIC MONITORING (ELMO) LAW

- a. Enforcement agencies (i.e. local and state police) may request ELMO information, by submitting a written request to Elmo.Inforequests@jud.state.ma.us from a verifiable Law Enforcement agency email address. These requests are typically responded to within 24 to 48 hours. ELMO will supply GPS information “For Investigative Purposes Only”.
- b. In the interest of public safety, if a Law Enforcement agency makes an urgent request (i.e. AMBER Alerts, Major/Catastrophic events, and requests for real time locations of specific monitored offenders for the purpose of serving a warrant or effectuating an arrest) and provides verifiable credentials such as the main phone number of the requesting agency, the officer’s badge number, contact information, and that the Officer is currently assigned to investigate the matter at hand, information for investigative purposes may be provided immediately.
- c. If an agency is requesting a point tracking search (Crime Correlation) for a particular location, this request should include a defined period of time and should disclose for what purpose the request is being made.
- d. All requests should be sent to Elmo.Inforequests@jud.state.ma.us. Law enforcement may also contact ELMO directly at 978-365-2970 for assistance.

C. DUAL ARRESTS / DOMINANT AGGRESSOR

1. Dual arrests, like the issuance of mutual restraining orders, are strongly discouraged because they trivialize the seriousness of domestic abuse and increase the danger to victims.
2. Officers should attempt to identify the dominant aggressor and take action based on that determination. In the majority of cases, an effective investigation will reveal the dominant aggressor.
3. Officers should be aware of the difference between offensive and self-defensive injuries. The use of force used must be “reasonable” given the nature of the threat and surrounding circumstances and, if warranted, may even include the use of weapons. In some cases, the dominant aggressor may have the more

serious injuries. If one of the persons acted entirely in self-defense, the situation should be treated as such and the dominant aggressor identified and arrested if appropriate.

4. If officers determine that neither party acted in self-defense and that both parties have committed an act of domestic abuse, then the officers should determine who is the dominant aggressor and take action considering the totality of the circumstances including:
 - a. The relative severity of the injuries and fear inflicted in this incident;
 - b. The use of force and intimidation in this incident;
 - c. Prior incidents involving either party; or
 - d. The likelihood of either party committing domestic violence in the near future.
5. Any officer arresting both parties is required, by law, to submit a separate detailed, written report, in addition to an incident report, setting forth the grounds for dual arrest. In the event of a dual arrest, officers are encouraged to consult with a supervisor prior to arrest.
6. Officers investigating an incident of domestic violence shall not threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party.

D. ARREST OF A CARETAKER

1. In cases involving abuse of a child, an elder or a person with a disability, officers must address the issue of whether or not the victim can be left alone safely if the abuser is arrested.
2. If the child, the elder or the person with a disability cannot be left alone, the appropriate protective agency must be contacted, in order to arrange for temporary care. When a caretaker is arrested and an agency is called for temporary care, the officer shall explain to the child, elder or person with disability what is happening and the reason for calling a protective agency.

E. BAIL

1. A person, who is 18 years or older, shall not be bailed sooner than 6 hours after arrest from a police station if under arrest for the following crimes:
 - A Restraining Order Violation under G.L. c. 208 or 209;
 - Any act that would constitute abuse, as defined in G.L. c. 209A, section 1; or
 - A violation of G.L. c. 265, sections 13M or 15D.

2. When a juvenile is properly charge with intimate partner violence, the 6-hour bail hold **does NOT apply** – All juveniles are exempt from this hold:
 - Circumstances which warrant a charge of G.L. c. 265, section 13M upon a juvenile, would be those cases of violence perpetrated against someone with whom the juvenile once married, has a child in common, has been in a “substance dating relationship,” or are engaged to be married. In such case, as teen dating violence, the six hour waiting period for bail does NOT apply to juveniles. By statute these provisions only apply to those defendants “who have attained the age of 18 years.” See G.L. c. 276, section 58.
 - Officers should therefore follow the typical protocol for arresting a juvenile. Officers are required to contact the juvenile probation officer on call and the juvenile’s legal guardian (G.L. c. 119, section 67) when an arrest has been made of a juvenile. Officers would then be required to contact an on-call bail clerk or bail magistrate for a bail determination, even if the offense is alleging intimate partner violence.
3. A person shall NOT be bailed from a police station if under arrest for the following crimes:
 - A Restraining Order Violation under G.L. c. 208 or 209A; or
 - Any act that would constitute abuse, as defined in G.L. c. 209A, section 1 WHILE A RESTRAINING ORDER IS IN EFFECT.
4. Inform the victim that the abuser may be eligible for bail and may be promptly released. If a defendant is released on bail from the place of detention, a reasonable attempt shall be made to notify the victim of the defendant’s release by the arresting police department.
5. Under G.L. c. 276, section 58A, a defendant may be held without bail if a court determines that a defendant is a danger to the victim or the public. The responding officer’s actions and behavior at the scene form the basis for this determination by the prosecuting agency and/or Court. Officers should ensure that the proper documentation is done in a timely manner and forwarded to the appropriate officer to be brought to Court and the prosecuting agency. In the event that an officer believes that a defendant is a high risk and poses a danger to a victim or the public, it should be documented in the police report and steps should be taken to notify the prosecuting agency.

F. NOTIFICATION TO THE VICTIM IN CRIMINAL CASES

A “reasonable attempt” must be made by the arresting police department to notify the victim if a defendant charged with a violation of a restraining order or a criminal act constituting domestic abuse is released on bail from the place of detention. If the defendant is released on bail by order of a court, a reasonable attempt at notice shall be made by the district attorney. See G.L. c. 276, sections 42A, 57, and 58 (as amended by Act sections 28, 31-32). [55.2.5]

G. INFORMATION PROVIDED TO DEFENDANT

The person admitting the defendant charged with a criminal act constituting domestic abuse to bail is required to provide the defendant with informational resources regarding domestic violence including a list of certified batterer’s intervention programs. See G.L. c. 276, sections 42A, 57, and 58 (as amended by Act sections 28, 31-32).

H. PROBABLE CAUSE STANDARD

All officers shall utilize the same standard of “Probable Cause” for domestic violence offenses as with all other crimes. Decisions to arrest will be based on whether or not probable cause and the authority to arrest exist, not on the victim’s agreement to testify at a future date.

I. FINGERPRINTING OF DEFENDANTS

Officers shall take fingerprints and photographs of all criminal defendants in domestic violence cases. Fingerprints should be forwarded to the State Police for entry into the Automated Fingerprint Identification System (AFIS) system. This will greatly improve the detection and prosecution of other offenses, such as breaking and entering and stalking. When any defendant is arrested and charged with a felony, copies of fingerprints shall be forwarded to the colonel of state police per G.L. c. 263, section 1A. [1.2.5 (b); 1.2.5 (c); 82.1.2 (b)]

J. REFERRALS

1. Officers shall provide information, including phone numbers, about local resources such as the community based domestic violence and sexual assault advocacy programs for emergency shelter and counseling services and the District Attorney’s Office Victim Witness Advocacy Program. (See Appendix of this policy). [55.2.1; 55.2.4 (e)]
2. The referral information will be preprinted so that it can be distributed with the Abused Person’s Notice of Rights card. The referral information may be typed directly onto the card to staple to it. 209A Victim Rights Form provides initial

referral information preprinted, so that it can be distributed along with the abused victim's Notice of Rights Form. Officers may also distribute information related to Victim Compensation through the Attorney General's Office.

K. INCIDENT REPORTS

1. Incident reports will be filed whether or not an arrest is made. They will be made available to the victim at no cost, upon their request to the investigating department. (Since the initial investigation should determine the existence of any history of abuse, that information must be included within the report.).
[82.2.1 (a); 82.2.1 (b); 82.2.1 (c); 82.2.2 (c); 82.2.2 (d)]
2. Officers shall indicate in the incident report whether the offense, alleged offense, or arrest involved abused as defined in G.L. c. 209A. See G.L. c. 41, section 98G, and G.L. c. 22C, section 49.

L. CONFIDENTIALITY OF REPORTS [82.1.1 (c)]

1. The following records shall not be considered to be public records, and shall not be disseminated, except pursuant to this policy:
 - a. Any information concerning responses to reports of domestic violence, rape or sexual assault;
 - b. Any entry concerning the arrest of a person for assault, assault and battery or violation of a protective order where the victim is a family or household member, as defined in G.L. c. 209A, § 1; and
 - c. All reports of rape and sexual assault or attempts to commit such offenses, all reports of abuse perpetrated by family or household members, as defined in G.L. c. 209A, § 1, and all communications between police officers and victims of such offenses or abuse.
2. The above records may only be released to the following:
 - a. the victim, the victim's attorney, others specifically authorized by the victim to obtain such information;
 - b. prosecutors;
 - c. victim-witness advocates as defined in G.L. c. 258B, § 1, if such access is necessary in the performance of their duties;

- d. domestic violence victims' counselors as defined in G.L. c. 233, § 20K, if such access is necessary in the performance of their duties;
- e. sexual assault counselors as defined in G.L. c. 233, § 20J, if such access is necessary in the performance of their duties;
- f. law enforcement officers, district attorneys or assistant district attorneys; and
- g. all persons authorized to admit persons to bail pursuant to G.L. c. 276, § 57.

M. POLICE DEPARTMENT LOG

The following entries shall be kept in a separate log and shall not be a public record, nor shall such entries be disclosed to the public:

1. Any entry which pertains to those who are handicapped, confined to a wheelchair, bedridden, or required to use of a device designed to provide in mobility.
2. Any information concerning the response to reports of domestic violence, rape, sexual assault.
3. Any entry concerning the arrest of a person for assault, assault and battery or violation of a protective order where the victim is a family or household member, as defined by Chapter 209A Section 1.

N. MANDATORY REPORTING

1. A report will be filed with the **Department of Children and Family Services (DCF)** whenever the police officer has reasonable cause to believe that a child under the age of 18 has been abused or neglected, in accordance with G.L. c. 119, § 51A. If a child has witnessed abuse, this could be "neglect" for purposes of mandatory filing. During office hours, contact the local DCF officer. After hours, call the hotline at: **1-800-792-5200**. If an officer intends to file a 51A child abuse report, they should tell the non-offending parent or caretaker and explain the filing process – including the fact that the report is being filed. A written report must be filed within 48 hours, an oral report immediately.
2. A report will be filed with the **Disabled Persons Protection Commission** whenever the officer has reasonable cause to believe that a caretaker has abused / neglected a person with a disability between the ages of 18 and 59, in accordance with G.L. c. 19C, § 10. An immediate report should be filed by calling

the hotline at: **1-800-426-9009**. If an officer intends to file a report, he/she should tell the person with a disability who is the subject of the abuse.

3. A report will be filed with the **Executive Office of Elder Affairs** whenever the officer has reasonable cause to believe that someone age 60 or older has been **abused / neglected**, in accordance with G.L. c. 19A, §§ 14-26. An immediately call shall be placed to the 24-hour hotline at: **1-800-922-2275**. If an officer intends to file a report, he/she should tell the elder person who is the subject of the abuse.

VI. FIREARMS

A. GENERALLY

When a firearm or other weapon is present at the scene of a domestic violence situation, officers shall:

1. Seize the weapon as evidence of the crime, if the responding officers are informed that a firearm or weapon has been involved in the dispute.
2. If the weapon is not reported to have been involved in the dispute:
 - a. Request that the firearm or weapon be placed in their custody temporarily to alleviate the threat of serious violence;
 - b. Search for and take custody of the firearms or weapon if a party, who lawfully resides there, requests the officer do so. A consent search is allowed in areas where the victim has access to, including areas of joint access with the suspect;
 - c. Determine whether a firearm is lawfully possessed before returning the same.
3. If the officer determines that the weapon cannot be seized, the following actions can be taken:
 - a. a judge can order the defendant to surrender firearms and licenses; and
 - b. the chief who issued a license to carry may revoke or suspend such license.
4. In all domestic violence cases, the investigating department shall advise the licensing authority that the subject of the license is suspected of abuse.

B. STORAGE OF FIREARMS

1. The department named within the order shall be responsible for the storage of the seized items or the delegation of storage to an authorized facility.
2. In cases involving police officers that are defendants in Abuse Prevention Orders, the defendant shall immediately surrender all firearms, including departmental weapons and licenses, to the department serving the order.

C. FEDERAL FIREARMS PROVISIONS

Although officers cannot enforce Federal provisions, the chief should be notified whenever an officer identifies a case involving the following circumstances, because there may be Federal action that can be taken:

1. **Misdemeanors Involving Domestic Violence:** Under 18 USC § 922(g)(9), it is unlawful for any person convicted of certain misdemeanor crimes involving domestic violence to ship, transport, possess, sell or otherwise dispose of, or receive firearms or ammunition.
2. **Federal law** prohibits any person subject to a qualifying order of protection from possessing firearms and ammunition. See 18 USC § 922(g)(8).
3. **Federal Felon in Possession of a Firearm:** Under 18 U.S.C. § 922(g)(1), "Felon in possession of a firearm," it is unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to possess any gun or ammunition.
4. **Persons Named in Protective Orders:** Under the Federal Crime Control and Law Enforcement Act of 1994, it is unlawful for an individual subject to a "permanent" restraining order involving "intimate partners" to receive, ship, transport, or possesses guns (including handguns, rifles, and shotguns) or ammunition that traveled in interstate commerce.
5. **Misdemeanors** are excluded from consideration if they are punishable by a term of two years or less. Therefore, misdemeanors that are punishable by a term of imprisonment of more than two years fall within that provision.

VII. PROPERTY

A. VACATE ORDERS AND COURT ORDERS TO RETRIEVE BELONGINGS

1. Once a vacate, no contact, stay away or refrain from abuse order is issued, officers shall not accompany a defendant to the property for any reason without specific judicial authorization.
2. A court order authorized defendant is allowed to retrieve his or her belongings under the following conditions:
 - a. The defendant must have a court order allowing for the retrieval of the property.
 - b. The police must accompany the defendant, and shall remain with the defendant, throughout the process.
 - c. The victim must have prior notice by the police department, and must agree to the timing of the retrieval.
 - d. The defendant must not be allowed to use this as a means of harassing the victim.
 - e. The defendant may retrieve personal property including clothing, shoes, personal care items, etc. If the defendant is attempting to collect any other items, including furniture or electronic equipment that is in dispute, the defendant should be referred to the issuing court or the Probate and Family Court for settlement of shared property.
3. When a court order exists allowing for a victim to return to the defendant's residence in order to retrieve his or her belongings, the police shall accompany the victim to ensure the order is executed, and that the victim is able to follow the order free from harassment or abuse by the defendant.

B. REMOVING OR DESTROYING PROPERTY

When a is accused of removing or attempting to remove property from the dwelling, or is accused of damaging or destroying property, the officer should investigate to determine the civil or criminal consequences and take appropriate action (For example: malicious destruction of property.)

VIII. HIGH RISK TEAM

A. GENERALLY

High-risk teams build upon the work of risk assessment by providing systematic responses to monitor offenders and enhance safety for victims. These teams are made up of multiple agencies and provide a vehicle for communication among the different disciplines involved in the domestic violence response system.

Ideally, high risk teams are focused equally on offender accountability and victim safety. Teams pool information on high-risk cases and create individualized intervention plans, provide ongoing risk management, and track case dispositions and victim safety. Teams are made up of victim advocacy organizations, law enforcement, probation, parole, prosecutors, Intimate Partner Abuse Education Programs (formerly known as “Certified Batterer’s Intervention Programs”), and health care. Other members could include the Disabled Persons Protection Commission, Department of Transitional Assistance (DTA), Department of Children and Families (DCF), educational institutions, correctional facilities, as well as organizations that will ensure cultural sensitivity and representation.

Team members are well trained in domestic violence dynamics and risk assessment. They work together to leverage all possible safety options for victims at highest risk.

B. CRITICAL ELEMENTS OF THE HIGH RISK TEAM

1. Train law enforcement and first responders in risk assessment, strangulation, and the high-risk model (ideally from a training team made up of an advocate, officer, and prosecutor).
2. Sign a memorandum of agreement that outlines each other’s roles, responsibilities, and accountability practices.
3. Create and adopt high risk assessment protocols in each member’s organization.
4. Include victim advocacy organizations in the leadership of the team to ensure that victim safety remains paramount.
5. Ensure quality, comprehensive, and adequately funded victim services.
6. Utilize all effective and appropriate pre-trial containment options, including GPS and electronic monitoring, dangerousness hearings, and pre-trial conditions of probation.
7. Coordinate efforts to contain and monitor the offender through pre-trial detention, dangerousness hearings, GPS monitoring, and/or batterer’s intervention.

8. Engage the community in the formation process and establish support from the top management of partner organizations.
9. Address and correct systemic gaps that are uncovered through case management.
10. Track and evaluate effectiveness and provide a yearly outcome report to the community.
11. Ensure funding is in place for the lead organization to sustain the efforts.

C. LAW ENFORCEMENT RESPONSE

1. The Chief of Police shall appoint at least one member of this department to serve as the law enforcement liaison to the High Risk Team.
2. Officers of this department shall complete the High Risk Assessment Worksheet in those situations described in this policy.
3. Copies of all completed High Risk Assessment Worksheets shall be forwarded to this department's law enforcement liaison to the High Risk Team.

IX. SERVICE OF ORDERS

A. IN-HAND SERVICE [74.2.1]

1. Service of orders shall be made in-hand unless otherwise ordered by the court. Chapter 209A, § 7 requires that "the law enforcement agency shall promptly make its return of service to the court."
2. Officers may not effect a motor vehicle stop for the sole purpose of issuing a restraining order, or any civil process (Comm vs. Sanborn, SJC 12202).
3. Orders shall be served promptly upon receipt. If service is initially unsuccessful, the Department must continue to attempt service until it is completed. Service of orders will not be delayed in order to forward service by a specialized officer or unit. If an officer is unable to make service after "numerous attempts", the officer should document, in detail, the service attempts on the "return of service" form and request the court to allow service by leaving a copy of the order at the last known address of the defendant.

4. Service of orders may compromise victim safety. The victim's safety should be considered in the timing of the service of the order. Officers should encourage the victim to contact an advocate (either through the D.A.'s Office, SAFEPLAN or the local domestic violence program) in order to develop a safety plan around the service of the order. [74.2.1]

B. RECORD OF SERVICE [74.1.1; 74.1.2; 74.2.1; 74.3.1]

The Hadley Police Department must keep a record of all attempts at service. Computer records and service/attempted service forms shall contain the following information, if appropriate: [74.2.1]

1. Date and time received; [74.1.1 (a)]
2. Type of legal process (civil or criminal); [74.1.1 (b)]
3. Nature of document (warrant, summons, default, capiases, etc.); [74.1.1 (c); 74.3.1]
4. Source of document (issuing court, etc.); [74.1.1 (d)]
5. Name /address of plaintiff, defendant, complainant, or respondent; [74.1.1 (e); 74.1.2 (c); 74.1.2 (e)]
6. Officer assigned for service; [74.1.1 (f); 74.1.2 (b)]
7. Date/time of assignment and date/time service was executed/attempted; [74.1.1 (g); 74.1.2 (a)]
8. Court docket number (warrant, restraining order number, etc.); [74.1.1 (h)]
9. Date of service due; [74.1.1 (i)]
10. Offense; and
11. Method of Service/Reason for Nonservice/Disposition (mailed, served, faxed, recalled, returned or unserviceable). [74.1.2 (d)]

C. RETURN OF SERVICE

All returns of service, including service of Emergency Orders, must be sent to the court.

D. ORDERS DISSEMINATED TO THE DEPARTMENT

The Court is responsible for sending the order to the appropriate law enforcement agency for service on the defendant. In the event that the plaintiff brings an order to the police department for service, officers should ensure that the department's responsibilities under G.L. c. 209A and this policy are met.

E. FIREARMS [1.2.7]

Upon service of the order, police shall immediately take possession of all firearms, rifles, shotguns, machine guns, ammunition, and licenses or FID cards in the control, ownership, or possession of the defendant. The license-issuing authority shall be contacted at once and fully informed of the incident and provided full reports in accordance with current law. All confiscated items shall not be returned until the Order has been vacated or the firearms provision has been modified by order of the court. G.L. c. 140, §§ 129B, 131.

F. NOTICE TO PLAINTIFFS

When assisting plaintiffs with emergency abuse prevention orders, officers should provide guidance to the plaintiff as to the exact terms of the order sought.

G. OUT OF STATE ORDERS OR VIOLATIONS

1. A protective order issued in another jurisdiction (as defined in G.L. c. 209A, § 1) shall be given full faith and credit in the Commonwealth. A responding officer shall serve and enforce the terms and conditions of an out-of-state protective order as written by the issuing jurisdiction.
2. Officers shall make a warrantless arrest of any person the officer witnesses or has probable cause to believe has violated an emergency, temporary or permanent vacate, refrain from abuse, stay away, or no-contact order or judgment issued by another jurisdiction. [74.2.1]
3. In assessing probable cause, an officer may presume the validity of the protection order issued by another jurisdiction when the officer has been provided with:
 - a. A copy of the order, by any source; and
 - b. A statement by the victim that such order remains in effect.
4. An order of protection is presumed valid if it gives the names of the parties involved, contains the date of the order was issued, has not expired, specifies

the terms and conditions set against the abuser, contains the name of the issuing court and is signed by the issuing authority.

5. Violations of out of state orders or Massachusetts orders violated in another state may be charged criminally as contempt of court (G.L. c. 220, section 14), in the Commonwealth of Massachusetts. [\[74.3.1\]](#)

H. NOTICE TO DEFENDANTS

When serving an abuse prevention order, officers shall fully inform the defendant of the contents of the order and penalties for any violation of an order and provide additional resources, including information on batterer's intervention programs, substance abuse counseling, alcohol abuse counseling and financial counseling. See G.L. c. 209A, section 7. (See Appendix of this policy).

I. THIRD-PARTY CONTACT

The Abuse Prevention Order states that the defendant is "ordered not to contact the plaintiff in person, by telephone, in writing, electronically or otherwise, either directly or through someone else." If there is third party contact in violation of an outstanding abuse prevention order, consider taking out charges against the third party or defendant for violation of a restraining order or intimidation of a witness, depending on the appropriate circumstances.

X. ALLEGATIONS AGAINST LAW ENFORCEMENT PERSONNEL

Law enforcement personnel, whether sworn or civilian, are not immune from committing or being a victim of domestic violence. Although no person is exempt, whatever their occupation, the dynamics change when law enforcement personnel are involved.

The following procedures and protocols are critical components to the integrity of the law enforcement profession and the trust of the community.

When responding to a domestic violence incident involving law enforcement personnel, all of the previously outlined protocol apply. However, the additional protocols described in this section also apply.

A. DISPATCH AND OFFICER RESPONSE

1. The dispatcher / communications officers shall immediately notify the on-duty commanding officer of all domestic violence involving law enforcement personnel.
2. The responding officers shall take immediate action to ensure the safety of the victim and all parties present.
3. A supervisor of higher rank than the officer involved must respond to the scene.
4. The responding officers will remain on the scene until relieved by the responding supervisor.
5. The responding officers shall document, in a report, their actions and complete such report prior to the end of their tour of duty.

B. ON-SCENE SUPERVISOR RESPONSE [81.2.4 (f)]

1. The supervisor shall proceed to the scene of the incident and conduct a thorough investigation;
2. The supervisor shall assess the actual and potential harm to the victim, children and others present, and ensure their safety;
3. Upon investigation, if the responding supervisor has reasonable cause to believe that there is evidence of physical abuse or that the threat of physical abuse exists, and the abuser is a sworn member of the department, that supervisor shall seize and take into custody, all department-issued firearms, licenses and equipment in possession of the officer, and shall further conduct a check of all firearms databases and request the officer surrender all personally-owned firearms and licenses;
4. If the suspected officer does not have their department-issued firearm(s) on his/her person or under his/her control at the time of the incident, that supervisor shall accompany the officer to the location where the firearm(s) are located and take custody of those firearm(s), licenses and any other weapons;
5. The supervisor shall ensure enforcement of G.L. c. 208, 209, 209A, 209C, c. 140, § 129B, court orders, all policies, procedures and rules and regulations of the Hadley Police Department;
6. The supervisor shall ensure that a Board of Probation (BOP) and Warrant Management System (WMS) check is conducted to determine the existence of

outstanding abuse prevention orders, harassment orders, or warrants in effect against the employee involved;

7. The supervisor shall submit, through the department's appropriate chain-of-command, a written report detailing his/her assessment of the incident and action taken before the end of that supervisor's tour of duty; and

C. ON-DUTY COMMANDING OFFICER'S RESPONSE

The On-Duty Commanding Officer shall:

1. ensure the on-duty supervisor has responded to the scene and initiated an investigation;
2. ensure the safety of the victim, children or others present at the scene.
3. ensure enforcement of all provisions of G.L. c. 208, 209, 209A, 209C c. 140, § 129B, court orders, all policies, procedures and rules and regulations of the Hadley Police Department;
4. ensure reports and proper documentation of the facts and circumstances of the incident and the action taken are submitted through proper channels in accordance with Department procedures;
5. ensure that appropriate mandatory notifications are made in accordance with Department procedure and chain-of-command, including notifications to the following:
 - a. Chief of Police; [11.4.5]
 - b. Employee's Division Commander
 - c. Employee's Shift Commander (if applicable)

D. ADDITIONAL CONSIDERATIONS

1. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding officers, investigators, supervisors, and commanding officers shall follow the same procedures that are to be followed in responding to a domestic violence complaint regarding an officer from their own department.
2. In the event that the reported incident involves the chief, director, superintendent or commissioner of the department, the commanding officer shall notify the individual in the government who has direct oversight for the chief, director, superintendent or commissioner.

3. In responding to an incident where the victim is a police officer, standard domestic violence response and investigation procedures should be followed.
4. In responding to domestic violence incidents where the parties involved are both police officers, standard domestic violence procedures should be followed. After probable cause and dominant aggressor determinations are made, an arrest should be made and all service weapons of the accused officer confiscated.

E. INVOLVED OFFICER/EMPLOYEE RESPONSE

Any officer or employee of the Hadley Police Department who has either been: (i) served with a restraining order; or (ii) named as a defendant in a restraining order or complaint involving domestic abuse; or (iii) is arrested for any crime involving abuse, shall:

1. immediately provide oral notification to the on-duty Commanding Officer at the time of the domestic incident or becoming aware that a court order has been issued or is in existence against them; and
2. within 24 hours provide written notification to his/her respective Commanding Officer of his/her permanent assignment, including a copy of the restraining order or other court document; and
3. Upon being served with a restraining order, the officer shall immediately surrender his or her License to Carry a Firearm / FID Card, department-issued firearm and any personal firearms in compliance with G.L. c. 140, § 129B to his/her Commanding Officer. The officer may file an affidavit with the District Court that a firearm is necessary for employment and request an expedited hearing on the suspension and surrender order. If the officer is allowed to retain his department-issued firearm by the Court, the Chief of Police may impose certain conditions (such as on-duty use and secured at the department during off-duty hours). [26.1.5]

F. CHIEF OF POLICE RESPONSE

The Chief of Police, or his/her designee, upon being notified that an employee under his/her command has been served with a restraining order and/or involved in a domestic incident, shall:

1. take steps to ensure the safety of the victim and all parties;
2. ensure that all appropriate notifications are made and that required documentation is completed and reviewed;

3. if applicable, request an investigator conduct a follow-up investigation;
4. determine if an internal affairs investigation should be conducted; [26.1.5]
5. determine the employee's work status and if applicable, any appropriate disciplinary action. Pending a determination regarding the employee's fitness for duty, it may become necessary to place the involved officer or employee on Administrative Leave or Administrative Duty; and
6. ensure all completed investigatory reports have been submitted directly to the Chief of Police for his/her final approval, or continued investigation.

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APPENDIX A

RELEVANT STATUTES

The following is a list of common domestic violence related statutes:

1. Physically Assaultive Crimes

- a. Assault/Assault and Battery on a Family or Household Member c265m §13M(a)
 - 1) Assault/Assault and Battery as defined by c265 s.13A, and
 - 2) The Assault and Battery took place between:
 - a) Persons who are or were married to one another;
 - b) Persons who have a child in common regardless of whether
 - c) they have ever married or lived together; OR
 - d) Persons who are or have been in a substantive dating or engagement relationship.
 - 3) Subsequent Offense c265 §13M(b)

- b. Aggravated Assault and Battery c265 §13A(b)
 - 1) Assault/Assault and Battery as defined by c265 s.13A, and
 - 2) One of the additional Aggravating Factors were present:
 - a) The defendant's act caused serious bodily injury; OR
 - b) The defendant committed the act upon the complainant who was pregnant at the time of such assault, knowing or having reason to know she was pregnant, OR
 - c) The defendant committed the act upon the complainant who had an outstanding temporary or permanent restraining order at the time of the assault.

- c. Assault and Battery by Means of a Dangerous Weapon c265 §15A(b)
 - 1) Assault/Assault and Battery as defined by c265 s.13A, and
 - 2) The touching was done with a dangerous weapon.
 - 3) Aggravated Assault and Battery c265 §15A(c)
 - a) Assault/Assault and Battery as defined by c265 s.13A, and
 - b) The touching was done with a dangerous weapon.

- c) One of the additional aggravating factors were present:
 - i. The defendant's act caused serious bodily injury; OR
 - ii. The defendant committed the act upon the complainant who was pregnant at the time of such assault, knowing or having reason to know she was pregnant, OR
 - iii. The defendant committed the act upon the complainant who had an outstanding temporary or permanent restraining order at the time of the assault.
 - iv. The defendant is 18 years of age or older, and committed assault and battery upon a child under the age of 14.

- d. Strangulation c265 §15D(b)
 - 1) Strangulation or Suffocation as defined below.
 - 2) Aggravated Assault and Battery is under c265 §15D(c)
 - a) Strangulation or Suffocation as defined below.
 - b) One of the additional Aggravating Factors were present:
 - i. The defendant's act caused serious bodily injury; OR
 - ii. The defendant committed the act upon the complainant who was pregnant at the time of such assault, knowing or having reason to know she was pregnant, OR
 - iii. The defendant was previously convicted of the crime of strangulation or suffocation; OR
 - iv. The defendant committed the act upon the complainant who had an outstanding temporary or permanent restraining order at the time of the assault.

- e. Assault and Battery upon an Elderly or Disabled Person c265 §13K

2. Other Crimes

- a. Violation of a Restraining Order c209A §7
 - 1) There was a Restraining Order which ordered the Defendant to
 - a) refraining from abusing,
 - b) vacate and remain away, OR
 - c) refrain from contacting the complainant;

- 2) Such order was in effect at the time of the violation;
- 3) The defendant knew of the pertinent terms of the order;
- 4) The defendant violated the order by:
 - a) abusing,
 - b) failing to vacate, OR
 - c) contacting the complainant.
- 5) Jurisdiction is given to the police department for either where the violation occurred or where the restraining order was obtained.
- 6) Any protection order issued by another jurisdiction shall be given full faith and credit throughout the Commonwealth and enforced as if it were issued in the Commonwealth for as long as the order is in effect in the issuing jurisdiction.

b. Stalking c265 §43(a)

- 1) The defendant knowingly engaged in a pattern of conduct or series of acts directed at the complainant (at least 3);
- 2) The acts would cause a reasonable person to suffer substantial emotional distress;
- 3) The acts caused the complainant to become seriously alarmed or annoyed;
- 4) The defendant committed the acts willfully and maliciously; and
- 5) The defendant also made a threat with the intention of placing the complainant in imminent fear of death or bodily injury.
- 6) Stalking in Violation of a Restraining Order c265 §43(b)
 - a) Stalking as defined by c265 s.43(a)
 - b) The acts were committed in violation of a temporary or permanent restraining order.
- 7) Stalking Subsequent Offense c265 §43(c)
 - a) Stalking as defined by c265 s.43(a)
 - b) The defendant was previously convicted of the crime of stalking.
- 8) Lesser Included Crime of Criminal Harassment c265 §43A(a)
 - a) The defendant knowingly engaged in a pattern of conduct or series of acts directed at the complainant (at least 3);
 - b) The acts would cause a reasonable person to suffer substantial emotional distress;

- c) The acts caused the complainant to become seriously alarmed or annoyed;
 - d) The defendant committed the acts willfully and maliciously;
 - e) Criminal Harassment Subsequent Offense c265 §43A(b)
 - i. Criminal Harassment as defined by c265 s.43A(a)
 - ii. The defendant was previously convicted of the crime of criminal harassment.
- 9) Jurisdiction is given to the police department(s) where any one of the elements occurred.

c. Intimidation of a Witness c268 §13B

- 1) The defendant, directly or indirectly, willfully, did
 - a. Threaten OR
 - b. Attempted to cause physical injury, emotional injury, economic injury, or property damage to; OR
 - c. Conveyed a gift, offer, or promise of anything of value to; OR
 - d. Mislead, intimidated, or harassed a person who was:
 - i. A witness or potential witness at any stage of a criminal investigation or other criminal proceeding; OR
 - ii. A person who was or is aware of information, records, documents, or objects that relate to a violation of a criminal statute, or a violation of conditions of probation or bail; OR
 - iii. A person who is furthering a civil or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding clerk's hearing, court ordered mediation, or civil proceeding of any type; OR
 - iv. A person who is or was attending or had made known his intention to attend a civil or criminal proceeding, including criminal investigation, grand jury proceeding, trial, other criminal proceeding of any type, probate and family proceeding, juvenile proceeding, housing proceeding, land proceeding clerk's hearing, court ordered mediation, or civil proceeding of any type
- 2) With the intent to impeded, obstruct, delay, harm, punish or otherwise interfere thereby, or did so with reckless disregard

- 3) A prosecution under this section may be brought in the county in which the criminal investigation, grand jury proceeding, trial or other criminal proceeding is being conducted or took place, or in the county in which the alleged conduct constituting an offense occurred.

d. Kidnapping c265 §26

- 1) The defendant had no lawful authority;
- 2) The defendant forcibly (either physically or constructively) or secretly confined the complainant; and
- 3) It was done against the complainant's will.

APPENDIX B

VICTIMOLOGY

Police can be agents of change—fulfilling a mandate to intervene, holding batterers accountable, and providing protection to victims. A victim’s first contact with law enforcement rarely happens after the first or even the second domestic violence incident. A sensitive response to a domestic violence call is essential due to the complex nature of these crimes and their devastating effects.

Domestic violence victims can display a variety of behaviors, and officers should understand and be prepared for a range of possible responses. Note that some responses, though frustrating, may allow victims and their families to feel safer once law enforcement has left the scene or the perpetrator is released from custody.

Remember, anyone can be a victim; anyone can be an offender regardless of gender and/or sexual orientation. Always consider who is the dominant aggressor and make that determination based on the totality of the facts and circumstance, not on the victim/offender’s gender, size etc.

- It is crucial for law enforcement officers to be familiar with the dynamics of domestic abuse. “Dynamics” refers to how an abuser may act towards their victim and how the victim may react towards the abuser. A lack of understanding of the complexities of these dynamics may result in blaming the victim for the violence and manipulation of the criminal justice system by the abuser.
- Law enforcement officers arriving at an incident are likely to find a victim who is taking responsibility for an abuser’s actions. A victim, in fear of their abuser, may act in ways that appear to conceal the abuse. The victim may waive their right to “no contact” orders, choose not to obtain a restraining order, bail the abuser out of jail, or recant in court—accusing the officer of lying. Officers should be aware that victims may act this way in an attempt to keep themselves and their children safe. (NACDV: Dynamics page <http://ncadv.org/learn-more/what-is-domesticviolence/dynamics-of-abuse>).
- It is critical for officers to understand that when an abuser believes they are losing control over the victim, the risk to the victim of serious injury, sexual assault, stalking, and homicide increase.
- Many victims of domestic violence never file a report with law enforcement, get a restraining order/injunction, or connect with a domestic violence program. Numerous victims don’t call 911 for many of the same reasons that they find it difficult to leave their abusers (fear, cultural beliefs, immigration ramifications, and economic concerns). Furthermore, many victims may regret calling 911 once they are thrust into the criminal justice system, which can bring increased

financial burdens due to lost income, defense attorney fees, embarrassment for having to publicly testify to the abuse, and pressure to recant.

- This whole process may, in fact, put the victim at a higher risk of danger. An appropriate response is to assist in determining what risks exist and help to problem-solve on how to minimize those risks.
- Be aware that trauma may influence a victim's interactions with law enforcement officers responding to domestic violence calls. Do not assume a victim is uncooperative. Violence can be very traumatizing and each victim responds differently. It is of great assistance to Law Enforcement to be familiar with and work with the domestic violence programs in their area. Encourage victims to use all available services and, when available, utilize the domestic violence advocates who can greatly assist the victim with this safety planning process.

APPENDIX C

COMMON STATUTES RELATING TO DOMESTIC VIOLENCE

Abuse Prevention—MGL c209A

Aggravated Assault and Battery—MGL c265 §13A(b)

Assault and Battery by Means of a Dangerous Weapon—MGL c265 §15A(b)

Assault/Assault and Battery on a Family or Household Member—MGL c265 §13M(a)

Assault and battery upon an elderly or disabled person—c265 §13K

Civil Liability—MGL c209A §6

Confidentiality—MGL c233 §20k, 20L

Employer Requirements—MGL c149 § 52E

Firearms—MGL c140 §121, 129B,131

Harassment Prevention Orders—MGL c258E

Intimidation of a Witness—MGL c268 §13B

Kidnapping—MGL c265 §26

Police Records—MGL c41 §98F

Police Reports—MGL c41 §97D

Reporting of Suspected Abuse or Neglect—MGL c119 §51A

Sexual Assault Law Enforcement Guidelines—EOPSS 2017

Strangulation—MGL c265 §15D(b)

Stalking –MGL c265 §43(a)

Violation of a Restraining Order—MGL c209A §7

Witness Intimidation—MGL c268 §13B

Witness Protection—MGL c263A

APPENDIX D

REFERRALS / RESOURCES

Jane Doe Inc. http://www.janedoe.org	617-248-0922
SAFELINK Statewide listing of available DV's shelter beds and referrals to programs across the state including multi-lingual agencies	877-785-2020 (TTY) 877-521-2601
Asian Task Force Against Domestic Violence Specializes in services to Asian Communities	617-338-2355
GLBTQ Domestic Violence Project Services to the Gay, Lesbian, and Transgender Communities	800-832-1901
Safe Recovery Specializes in services involving co-occurring substance abuse and domestic violence	978-388-6600
Boston Medical Center: Child Witness to Domestic Violence Project Specializes in services for victims for children 0-8 years old who have been exposed to domestic violence	617-414-4244
Llamanos Y Hablemos Sexual assault hotline for Spanish speaking individuals	800-223-5001
Elizabeth Stone House For victims with substance abuse, mental health & DV concerns	617-427-9801
Elder Abuse Hotline	800-922-2275
Disabled Persons Protection Commission	800-426-9009
Child at Risk Hotline	800-792-5200
EMERGE Counseling for men who batter	617-547-9879
RESPOND New England's 1 st Domestic Violence Prevention Agency	617-623-5900
MAPS Mass. Alliance of Portuguese Speakers – Domestic Violence and Sexual Assault	617-864-7600
QWEST Multilingual communication network for police officers 24 hours a day	800-514-9237

APPENDIX E JANE DOE, INC. MAP OF VICTIM RELATED SERVICES

NETWORK OF SEXUAL ASSAULT & DOMESTIC VIOLENCE SERVICE PROVIDERS IN MASSACHUSETTS

Use this map to find free and confidential support and services at a sexual or domestic violence program near you.

You can also find programs by visiting www.janedoe.org/find_help/search for an interactive search engine which allows you to locate programs by city or zip code.



There are over 60 community-based sexual assault and domestic violence service providers in the state of Massachusetts. They advocate on behalf of victims and offer confidential, crisis and long-term support and services to tens-of-thousands of victims and survivors of sexual and domestic violence and their families each year.

STATEWIDE PROGRAMS		
<p>If you are not sure where to call for help, call 411.</p>		<p>☉ Safelink Toll-free statewide Domestic Violence Hotline PH: 877-785-2020 ☎ TTY: 877-521-2601 ☎</p>
<p>☉ Asian Task Force Against Domestic Violence (ATASK) 24-Hour Multilingual Helpline 617-338-2355 ☎ ES</p>	<p>★ Llamanos y hablamos Toll-free Spanish Sexual Assault Helpline 800-223-5001</p>	<p>☉ MA Alliance of Portuguese Speakers 617-864-7600</p>
<p>☉ Our Deaf Survivors Center Hours: 5pm Monday - 5am Saturday 1-844-ODSC-SAFE (1-844-637-2723)</p>	<p>☉ The Network/La Red Ending partner abuse in LGBTQBT, SM and Poly communities PH: 617-742-4911 ☎ ES TTY: 617-338-SAFE (7833)</p>	<p>☉ SAHELL: Friendship for South Asian Women 866-472-4354</p>

SYMBOL KEY		
☉ Domestic Violence Program	☎	24 Hour Free & Confidential Hotline
★ Sexual Assault / Rape Crisis Program	ES	Emergency/ Domestic Violence Shelter
JDI members in bold		

VISIT OUR WEBSITE:
www.JaneDoe.org



14 Beacon Street, Suite 507, Boston, MA 02108
 TEL: 617-248-0922 TTY: 617-263-2200 FAX: 617-248-0992

See other side for a list of programs by region. →

APPENDIX F NETWORK OF SEXUAL ASSAULT & DOMESTIC VIOLENCE SERVICE PROVIDERS IN MASSACHUSETTS

METRO BOSTON		CENTRAL & METROWEST		NORTHEAST REGION		WESTERN REGION	
AWAKE Program (Children's Hospital) Boston: 617-355-6389	HAVEN at MGH Boston: 617-724-0054	Domestic Violence Services Network Concord: 888-389-6111	Center for Hope & Healing (Rape Crisis Services of Greater Lowell) Lowell: 800-542-5272	Center for Women & Community Amherst: 413-545-0800 TTY: 413-577-0940	Safe Passage Northampton: 888-345-5282 TTY: 413-588-5069		
Boston Medical Center Domestic Violence Program Boston: 617-414-5467	International Institute of Boston Boston: 617-895-9990	The Domestic Violence/Sexual Assault Program of Newton Wellesley Hospital Newton: 617-243-6521	Center for Hope & Healing (Rape Crisis Services of Greater Lowell) Lowell: 800-542-5272	Elizabeth Freeman Center Pittsfield: 888-401-2425	Women's Shelter/Companhas Holyoke: 877-536-6228		
Boston Area Rape Crisis Center (BARCC) Cambridge: 800-841-8371	Passageway at Brigham & Women's Hospital Boston: 617-732-8753	Journey to Safety (JFCS) Waltham: 781-947-5327	Community Teamwork Inc. Lowell: 978-458-0551	NECWMT Greenfield: 413-772-0805	YWCA Western Massachusetts Springfield: 800-786-8711 TTY: 413-735-7100		
Casa Myra Boston: 877-785-2020	Portal to Hope Salem: 781-308-8978	New Hope Inc. South County/Westster: 900-323-4673	HAWC - Healing Abuse Working for Change Salem: 978-744-6841	SOUTHEASTERN REGION			
Center for Violence Prevention and Recovery at Beth Israel Deaconess Medical Center Boston: 617-897-9141	Renewal House Roslindale/Boston: 617-566-9881	REACH Beyond Domestic Violence Waltham: 800-889-4000	Jeanne Geiger Crisis Center Newburyport/Amesbury: 978-388-1888				
Community Advocacy Program of CCHERS Boston: 617-373-4591	RESPOND Inc. Somerville: 617-523-5900	Pathways for Change (Rape Crisis Center of Central Massachusetts) Worcester: 800-870-5905	Supportive Care, Inc. Lawrence: 978-688-1300	A Safe Place Nantucket: 508-228-2111 TTY: 508-228-7095	Independence House, Inc. Hyannis: 800-439-6507		
DOVE Inc. Quincy: 888-314-3683	Safe Havens IntraInn Partnership Boston: 617-461-3980	Project "We Can Talk About It," Children's Charter Waltham: 781-894-4307	YWCA of Greater Lawrence Lawrence: 877-538-9822 984-372-9822	Cape Cod Shelter and Domestic Violence Services Falmouth: 508-594-7233	South Shore Women's Resource Center Plymouth: 508-745-2694 888-745-2694		
The Elizabeth Stone House Jamaica Plain/Boston: 617-427-9801	The Second Step Newton: 617-465-3999	Spanish American Center Lynn: 978-534-3145	YWCA North Shore Rape Crisis Center Lynn: 800-922-8772 TTY: 781-477-2315	CONNECT to End Violence Vineyard Haven: 508-696-7233 TTY: 774-549-9559	SSTAR Women's Center Fall River: 508-673-0087		
EmPath (Formerly Catterton Women's Union) Brighton: 617-782-7800	Transition House Cambridge: 617-861-7203	Voices Against Violence Frammingham: 800-593-1125	Wayside Valley Rape Crisis Program Miford: 800-511-5070	Family & Community Resources Brookton: 800-281-6468	The Women's Center New Bedford/Fall River: 888-839-8536		
FINEX House Jamaica Plain/Boston: 617-288-4054 (Also TTY)	Violence Recovery Program (Fenway Health) Greater Boston: 617-927-8250	YWCA Central Massachusetts Domestic Violence Services: BWR and Daybreak Worcester: 508-755-9030 Lynn: 508-755-9030	Domestic Violence Program Miford: 800-511-5070	Domestic Violence Program 24 Hour Free & Confidential Hotline			
HarborCOV Chelsea: 617-884-9909			Sexual Assault/Rape Crisis Program	Emergency Domestic Violence Shelter			

SYMBOL KEY
 1 | 24 Hour Free & Confidential Hotline
 ES | Emergency Domestic Violence Shelter
 * | JDI members in bold

APPENDIX G HIGH RISK ASSESSMENT WORKSHEET

DOMESTIC VIOLENCE RISK ASSESSMENT FORM

Offender's Name: _____
 Offender's DOB: _____
 Police Department: _____
 Officer's Name: _____
 Report Number: _____
 Date: _____

Victim's Name: _____
 Victim's DOB: _____
 Victim's home #: _____
 Victim's cell #: _____
 Work/Alternative #: _____
 Victim's email: _____

Check here if victim did not want to answer any of these questions.

Please provide as much information as possible to each answer. Information can also be documented in your report.

Has the physical violence increased in severity or frequency? <input type="checkbox"/> Yes <input type="checkbox"/> No	Have the Offender and Victim separated in last year? <input type="checkbox"/> Yes <input type="checkbox"/> No
Does the Offender have firearms or immediate and easy access to firearms through friend, family member, or 3 rd party? <input type="checkbox"/> Yes <input type="checkbox"/> No	Has the Offender threatened or attempted suicide? When? <input type="checkbox"/> Yes <input type="checkbox"/> No
Has the Offender used or threatened to use a lethal weapon against Victim, such as made a direct threat, or brandished a weapon in front of the victim? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is the Victim pregnant? Visibly? <input type="checkbox"/> Yes <input type="checkbox"/> No Yes No
Has the Offender threatened to kill the Victim? <input type="checkbox"/> Yes <input type="checkbox"/> No	Are there children living in the home that are not the Offender's? <input type="checkbox"/> Yes <input type="checkbox"/> No
Are threats recent and detailed? <input type="checkbox"/> Yes <input type="checkbox"/> No	Has the Offender committed prior violence toward others? <input type="checkbox"/> Yes <input type="checkbox"/> No
Has the Offender tried to kill the Victim? <input type="checkbox"/> Yes <input type="checkbox"/> No	Has the Offender avoided past police contact, such as leaving the scene before the police arrive? <input type="checkbox"/> Yes <input type="checkbox"/> No
Does Victim believe that Offender is capable of killing him/her? <input type="checkbox"/> Yes <input type="checkbox"/> No	Has the Offender prevented Victim from obtaining help? <input type="checkbox"/> Yes <input type="checkbox"/> No
Has the Offender choked/strangled/suffocated the Victim regardless of whether or not the victim has visible injuries or lost consciousness? (complete Strangulation Worksheet) <input type="checkbox"/> Yes <input type="checkbox"/> No	Has the Offender abused animals/pets? <input type="checkbox"/> Yes <input type="checkbox"/> No
Has the Offender choked/strangled, or suffocated the Victim multiple times? <input type="checkbox"/> Yes <input type="checkbox"/> No	Does the Offender have mental health issues? <input type="checkbox"/> Yes <input type="checkbox"/> No
Does the Offender control Victim's daily activities, e.g. such as by monitoring the victim's activities or relationships, or sought to restrict or control them? <input type="checkbox"/> Yes <input type="checkbox"/> No	Does the Offender misuse or has misused drugs/alcohol? <input type="checkbox"/> Yes <input type="checkbox"/> No
Does the Offender exhibit extreme jealousy? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is the Offender currently not employed? <input type="checkbox"/> Yes <input type="checkbox"/> No

Please list any other concerns that the Victim may have regarding safety issues:

If strangulation occurred, please see additional Strangulation Tool

APPENDIX H

ABUSED PERSON'S NOTICE OF RIGHTS

Abused Persons Notice of Rights

Directions to a Police Officer:

"You have the right to appear at the superior, Probate and family, district or Boston Municipal Court, if you reside within the appropriate jurisdiction, and file a complaint requesting any of the following applicable orders: (a) an order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody, if the attacker has a legal obligation of support; and (e) an order directing your attacker to pay for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorney's fees and other out-of-pocket losses for injuries and property damage sustained".

"For an emergency on weekends, holidays, or weeknights the police will refer you to a justice of the superior, probate and family, district, or Boston Municipal Court departments. You have the right to go to the appropriate district court or the Boston Municipal Court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses. If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment".

"If you believe that ***police protection*** is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or a friend's residence, or a similar place of safety. You may request a copy of the police incident report at no cost from the police department.

The Officer shall leave a copy of the forgoing statement with such person before leaving the scene or premises

APPENDIX H STRANGULATION WORKSHEET

STRANGULATION/SUFFOCATION SUPPLEMENTAL FORM SUBMIT THIS FORM WITH YOUR INCIDENT/POLICE REPORT

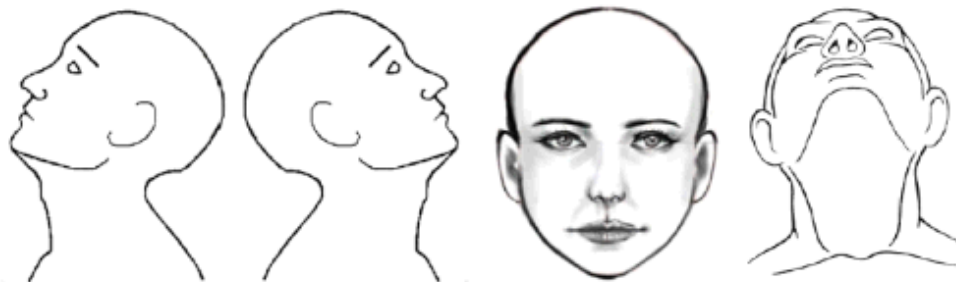
M.G.L. ch. 265, § 15D.

*Strangulation: the intentional interference of the normal breathing or circulation of blood by applying substantial pressure on the throat or neck of another.
Suffocation: the intentional interference of the normal breathing or circulation of blood by blocking the nose or mouth of another.*

INCIDENT INFORMATION				
Case Number:	Date of Incident:	Today's Date:		
Form Completed by:				
VICTIM INFORMATION				
Name (Last, First, Middle):	DOB:	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Height:	Weight:
SUSPECT INFORMATION				
Name (Last, First, Middle):	DOB:	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Height:	Weight:
METHOD AND/OR MANNER OF STRANGULATION/SUFFOCATION				
1. How many times was the victim strangled/suffocated during this incident? <input type="checkbox"/> One <input type="checkbox"/> Two <input type="checkbox"/> Three or more		6. Use of ligature? <input type="checkbox"/> Yes <input type="checkbox"/> No Describe _____		
2. How was the victim strangled? Check all that apply: <input type="checkbox"/> One hand: <input type="checkbox"/> Right Hand <input type="checkbox"/> Left Hand <input type="checkbox"/> Two hands <input type="checkbox"/> Forearm <input type="checkbox"/> Knee/Foot <input type="checkbox"/> Chokehold <input type="checkbox"/> Other/object (explain): _____		Was the ligature brought to the scene? <input type="checkbox"/> Yes <input type="checkbox"/> No Taken as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No Photographed at scene? <input type="checkbox"/> Yes <input type="checkbox"/> No		
3. Is suspect right or left handed? <input type="checkbox"/> Right <input type="checkbox"/> Left		7. Estimate the level of pressure that the suspect used during strangulation? (Low) 1 2 3 4 5 6 7 8 9 10 (High)		
4. During strangulation/suffocation, was the victim: Shaken <input type="checkbox"/> Yes <input type="checkbox"/> No Straddled <input type="checkbox"/> Yes <input type="checkbox"/> No		8. Estimate how long you were strangled? _____ seconds _____ minutes _____ Unable to estimate		
5. Was the victim's head pounded against the wall, floor, table, countertop, etc.? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe: _____		9. Was the victim/suspect wearing jewelry? <input type="checkbox"/> Yes <input type="checkbox"/> No Who/What? _____		
ADDITIONAL INFORMATION FROM THE VICTIM				
1. Did the victim attempt to physically stop the strangulation/suffocation? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe how: _____				
2. What did the victim say during the strangulation/suffocation? _____				
3. Did the victim injure the suspect? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe how: _____				
4. What did the suspect say while strangling/suffocating the victim: _____				
5. What was the suspect's demeanor during the strangulation/suffocation? _____				
6. What did the victim think was going to happen? _____				
7. Are there any prior incidents of strangulation? _____				
8. Is the victim pregnant? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown				
MEDICAL ATTENTION				
Did EMS respond to evaluate the victim? <input type="checkbox"/> Yes <input type="checkbox"/> No		Did the victim seek medical attention? <input type="checkbox"/> Yes <input type="checkbox"/> No		

VICTIM'S SYMPTOMS To BE COMPLETED BY POLICE OFFICER				
SYMPTOMS	DURING	AFTER	VOICE CHANGES	SWALLOWING CHANGES
Unable to breath	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Painful to speak <input type="checkbox"/> Raspy/hoarse voice <input type="checkbox"/> Coughing <input type="checkbox"/> Unable to speak <input type="checkbox"/> Whispering <input type="checkbox"/> Other: _____	<input type="checkbox"/> Neck Tenderness <input type="checkbox"/> Trouble swallowing <input type="checkbox"/> Painful to swallow <input type="checkbox"/> Neck pain <input type="checkbox"/> Other: _____
Difficult to breath	<input type="checkbox"/>	<input type="checkbox"/>		
Physical pain	<input type="checkbox"/>	<input type="checkbox"/>		
Rapid Breathing	<input type="checkbox"/>	<input type="checkbox"/>		
Shallow breathing	<input type="checkbox"/>	<input type="checkbox"/>		
Coughing up blood	<input type="checkbox"/>	<input type="checkbox"/>		
Nausea	<input type="checkbox"/>	<input type="checkbox"/>		
Vomiting/dry heaving	<input type="checkbox"/>	<input type="checkbox"/>		
Dizziness	<input type="checkbox"/>	<input type="checkbox"/>		
Headache	<input type="checkbox"/>	<input type="checkbox"/>		
Feel faint	<input type="checkbox"/>	<input type="checkbox"/>	Explain other: _____ _____	
Disorientated	<input type="checkbox"/>	<input type="checkbox"/>		
Loss of consciousness? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Victim not sure Unexplained injury? Describe: _____ Any change or loss of hearing during/after strangulation/suffocation? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe: _____ Any change or loss of vision during/after strangulation/suffocation? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe: _____ How did your body/head feel during/after strangulation/suffocation? _____ Did the victim: <input type="checkbox"/> Urinate <input type="checkbox"/> Defecate <input type="checkbox"/> Feel the urge to do one or both?				
FACE	EYES AND EYELIDS	NOSE	EARS	MOUTH
<input type="checkbox"/> Red or flushed <input type="checkbox"/> Petechiae <input type="checkbox"/> Scratch(es) or abrasion(s) <input type="checkbox"/> Sweating <input type="checkbox"/> Bruising <input type="checkbox"/> Other: _____	<input type="checkbox"/> Petechiae to R eye <input type="checkbox"/> Petechiae to L eye <input type="checkbox"/> Petechiae to R eyelid <input type="checkbox"/> Petechiae to L eyelid <input type="checkbox"/> Blood in eyeball(s) <input type="checkbox"/> Other: _____	<input type="checkbox"/> Petechiae <input type="checkbox"/> Scratch(es) or abrasions(s) <input type="checkbox"/> Swelling <input type="checkbox"/> Other: _____	<input type="checkbox"/> Petechiae on ear(s) <input type="checkbox"/> Bleeding from ear(s) <input type="checkbox"/> Bruising/discoloration/ petechiae behind ear(s) <input type="checkbox"/> Swelling <input type="checkbox"/> Other: _____	<input type="checkbox"/> Bruise(s) <input type="checkbox"/> Swollen tongue <input type="checkbox"/> Swollen lip (s) <input type="checkbox"/> Scratch(es)/Abrasion(s) <input type="checkbox"/> Petechiae in palate <input type="checkbox"/> Other: _____
UNDER CHIN	CHEST	SHOULDERS	NECK	HEAD
<input type="checkbox"/> Redness <input type="checkbox"/> Scratch(es)/Abrasion(s) <input type="checkbox"/> Lacerations <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Fingernail impression (s) <input type="checkbox"/> Other: _____	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch(es)/Abrasion(s) <input type="checkbox"/> Laceration(s) <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Other: _____	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch(es)/Abrasion(s) <input type="checkbox"/> Laceration(s) <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Other: _____	<input type="checkbox"/> Redness <input type="checkbox"/> Tenderness/pain <input type="checkbox"/> Finger mark(s) <input type="checkbox"/> Scratch(es)/Abrasion(s) <input type="checkbox"/> Fingernail impression (s) <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Ligature mark (S) pulled <input type="checkbox"/> Petechiae <input type="checkbox"/> Swelling <input type="checkbox"/> Other: _____	<input type="checkbox"/> Petechiae on scalp or head <input type="checkbox"/> Laceration(s) <input type="checkbox"/> Scratch(es)/Abrasion(s) <input type="checkbox"/> Hair pulled <input type="checkbox"/> Bump(s) <input type="checkbox"/> Other: _____

DIAGRAM ALL INJURIES ON VICTIM



Explain any other injuries or symptoms: _____

OFFICER CHECKLIST	
<input type="checkbox"/> If strangled/suffocated with object(s), photograph objects and collect for evidence. <input type="checkbox"/> Document where the object(s) were found in the incident report. <input type="checkbox"/> Determine if jewelry was worn by either party. Photograph/look for patterns and photograph. <input type="checkbox"/> If defecation or urination in clothes, collect clothes as evidence.	<input type="checkbox"/> If victim vomited, take a photo of the vomit. <input type="checkbox"/> Advise on future symptoms (headaches, throat/neck pain etc.) Advise victim that they should not be alone for 24 hours: <input type="checkbox"/> Photograph suspect: hands, arms, face, chest and any areas where suspect states any injuries/contact occurred.

*Adapted by Jeanne Geiger Crisis Center from the Family Justice Center Alliance, National Strangulation Training Institute.
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APPENDIX I

NOTICE TO DEFENDANT FORM

NOTICE TO DEFENDANT^{*} REGARDING ABUSE PREVENTION (RESTRAINING) ORDER.

THIS IS INFORMATION ABOUT THE ABUSE PREVENTION ORDER THAT MAY HELP YOU UNDERSTAND THE TERMS OF THE ORDER. PLEASE READ THE ORDER CAREFULLY.

A restraining order is a court order. This means that ONLY a judge can change the order. The person who requested the order CANNOT change or end the order without returning to court. Even if the plaintiff^{**} requests, agrees to, or allows you to do things forbidden by the order, you will be in violation of the restraining order unless a judge has changed it to permit the conduct.

A restraining order is a civil order but a violation of the order is a criminal offense. If you are found guilty of violating a restraining order, you can go to jail for up to 2 ½ years and / or be placed on probation. A criminal conviction (even a continuance without a finding) can (among other things) affect your ability to obtain employment, public housing, or citizenship, or subject you to deportation. If the police observe a violation of a restraining order or have probable cause to believe that you have violated the restraining order, the police are required to arrest you. If you are on probation, violation of a restraining order could also be a violation of your probation.

If you are ordered not to abuse the plaintiff, this means that:

- You cannot physically assault or threaten the plaintiff.
- You cannot do anything that gives the plaintiff reason to fear that you might cause the plaintiff physical harm.
- You must not use force or a threat of any kind to make the plaintiff have sex unwillingly.

If you are ordered to have no contact with the plaintiff, this means that:

- You cannot live with the plaintiff.
- You must stay away from the plaintiff at the distance indicated on the order, usually a stated number of feet or yards.
- You cannot contact the plaintiff in any way. This includes, but is not limited to, phone calls, text messages, emails, cards, and gifts. You may not contact the plaintiff through friends, relatives (including children), neighbors, or anyone else, or by sending or posting messages on Facebook, Twitter, SnapChat, LinkedIn, or any other social network site, unless specifically allowed in the restraining order.
- If you are somewhere and the plaintiff comes to that same location, you must leave that place as quickly as possible, even if you were there first.

If you are ordered to leave a residence, this means that:

- You must leave the residence immediately and stay away from that address while the order is in effect. You must stay away from the address even if the plaintiff is not there. If the residence is an apartment, you may be ordered to stay away from the entire building, even if the lease is in your name.
- You cannot damage the residence in any way.
- You cannot shut off any utilities or interrupt mail delivery to the plaintiff. These orders apply even if the lease and / or utilities are in your name.

If you are ordered to stay away from the plaintiff's work, this means:

- You must stay away from the place where the plaintiff works as long as the order is in effect. You must stay away from that address even if the plaintiff is not there at the time.

^{*} The defendant is the person the order is issued against.

^{**} The plaintiff is the person who asked the court to issue the order.

If you are ordered to surrender firearms, this means:

- You must immediately transfer possession of any firearms, ammunition, license to carry firearms, or firearms identification card that you have to the police department listed on the order.
- You may not purchase any firearms or ammunition while the order is in effect.

If the plaintiff has been given custody of children, this means:

- The children will live with the plaintiff unless or until a judge changes that order.

If you are ordered to have no contact with the children, this means that:

- You must stay so many feet or yards away from the children (the distance is listed on the order). You cannot have contact with the children while the order is in effect, unless and until the Probate & Family Court permits such contact.
- The order may say that you must stay so many feet or yards away from a child's school or daycare.
- If you are permitted to have contact with the children but not the plaintiff, and the children live with the plaintiff, you must be careful to speak only to the children. You cannot speak to or have any contact with the plaintiff. You must follow the rules permitting contact with the children closely, including how and when you may contact the children. You should not call the home telephone unless the order specifically allows you to call that number.
- If after the District, Boston Municipal, or Superior Court has issued a restraining order, you and the plaintiff are in Probate & Family Court on a family case, a Probate & Family Court judge has the authority to change or even end the restraining order if necessary to eliminate any conflict between the restraining order and the order issued in the Probate & Family Court matter. For example, if a Probate & Family Court judge grants a parenting schedule, then the Probate & Family Court judge can change the "no contact" provision in the restraining order to allow the parenting schedule, and can also change the "stay away" provision in the restraining order to allow for specific times for pickup and return. All of the other parts of the restraining order that do not conflict with the Probate & Family Court order shall remain in effect.

How do I get my things?

If you have been ordered to stay away from your home, the order may permit you to go with the police to pick up your personal belongings at a time agreed to by the plaintiff. You must contact the local police to arrange a time that they can go with you to get your clothes and other things you may need.

IMPORTANT THINGS TO KNOW:

The date for the next court hearing is listed on the second page of the restraining order. The name and location of the court that issued the order is listed at the top left hand corner of the order. During the hearing the judge will listen to evidence presented by both sides and decide if the restraining order should continue in its present form, be changed in some way(s), or be terminated (ended). If you do not appear at this hearing after receiving notice and the plaintiff appears, the order may be extended for one year.

If you want to change or end the restraining order after it has been issued, you can go to the court that issued the restraining order to file a request that the judge make changes or end the order. The courts are generally open Monday to Friday from 8:30 a.m. - 4:30 p.m. Once the order has issued after a hearing, a judge will only change the restraining order if you show that there has been a change in circumstances. To ask to end an order before the termination date, you have to prove to a judge that there has been a significant change in circumstances. Court staff in the Clerk's or Register's Office can assist you in filing the necessary documents to make this request. After you file your request, a hearing may be scheduled and the plaintiff will be given notice of the hearing. The court staff will let you know if they will notify the plaintiff of the hearing or if you need to send the plaintiff notice of the hearing date by mail.

APPENDIX J

BATTERER'S INTERVENTION LISTINGS

Massachusetts Certified Batterer Intervention Programs

For more information: www.mass.gov/batterer-intervention

Contact the program director to learn more about the group schedule, locations and fee schedule.

GREATER BOSTON AREA

**Bay State Community Services
Project Safe**

**1120 Hancock St
Quincy MA 02169**
Phone: 617-471-8400 ext. 129
Fax: 617-773-6904
Director: Martha Cooke
Email: mcooke@baystatecs.org
Language(s) Served: English
Also Serves Adolescent Perpetrators
Group Site(s): Quincy
www.baystatecs.org/prevention-ps.html

Group schedule:

Tuesday 7:00 – 9:00PM
Thursday 5:30-7:30PM
Saturday 8:15-10:15 AM

**Billings Human Services
Project Safe**

**19 Central Street,
Norwood, MA 02062**
Phone: 781-762-0060
Fax: 781-762-0602
Director: Martha Cooke
Email: mcooke@baystatecs.org
Language(s) Served: English
Also Serves Adolescent Perpetrators
Group Site(s): Norwood
www.baystatecs.org/prevention-ps.html

Group schedule:

Wednesday 6:00-8:00PM
Thursday 7:00-9:00PM

Common Purpose

**455 Arborway
Jamaica Plain, MA 02130-3623**
Phone: 617-522-6500
Fax: 617-522-6595
Co-Directors: Mitch Rothenberg, Tony Burns
Email: commonpurposeinc@aol.com
Language(s) Served: English, Haitian Creole
Group Site(s): Cambridge, Dorchester, Jamaica Plain, Quincy
www.commonpurpose.com

Group schedule:

Tuesday 6:00 – 8:00 PM Quincy
1:00-3:00 PM Jamaica Plain
Wednesday 12:00 – 2:00 PM Jamaica Plain
6:30 – 8:30 PM Cambridge
5:00 – 7:00 PM Jamaica Plain

Thursday 7:00 – 9:00 PM Jamaica Plain
6:00-8:00 PM Jamaica Plain

Emerge

**2464 Massachusetts Avenue, Suite 101
Cambridge, MA 02140**
Phone: 617-547-9879
Fax: 617-547-0904
Co-Directors: David Adams, Susan Cayouette
Email: info@emergedv.com
Language(s) Served: English, Spanish, Vietnamese
Cultural Group(s): Lesbians, Gay Men
Group Site(s): Cambridge, Roxbury
www.emergedv.com/

Group schedule:

Cambridge

Monday 6:30-8:30 PM Gay Men
Tuesday 11:00-1:00 PM Initial
11:00-1:00 PM On-going
11:00-1:00 PM On-going
Wednesday 6:00-8:00 PM On-going
6:30-8:30 PM Lesbian
Thursday 5:45-7:45 PM Initial
6:00 – 8:00 PM On-going
6:30 – 8:30 PM Lesbian
8:00-10:00 PM On-going
5:45-7:45 PM On-going
Saturday 9:00-11:00 am On-going (Spanish)
11:00-1:00 PM Initial (Spanish)
9:00-11:00 am (Vietnamese)

Roxbury

Wednesday 5:00-7:00PM Initial
7:00-9:00PM Ongoing

**Massachusetts Alliance of Portuguese Speakers
(MAPS)**

**1046 Cambridge Street,
Cambridge, MA 02139**
Phone: 617-864-7600
Fax: 617-864-7621
Program Contact: Alirio Perreira
Email: apereira@maps-inc.org
Language(s) Served: Portuguese,
(Cape Verdean Creole upon need)
Group Site(s): Somerville
<http://www.maps-inc.org/>

Group schedule:

Wednesday 6:00-8:00 PM (Portuguese)

CENTRAL

New Hope, Inc.

RESPECT

91 Prescott Street

Worcester MA 01605

Phone: 508-753-3146

Toll free 877-222-0083

Fax: 508-753-3148

Site Director: Amanda Lison

Email: alison@new-hope.org

Language(s) Served: English, Spanish Portuguese

Group Site(s): Worcester

www.new-hope.org/respect.html

Group schedule:

Monday 5:30-7:30 PM
7:30-9:30 PM
6:00-8:00 PM (Spanish)

Wednesday 5:30-7:30 PM
7:30-9:30 PM

Sunday 10:00 AM-12:00 PM

Proteus

Behavioral Health Network

96 South Street

Ware, MA 01082

Phone: 413-967-6241

For intakes contact: 413-579-7569

Fax: 413-967-9807

Director: JAC Patrissi

Email: judith.patrissi@bhinc.org

Language(s) Served: English

Group Site(s): Ware

www.bhinc.org

Group schedule:

Wednesday 6:00 – 8:00 PM (English)

Spectrum Health Systems, Inc.

P.A.V.E.

40 Spruce Street

Leominster, MA 01453

Phone: 978-466-3820 X 4238

Fax: 978-466-5063

Director: Maureen Casey

Email: maureen.casey@spectrumhealthsystems.org

Language(s) Served: English, Spanish

Group Site(s): Fitchburg, Framingham, Marlborough,

Milford, Southbridge, Worcester

www.spectrumsys.org/programs/domestic-violence

Group schedule:

Worcester

Monday 3:00-5:00 PM (Female)
5:30-7:30 PM
Tuesday 3:00-5:00 PM (LBGTQ/Female)

Wednesday 5:30-7:30 PM
5:30-7:30 PM (Spanish)

Thursday 5:30-7:30 PM

Saturday 8:00-10:00 AM

Leominster

Monday 9:00-11:00 AM

7:00-9:00 PM

Wednesday 4:30-6:30 PM

6:30-8:30PM

Framingham

Tuesday 6:00-8:00 PM

Marlborough

Thursday 5:30-7:30 PM

Milford

Monday 3:00-5:00PM

Wednesday 5:30-7:30 PM

Southbridge

Tuesday 5:30-7:30 PM

Thursday 5:30-7:30 PM

WEST

Domestic Violence Program

Gandara Mental Health

85 St George Road

Springfield, MA 01104

Phone: 413-846-0418

413-732-2120 ext. 204 & 205

Fax: 413-732-2125 or 413-736-8334

Director: Madeline Aviles-Hernandez

Email: maviles Hernandez@gandaracenter.org

Language(s) Served: English, Spanish

Group Site(s): Springfield, Greenfield

Group schedule:

Monday 6:00-8:00 PM
Tuesday 6:00-8:00 PM
Wednesday 5:00-7:00 PM (Spanish)
5:30-7:30 PM (Greenfield)

Friday 5:00-7:00 PM

6:00-8:00 PM

Saturday 8:30-10:30 AM

11:00-1:00 PM

Moving Forward Program

ServiceNet, Inc.

55 Federal Street, Suite 115

Greenfield, MA 01301

413-587-9050 or toll-free 1-888-636-9050

Director: Alaina Mango

Email: amango@servicenet.org

Language(s) Served: English

Group Site(s): Athol, Greenfield, Belchertown,

Northampton

www.servicenet.org/clinical/moving-forward

Group schedule:

Greenfield

Tuesday 6:00-8:00 PM

Athol
 Wednesday 3:30 – 5:50 PM
 6:00-8:00 PM

Northampton
 Wednesday 6:00 – 8:00 PM
 Thursday 6:30-8:30 PM

Belchertown
 Tuesday 6:00-8:00 PM

**Office of Community Corrections
 Berkshire County Community Corrections Center
 163 Fourth Street
 Pittsfield, MA 01201**
 Phone: 413-358-4321
 Fax: 413-443-5751
 Berkshire Corrections Center Manager: Kyle Schadler
 IPAEP Coordinator: Teri Trufant
 Email: Kyle.Schadler@jud.state.ma.us
 Language (s) Served: English
Group schedule:
 Tuesday 6:30pm – 8:30pm
 Thursday 6:30pm – 8:30pm

NORTHEAST

**Holy Family Hospital
 Family Safety Project
 70 East Street (mailing address only)
 Methuen, MA 01844**
 Phone: 978-989-9042
 Fax: 978-989-9493
 Director: Michele Penta
 email: michele.penta@steward.org
 Language Served: English, Spanish
 Group Site(s): Gloucester, Haverhill, Lawrence, Lowell,
 Newburyport
<http://steward.org/Holy-Family/Services-and-Clinical-Centers/Family-Safety-Project/Family-Safety-Project>

Group schedule:
Lowell
 Monday 5:00-7:00 PM
 7:00-9:00 PM

Tuesday 5:30-7:30 PM
 7:30-9:30 PM

Lawrence
 Monday 5:30-7:30 PM (Spanish)
 6:00-8:00 PM

Tuesday 5:30 – 7:30 pm (Spanish)

Wednesday 8:30-10:30 AM
 5:30-7:30 PM

Newburyport

Monday 6:00-8:00 PM

Haverhill
 Monday 6:00-8:00 PM
 8:00-10:00 PM
 Tuesday 5:30-7:30 PM

**Eliot Community Human Services
 Impact Batterer Intervention Program
 71 Linden Street, Lynn, MA 01902
 52 Sharon Street, Malden, MA 02148**
 Phone (Business Cell) 781-864-4753
 Fax: 857-288-4570
 Email: dellis@Eliotchs.org
 Group Sites : Lynn, Malden, Gloucester
 Language(s) Served : English
www.eliotchs.org

Group schedule:
Lynn
 Tuesday 5:00-7:00 PM (On-going)
 5:15-7:15 PM (Initial)
 7:15-9:15 PM (On-going)
 7:30-9:30 PM (On-going)

Thursday 5:00-7:00 PM (On-going)
 7:30-9:30 PM (Initial)

Malden
 Wednesday 5:45-7:45 PM (Ongoing)
 8:00-10:00 PM (Initial)

Glouster
 Monday 6:00-8:00PM

SOUTHEAST

**Family and Community Resources, Inc.
 Batterer Intervention Program
 Brockton Office:
 250 Belmont Street
 Brockton, MA 02301**
 Phone: 508-584-2207
 Fax: 508-584-2185
 Coordinator: Catherine Stowe
 Email: catherine.stowe@fcr-ma.org
 Case Manager: Sara Keough
 Language(s) Served: English, Spanish, Cape Verdean
 Creole, Portuguese
 Group Site(s): Brockton, Martha's Vineyard, Hyannis,
 Nantucket
www.fcr-ma.org

Group schedule:
Brockton
 Monday 6:00-8:00 PM
 8:00 - 10:00 PM

Tuesday 6:00 - 8:00 PM (Spanish/Portuguese/Cape
 Verdean Creole)
 Thursday 6:00-8:00 PM
 8:00-10:00 PM

Hyannis MA Office:

Phone: 508-778-0927
Fax: 508-771-1935
Coordinator: Catherine Stowe
Email: catherine.stowe@fcr-ma.org
Language(s) Served: English
Hyannis
Monday 5:30-7:30 PM
7:30-9:30 PM

Martha's Vineyard
Every Other Sunday 2:30-4:30 PM

Nantucket
Every Other Sunday 2:30-4:30 PM

**Stanley Street Treatment and Resources (S.S.T.A.R.)
Batterer Intervention Program**

**386 Stanley Street
Fall River, MA 02720**
Phone: 508-324-3597
Fax: 508-676-3761
Director: Dan Buckley
Email: dbuckley@sstar.org
Language(s) Served: English, Portuguese
Group Site(s): Fall River
www.sstar.org/site/BIP.asp

Group schedule:

Monday 11:00 AM – 1:00 PM
1:00 PM – 3:00 PM
5:30-7:30 PM
7:30-9:30 PM

Tuesday 4:30-6:30 PM (Portuguese)
6:30-8:30 PM

**High Point Treatment Center
Stop Taking Others' Power (STOP)**

**68 Front Street
New Bedford, MA 02740**
Phone: 508-717-0522
Fax: 508-994-0745
Director: Dan Buckley
Email: DBuckley@HPTC.ORG
Language(s) Served: English, Spanish
Group Site(s): New Bedford, Wareham, Plymouth
www.hptc.org/Brochures/bip.pdf

Group schedule:

New Bedford
Monday 4:30-6:30 PM (Spanish speakers)
Wednesday 4:00-6:00 PM
6:00-8:00 pm
Thursday 4:30-6:30 PM
6:30-8:30 PM
Saturday 8:00 AM-10:00 AM
10:00 AM-12:00 PM
12:30-2:30 PM

Onset
Monday 5:00-7:00 PM

Plymouth
Monday 5:30-7:30 PM
7:30-9:30 PM

**New Hope, Inc.
RESPECT
140 Park Street
Attleboro, MA 02703**
Phone: 508-226-8286 or toll free: 877-222-0083
Fax: 508-226-6917

Site Director: Amanda Lison
Email: alison@new-hope.org
Language(s) Served: English
Group Site(s): Attleboro, Franklin, Taunton
www.new-hope.org/respect.html

Group schedule:

Taunton
Monday 5:30-7:30 PM
7:30-9:30 PM

Attleboro
Tuesday 5:30-7:30 PM
7:30-9:30 PM

Franklin
Saturday 9:30-11:30 AM

Revised 09.09.2016

APPENDIX K

SEXUAL ASSAULT NURSE EXAMINER SITES

SEXUAL ASSAULT NURSE EXAMINER PROGRAM DESIGNATED SITES AND STAFF CONTACT INFORMATION	
<p><u>Designated Boston Area SANE Sites:</u> Boston Medical Center Brigham and Women's Beth Israel Deaconess Cambridge Hospital Children's Hospital Boston Massachusetts General Hospital Newton Wellesley Hospital MetroWest Medical Center* <small>*Receiving MA TeleSANE services through the National TeleNursing Project</small></p>	<p><u>Regional Coordinator:</u> <u>Claire Shastany, RN, SANE</u> Phone: (781) 718-9164 Fax: (617) 624-5715 E-Mail: Claire.Shastany@state.ma.us <u>Boston Operational Coordinator</u> <u>Laurie Ferguson, RN, SANE</u> Phone: (781) 718-6731 Fax: (617) 624-5715 E-Mail: Laurie.Ferguson@state.ma.us</p>
<p><u>Designated Northeastern SANE Site:</u> Lawrence General Hospital Lowell General Hospital</p>	<p><u>Regional Coordinator:</u> <u>Deb Perry, RN, CEN, SANE</u> Phone: (978) 478-8138 Fax: (617) 624-5715 E-Mail: Deborah.Perry@state.ma.us</p>
<p><u>Designated Southeastern SANE Sites:</u> Beth Israel Deaconess – Plymouth (Jordan) Brockton Hospital Chariton Memorial Hospital Morton Medical Center South Shore Hospital St. Luke's Hospital Tobey Hospital St. Anne's Hospital* <small>*Receiving MA TeleSANE services through the National TeleNursing Project</small></p>	<p><u>Regional Coordinator:</u> <u>Kristi Holden, RN, BSN, SANE</u> Phone: (774) 274-0757 Fax: (617) 624-5715 Email: Kristi.Holden@state.ma.us</p>
<p><u>Designated Central Massachusetts SANE Sites:</u> Harrington Memorial Hospital Milford Regional Medical Center St. Vincent's Hospital UMASS Memorial Hospital UMASS University Hospital</p>	<p><u>Regional Coordinator:</u> <u>Jennifer Powell, RN, BSN, SANE</u> Phone: (508) 688-4402 Fax: (617) 624-5715 Email: Jennifer.Powell@state.ma.us</p>
<p><u>Designated Western Mass. SANE Sites:</u> Baystate Medical Center Berkshire Medical Center Cooley Dickinson Hospital Mercy Medical Center UMASS Amherst University Health Services Wing Memorial Hospital</p>	<p><u>Regional Coordinator:</u> <u>Mary Walz-Watson, RN, BS, SANE</u> Phone: (857) 207-0789 Fax: (617) 624-5715 Email: Mary.Walz-Watson@state.ma.us</p>
<p><u>Designated Cape/Islands SANE sites:</u> Cape Cod Hospital Falmouth Hospital Nantucket Cottage Hospital</p>	<p><u>Regional Coordinator:</u> <u>Kathleen Ecker, MSN, NP-BC, Pediatric and Adult SANE</u> Phone: (774) 274-0944 Fax: (617) 624-5715 E-Mail: Kathleen.Ecker@state.ma.us</p>

**SEXUAL ASSAULT NURSE EXAMINER PROGRAM
DESIGNATED SITES AND STAFF CONTACT INFORMATION**

Joan Meunier-Sham, MS, RN
Director
MA SANE Program
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone: (781) 718-9107
Fax: (617) 624-5715
E-Mail: Joan.Sham@state.ma.us

Jennifer Bastin
Program Operations Coordinator
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Office: (617) 624-6052
Fax: (617) 624-5715
E-Mail: Jennifer.bastin@state.ma.us

Katherine Dudich, RN, MS, JD
Pediatric Associate Director
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone (617) 624-5458
Fax: (617) 624-5715
E-Mail: Katherine.B.Dudich@state.ma.us

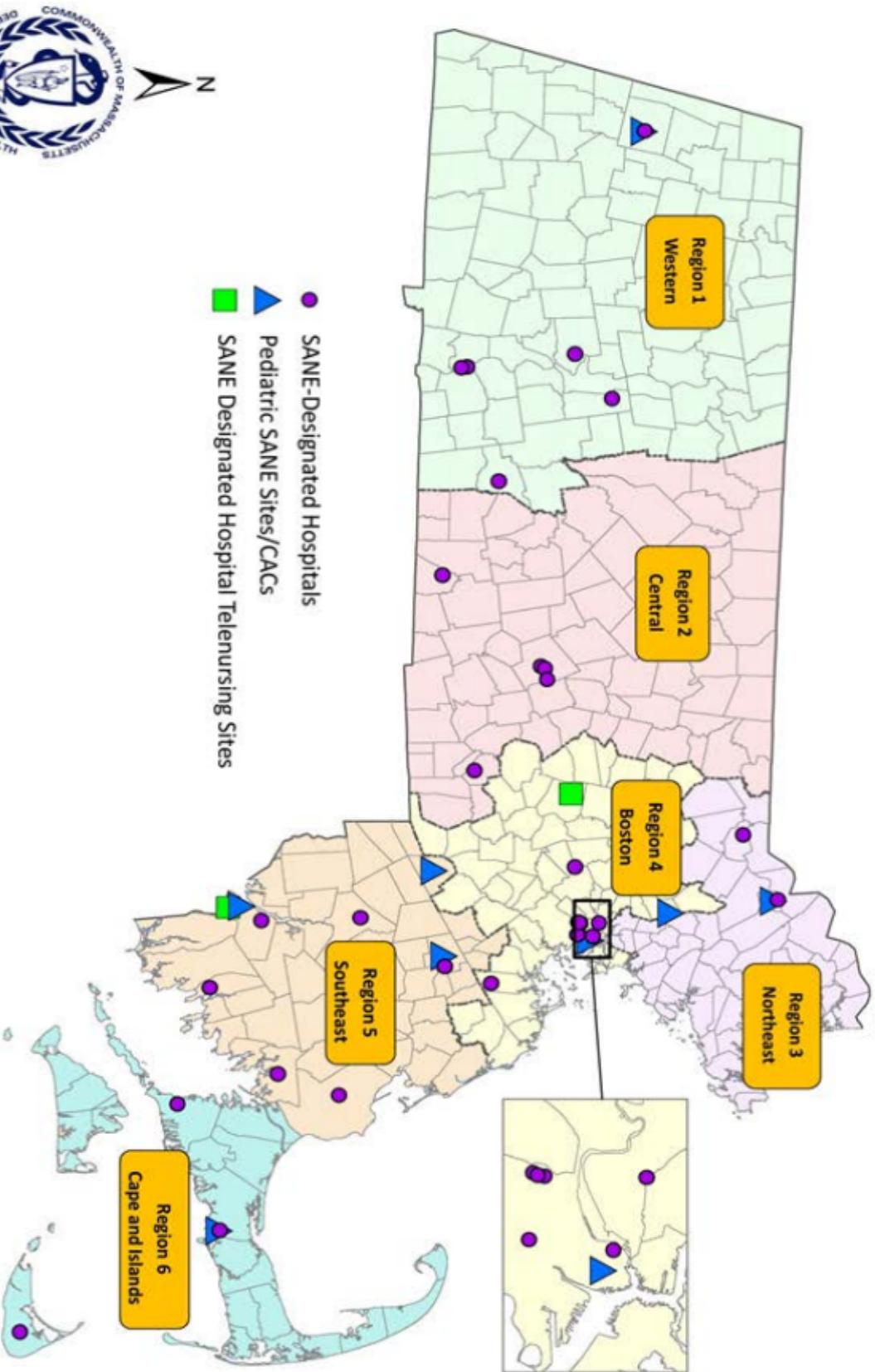
Cheryl Re, RN, BSN, SANE
Associate Director
Adult and Adolescent SANE
MA SANE Program
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone: (413) 265-8559
Fax: (617) 624-5715
Email: Cheryl.Re@state.ma.us

Karen Hazard, RN, BS, SANE
Training and Outreach Coordinator
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone (339) 440-1476
Fax: (617) 624-5715
E-Mail: Karen.Hazard@state.ma.us

Cynthia Moore, PNP, SANE
Pediatric SANE Clinical Coordinator
MA SANE Program
MA Department of Public Health
Boston, MA 02108
Phone (781) 400-4313
Fax: (617) 624-5715
Email: Cynthia.moore@state.ma.us



Massachusetts SANE Sites and Children Advocacy Centers



Update list- 4/13/18, transfer of updated information from old policy, regarding service of orders as a result of Comm. Vs. Sanborn.

SEXUAL ASSAULT INVESTIGATIONS

POLICY & PROCEDURE NO. 2.16	ISSUE DATE:
	EFFECTIVE DATE:
HADLEY POLICE DEPARTMENT	
	REVISION DATE: _____

POLICY

The policies and objectives of the Department in responding to a report of sexual assault are as follows:

- To minimize the traumatic experience suffered by the victim;
- To ensure the speedy apprehension and conviction of the rapist;
- To reduce the opportunity for the crime of rape to occur by educating the public in preventive measures;
- To cooperate with local social service and non-profit agencies, schools, hospitals, and community groups in rape reporting and prevention programs; and
- To impress upon the public that the role of the police in investigating reports of rape or attempted rape is to provide a professional response with concerned and competent attention to the needs of the victim.

PROCEDURES

I. DISPATCHER RESPONSE

- A. Communications personnel play a critical role in obtaining important information from the reporting party. The information obtained is pivotal in determining the

initial police response and ensuring the appropriate personnel are dispatched. The dispatcher should respond in a calm and supportive manner while simultaneously obtaining, at a minimum, the following information:

1. Name, address, and telephone number of the reporting party;
2. If reporting party is not the victim, obtain the name, address and phone number of the victim, his/her current location, and status (safe, injured, alone, etc.);
3. The caller's relationship to the victim and the caller's basis of knowledge;
4. Whether a weapon was used during the assault. If yes, what type;
5. The suspect's current location and status (safety issues, aware of police involvement, etc);
6. Detailed information regarding the identity and/or description of the suspect (e.g. name, gender, physical description, clothing, vehicle description);
7. The relationship between suspect and victim (if any);

B. Dispatchers shall:

1. Dispatch immediate medical assistance if needed;
2. If it's determined to be an "active" scene, promptly dispatch patrol officers to the victim's location and to the crime scene (if different);
3. If, in the dispatcher's assessment, the victim is in imminent danger, advise the victim to move to a safe location (e.g. to the home of a neighbor or family friend, a police station, a church) as long as relocating can be accomplished with minimal risk;
4. If the assailant has fled the scene, broadcast as much identifying information as quickly as possible;
5. Furnish the responding officers with any available information with special consideration given to:
 - a. dangerousness of the offender;
 - b. specifics about the incident;
 - c. past domestic violence events and/or assaultive behaviors (prior criminal history, other relevant sources); and
 - d. if in possession of a firearms license.

6. If possible, remain on the line with the victim until patrol officers arrive on scene;
7. If, for some reason communications cannot be maintained, tactfully advise the victim against bathing, douching, eating, drinking, changing clothes, or touching anything at the scene. The victim of the assault is now analogous with a crime scene;
8. If the victim has changed clothes, advise them not to wash the clothes and to leave them as they are;
9. **NOT** cancel a law enforcement response to a complaint of sexual assault, regardless of a request to cancel;
10. If a request to cancel is made during the initial response, advise the responding officers of this request; and
11. Record and preserve the victim's "excited utterances" and 911 tapes for evidentiary purposes.

II. POLICE RESPONSE

A. GENERALLY

1. What occurs during the initial stages of an investigation is critical to the success of the investigation and cannot be overstated.
2. The initial responder's primary areas of responsibilities are:
 - Victim/witness safety;
 - Crime scene preservation;
 - Minimal facts interview;
 - Identifying and locating witnesses and suspects;
 - Documentation of initial response and observations; and
 - Support service notification.
3. The medical treatment and well-being of the victim should be the first priority. The lapse of time between the sexual assault and the report of the sexual assault will potentially impact the likelihood, type and quality of evidence recovery from the body of the victim and/or perpetrator. If the assault occurred within five days (120 hours) of the report, an evidence collection kit should be collected. In

addition, depending on the facts of the assault, there may be additional evidence which can be obtained.

4. In keeping with a trauma-informed approach, be professional, empathetic, and patient when interacting with the victim.
5. If the victim is alone, inquire if there are family, friends, or a rape crisis counselor/advocate they want contacted. If the victim's clothing needs to be seized as evidence, attempt to arrange for a fresh set of the victim's own clothes to be made available.

B. VICTIM / WITNESS SAFETY

As part of the emergency response, officers shall:

1. Request an ambulance for transport to a hospital if there is observable injury to the victim or if the victim is complaining of injury;
2. Strongly encourage a sexual assault exam be conducted by a Sexual Assault Nurse Examiner (SANE) and advise the victim of their rights under G.L. c. 209A and 258E, if appropriate;
3. Arrange for medical exams, if possible, at an identified SANE site;
4. Show understanding, patience and respect for the victim's dignity and attempt to establish trust and rapport;
5. Evaluate the scene for suspects, vehicles, or objects involved, as well as for possible threats;
6. Initiate a search for the suspect when appropriate;
7. Be cognizant of the victim's concerns for safety/threats and be reassuring and comforting;
8. Communicate all vital information to the Patrol Supervisor and other responding officers, including any possible communication barriers or special circumstances; and
9. Notify appropriate protective service agency (DCF, DPPC, Elder Affairs, DPH) if abuse is suspected.

C. MINIMAL FACTS INTERVIEW

1. Sexual assault investigations involving adult victims will typically include, at a minimum, a preliminary interview and a subsequent, in-depth interview. The primary purpose of the preliminary interview is to establish whether a crime has occurred. The interviewing officer should conduct a minimal facts interview and obtain basic information similar to investigating any other offense (e.g. who, what, where, when, how).
2. During the initial interview with adult victims, the responding officers should:
 - a. Ensure victim's safety and provide appropriate referrals (e.g. rape crisis/medical services);
 - b. Establish the elements of the crime(s);
 - c. Identify any and all witnesses and suspect(s);
 - d. Identify possible locations of evidence and crime scene(s);
 - e. Identify additional interviews to be conducted; and
 - f. Advise a supervisor of additional resources and/or personnel needed (e.g. crime scene services, crime lab, etc.).
3. A victim of a sexual assault may bond with the responding officer. If the responding officer intends to request assistance from a sexual assault investigator (as directed by departmental protocol), the officer should explain his/her role as the first responding officer to the victim. It is important for the initial officer to further explain what the victim may expect from the responding investigative team and to assist with that transition.

D. CRIME SCENE PRESERVATION

1. Responding officers should assume the existence of multiple crime scenes. It is the responsibility of the responding officer to elicit information from the victim as to the location of the primary, secondary, and possible tertiary crime scenes. Once identified, this information should be communicated to a supervisor to ensure that any additional crime scenes are secured and steps are taken to prevent evidence from being lost, altered, destroyed, or contaminated.
2. Responding officers should also identify, if possible, the first person the victim told about the sexual assault. This person will eventually need to be contacted and interviewed by the officer in charge of the investigation.

E. IDENTIFYING AND LOCATING WITNESSES AND SUSPECTS

Questioning the victim about the assault, the description of the suspect(s), and the details regarding the assault should be limited. Responding officers should only question the victim enough to obtain a complete description of the suspect(s),

whether or not a weapon was used, vehicles used, direction of flight, and names, addresses and telephone numbers of other potential victims/ witnesses.

F. LANGUAGE / COMMUNICATION BARRIERS

If the victim(s), witness(es) or suspect(s) do not speak English, avoid using children or other interested parties as interpreters unless there is an emergency. Officers can call **QWEST**, a multilingual communications network for use by police departments at **888-892-2850** for interpretive language services 24 hours a day.

G. DOCUMENTATION OF INITIAL RESPONSE

1. Responding officers should document the initial police response, the information communicated by witnesses, who processed the scene(s), and who seized evidence.
2. During the initial documentation of witness statements, specifically the victim's statements, responding officers should attempt to conduct a minimal facts interview. If the victim begins to provide details of the assault, officers should capture the exact words used by the victim to describe the assault. Also, officers should specify the sexual acts which occurred and with which body parts or objects.
3. When there is no opportunity to interview witnesses, contact information should be obtained so the witness can be contacted and interviewed at a later date. Consider audio recording the interview(s); however, audio recorded statements should be in accordance with the Department policy and the District Attorney's Office. Having witness write out their statement is strongly discouraged.
4. Be sure to consider and preserve all forms of evidence that is not directly elicited from a statement such as 911 calls, public video surveillance systems, spontaneous utterances, etc.

H. INVESTIGATION SUPPORT SERVICES

1. Once the responding officer has assessed the victim's safety, preserved the scene(s), transmitted any relevant information for immediate broadcast, conducted a preliminary interview, established that a crime has been committed, identified other victim/witness or possible suspects, and identified the potential crime scenes, the responding officer must then ensure that the shift supervisor is notified to determine the need for further investigatory resources (Detective, Crime Scene, CPAC).

2. It is recommended that State Police Crime Scene Services also be contacted to assist in processing any potential crime scene.

I. ADDITIONAL CONSIDERATIONS OF RESPONDING OFFICERS

1. As the responding officer, in making the decision to arrest, the level of exigency and the probable cause to arrest should be assessed. Whenever possible, all officers are encouraged to consult with a representative of the District Attorney's Office prior to making felony arrests.
2. The responding officer should:
 - a. Ensure that mandated reporters adhere to required protocol and file reports of suspected abuse, when applicable.
 - b. Remember his/her obligations surrounding domestic violence and be sure to advise a victim of his/her rights under G.L. c. 209A.
 - c. For sexual assault committed by a non-intimate partner (i.e. classmate, coworker, neighbor) advise the victim of his/her rights under G.L. c. 258E;
 - d. If necessary, activate the Emergency Judicial Response System (EJRS); and
 - e. If called to an emergency room, first consult with hospital staff to determine the victim's status, how the report came in, and other relevant information. If the victim traveled to the hospital by ambulance, obtain the names of the ambulance and staff in case future interviews are needed.

III. THE ROLE OF THE SEXUAL ASSAULT INVESTIGATOR

A. GENERALLY

1. Specific to sexual assault investigators, pursuant to G.L. c. 41, § 97B, officers conducting sexual assault investigations SHALL have completed a course of training as prescribed by the Municipal Police Training Committee.
2. The sexual assault investigator will have primary control over the case and will be responsible for ensuring that a complete and comprehensive investigation is conducted.
3. Upon being assigned the case, the investigator should accomplish the following initial tasks:

- Speak with the responding officer(s) to obtain a baseline story and determine what has been completed;
- If the victim has not yet received medical treatment, make appropriate arrangements as needed and assure appropriate support referrals have been made;
- Ensure steps have been taken to preserve any crime scenes and/or evidence;
- If there are unprocessed potential crime scenes, determine if a search warrant is needed prior to processing any crime scene;
- Coordinate the dispatch of support services such as crime scene services;
- Obtain the names and contact information of any possible witnesses;
- Ensure all interviews are conducted in a timely manner, including the suspect interview;
- Ensure proper documentation of the investigation is completed and that all reports are complete and free of judgment and opinion.

B. VICTIM INTERVIEW

1. PRACTICAL ASPECTS OF THE INTERVIEW

It is strongly discouraged that friends or family be present during the victim interview. The presence of an advocate should be determined on a case-by-case basis or as determined by the victim.

2. LOCATION OF THE INTERVIEW

The interview should be conducted in a comfortable room where there will be minimal interruptions or distractions. If the ideal is not possible, the investigator should attempt, at a minimum, to ensure the victim's comfort. This can be accomplished by the simplest means, such as providing reassurance, even in the worst physical surroundings.

3. GENDER OF INTERVIEWER

If the victim requests to speak with an interviewer of a different gender, every effort should be made to accommodate them and provide the requested gender interviewer. Do not assume a police officer who is the same gender as the victim is automatically the best person to conduct the interview.

4. DOCUMENTING THE VICTIM INTERVIEW

- a. There is no "best" method of documenting the victim interview; however, the following factors should be considered:

- The District Attorney’s Office of jurisdiction and your police department’s policy;
 - The victim’s preference (i.e. the victim may be uncomfortable with the statement being recorded); and
 - Physical/linguistic/cultural limitations of victim.
- b. It is recommended that the statement be documented by either the officer actively asking questions or the second officer in the room. The practice of having the victim manually write out their own statement is strongly discouraged as it may lead to statements which are generally insufficiently detailed and/or incomplete. If the victim does choose to write out his/her own statement, the interviewing officer should review the statement with the victim to assure accuracy of detail and resolve any inconsistencies or unanswered questions.

5. CONDUCTING THE INTERVIEW

- a. Two officers should conduct the interview, if possible.
- b. The tone of the interview should be reassuring and poised.
- c. Officers conducting the interview should take an inventory of any personal bias, nervousness, or barriers they may have which might inhibit their ability to conduct the interview. If a bias is recognized, discuss the issue or concerns with a supervisor for resolution.
- d. When conducting an interview of a victim, the manner of questioning should be in an open-ended format as much as possible. The information sought should include questions regarding the following:
- Name, date, time of interview;
 - Description of the offense (details);
 - When the offense occurred (establish time line-- details of dates, months or significant events);
 - Details of the sexual assault and acts (use quotations, victim’s own words/language);
 - Physical description of offender including identifying body marks, freckles, tattoos, scars, birth marks;
 - Smells such as cigarettes, cologne, body odor, something else;
 - Did the victim describe the “feelings” they experienced during the sexual assault (pain, worry, sadness, scared, nothing or something else);

- Manner used to complete the crime (hand, fingers, penis, mouth, object, something else);
- Information about how the assault ended and what caused it to end;
- Any conversation, communication, or statements by the perpetrator either before, after, or during the assault;
- The degree of force, threat, coercion if any used to effect the assault; Weapons used (describe weapon, brought to scene or picked up there); Manner which weapon was used during the sexual assault;
- What the victim and offender did after the assault
- Relationship between the victim and suspect if any (in detail; may explain a delay in disclosure);
- Identify any and all witnesses and suspect(s);
- Identify additional interviews to be conducted as the investigation develops; and
- Other relevant information that might assist in bolstering the victim's veracity.

6. SAFETY, LEGAL, AND OTHER CONSIDERATIONS

- a. During the interview process, be aware of safety considerations for the victim, any children, or potential secondary victims/witnesses.
- b. In addition to safety considerations there are circumstances which may legally require law enforcement officers to act. These may include:
 - Advising the victim of his/her rights pursuant to (G.L. c. 209A and 258E); and
 - Mandatory referrals.
- c. The victim should be made aware of the community-based services, rape crisis centers, and court services which may be available to the victim.

7. CONCLUDING THE INTERVIEW

- a. Once the victim's safety is assured, the interview is concluded, and support services have been recommended and/or obtained, the final interaction with the victim is extremely important. Explain to the victim what they can expect next from the criminal justice system. Be honest about the court process, potential police action, and what the victim's needed participation may be in the future.

- b. Explain to the victim that if, after the interview, they remember something, it is perfectly normal and okay. The investigator should provide the victim with a mechanism to contact him/her with future information or questions. The investigator should also ensure that the victim has someone available for support. The investigator should explain to the victim about the role of the victim/witness advocate and how they can assist the victim, as well as potential victim compensation resources available through the Attorney General's Office.

IV. IDENTIFYING AND INTERVIEWING WITNESSES

A. WITNESS INTERVIEW - OVERVIEW

1. Upon arriving on scene, officers should obtain the names and contact information of potential witnesses. Officers should take detailed, concise statements which capture basic information. The statement should be in either a written report or audio/video recorded and pursuant to the Department's protocols for such statements or those of the District Attorney's Office.
2. As with victim statements, it is recommended that the witness NOT be left to write out his/her own statement. If the witness does write out his/her own statement, the officer conducting the interview should review the statement with the witness to assure accuracy of detail, resolve any inconsistencies, or unanswered questions. Any witness statements should be signed and dated by the witness providing the statement.
3. In concluding the interview with the witness, explain to them that, if after the interview, they remember something that it is perfectly normal and okay. Officers should provide the witness with a mechanism to contact them with future information or questions.

B. FIRST COMPLAINT WITNESS

1. Under the ***First Complaint*** doctrine, the first person told by the victim of an alleged sexual assault may testify about the fact of the "first complaint" and the circumstances surrounding the making of that first complaint, including the following:¹
 - Observations of the victim during the complaint;
 - Events or conversations that culminated in the complaint;
 - Timing of the complaint;

¹ See Commonwealth v. King, 445 Mass. 217 (2005).

- Other relevant conditions that might help a jury assess the veracity of the victim's allegations or assess specific defense theories as to why the complainant is making a false allegation.
1. When speaking with a first complaint witness, attempt to video and/or audio record the interview. Be sure to include the following:
 - Name, date, time of interview;
 - Circumstances under which the complainant first reported the sexual offense;
 - Events/conversations that culminated into disclosure;
 - Other potential witnesses or persons present during the offense (details);
 - Description of where offense occurred (details);
 - When the offense occurred (establish time line-- details of dates, months or significant events);
 - Details of the sexual assault and acts (use quotations, if applicable);
 - Describe the demeanor of the victim during their disclosure/recounting of the event (tone, emotions etc.);
 - Did the victim describe the "feelings" they experienced during the sexual assault (pain, worry, sadness, scared, nothing or something else);
 - Manner used to complete the crime (hand, fingers, genitals, mouth, object, something else);
 - Information about how the assault ended and what caused it to end;
 - What the victim and offender did afterwards and why;
 - Any conversation or communication which occurred between the victim and the perpetrator either before, after or during the assault;
 - Weapons used (describe weapon, brought to scene or picked up there);
 - Manner in which the weapon was used during the sexual assault;
 - The degree of force, threat, coercion if any used to effect the assault;
 - Relationship between the victim and suspect if any (nature in detail; may explain a delay in disclosure);
 - Circumstances in which the first complaint was made;
 - Other relevant information that might assist in bolstering the victim's veracity; and
 - Information on why the victim decided to tell the person, at that time and place.
 2. If possible, officers should document the exact words spoken by the victim to the first complaint witness communicating the assault. It is recommended that when possible, the interview should be videotaped and/or audiotaped.

C. CHILD WITNESS

1. Sexual assaults are very personal and can often involve other family members as direct or indirect witnesses. Do not dismiss or overlook the child witness when investigating sexual assaults. Not only can the child witness be an important source of information but there may be other safety and well-being needs that should be considered.
2. The preferred method of interviewing a child witness is at a Child Advocacy Center (CAC) by a forensic interviewer. However, if circumstances don't allow for that arrangement, the following protocols should be adhered to:
 - Conduct a "minimal facts" interview to determine probable cause or safety issues;
 - Avoid using a child as an interpreter unless it is an emergency and no alternative exists;
 - Provide referrals for appropriate services; and
 - Make all necessary filings and referrals pursuant to G.L. c. 119, § 51A, to the Department of Children and Families (DCF).

V. SUSPECT INTERACTION

A. DECISION TO ARREST OR NOT ARREST

1. The safety of the victim or other potential victims should be paramount in any decision to arrest. Additionally, officers should take into consideration the risk of flight by the suspect and the safety of officer(s), as well as any mandatory obligations required under the Department's policy on **Domestic Violence** and G.L. c. 209A.
2. As in other types of criminal investigations, uncorroborated statements by a victim can constitute probable cause that a crime occurred. The decision to arrest must be based on whether probable cause exists that the crime occurred, not on whether the victim wishes to seek complaints or wishes to testify at a future date.
3. If the above issues are not present or manageable, do not feel obligated to rush or make an immediate arrest just because you have probable cause to do so. Look at the specific circumstances of the case and consider conducting a non-custodial interview of the suspect prior to any warrant or arrest.

B. INTERVIEWING THE SUSPECT

1. ALWAYS attempt to interview a suspect even if the suspect is likely to be uncooperative or deny the allegations.
2. When conducting any suspect interview, it is strongly recommended that two officers are present and that the interview is conducted in a setting where they will not be disturbed. The best practice and preferred method is to audio and/or video record the interview.
3. Officers should refer to the Department's policy on *Interrogating Suspects and Arrestees* as need be.

VI. CRIME SCENE MANAGEMENT AND EVIDENCE COLLECTION

A. GENERALLY

1. Given the critical role physical evidence can play in any criminal investigation, especially sexual assault investigations, proper documentation, collection and preservation of physical evidence is essential.
2. Two of the most critical steps in any criminal investigation are the management of the crime scene and the collection and preservation of physical evidence. To identify a starting point, investigators must rely on their own observations in conjunction with victim and witness statements. These sources serve as a road map to navigating the crime scene(s).

B. CRIME SCENE MANAGEMENT

1. In reported sexual assaults, investigators must immediately consider the existence of, at a minimum, three crime scenes:
 - The victim;
 - The locations where the assault occurred; and
 - The offender.
2. In addition, investigators must consider other possible locations where other types of evidence or "transfer evidence," may be found. This often results in additional locations being processed as crime scenes. Documentation of evidence and the crime scene can take on many forms but of critical importance is the written report describing the condition of the scene upon discovery. It should be noted if any items were moved or altered and by whom. Documenting the reason for the contamination and by who will help preserve the integrity of the remaining scene and any additional evidence that is located.

3. Once the crime scene(s) have been identified, they must be secured. This will preserve the integrity of the evidence, and allow time for appropriate personnel to arrive on-scene for processing.
4. Crime scenes should be photographed and potentially diagrammed as found and at the time of discovery, especially if there is risk of destruction or disturbance. Pictures bring an image and corroborative element to the case which can never be as effectively communicated by words alone.
5. Although many of the reported sexual assaults are delayed disclosures, investigators should never discount the possibility of recovering physical evidence. Sexual assault evidence, by its nature, has a higher likelihood of remaining intact for extended periods of time (e.g. fluids, DNA, etc.).

C. CONSIDERATIONS BEFORE PROCESSING THE SCENE

1. There are a number of things to consider before processing a crime scene. These include:
 - Is a search warrant/consent needed? If yes, be aware of the necessary language required to obtain appropriate forensic evidence.
 - Is there an external exigency such as weather or rapid deterioration which requires immediate documentation/collection?
 - Notification of crime scene and lab services.
2. Additionally, while processing the scene, protective gear should be worn to preserve the integrity of the evidence (e.g. booties, gloves). A single officer should be assigned to identify and record anyone who enters an active scene in a Crime Scene Log.

D. FUNDAMENTALS OF PROCESSING A CRIME SCENE

1. DOCUMENTATION OF THE CRIME SCENE

The most effective method of documenting the crime scene as discovered is through photographs and video. An overall depiction of the scene should be documented prior to any evidence being tagged or removed. When photographing evidence be sure to include established points of reference, and some mechanism of measure, to give context to the observer of the photograph at a future date. Another method of providing context is to diagram evidence in accordance with fixed points of reference so the location can be recreated if necessary.

2. TYPES OF EVIDENCE - CONSIDERATIONS

- a. The decision to seize items as evidence should be guided by the investigation, investigator's observations, legal authority and the victim/witness statements.
- b. Though physical evidence, especially from sexual assault crime scenes can take many forms, the following list is provided as an example of items investigators might consider during the course of their investigations:
 - Bedding/bath;
 - Clothing/Material;
 - Swabbings/fluids (vaginal, rectal, oral, digital, penile, etc.);
 - Hairs/fibers;
 - Fingerprints;
 - Impressions (tire/footwear);
 - Digital evidence
 - Electronic communications including social media;
 - Writings/recordings;
 - Cell phones/communication devices;
 - DNA reciprocals (drinking glasses, toilet, sinks, tissues, toothbrushes, etc.);
 - Restraints/Inserted objects; and
 - Condoms/Tampons.

3. CLOTHING / MATERIAL AS EVIDENCE

- a. The victim's and assailant's clothing and any bedding or items where the assault occurred can frequently contain important physical evidence since garments/materials are absorbent surfaces, or surfaces which traces of foreign matter may be deposited or cling. Items such as blood, semen, saliva, hairs, or textile fibers may be transferred to the victim during physical contact. While foreign matter can be washed or worn off the body of the victim, the same substances may be found intact on clothing or material for a considerable length of time following the assault.
- b. Damage in the form of rips, tears, or other destructive characteristics to clothing/material may also be significant. Those items may be evidence of the use of force or resistance.
- c. Collected materials can also serve as a standard for comparing trace evidence retrieved from other evidentiary items, thereby connecting the suspect, victim and crime scenes.

4. CONDOM TRACE EVIDENCE

- a. Today's high-level awareness of the spread of various sexually transmitted diseases coupled with the media attention to the ever-improving use of DNA in identifying perpetrators of unsolved crimes has increased the use of condoms by sexual assault offenders.
- b. Although the use of condoms may significantly reduce the chance of retrieving seminal fluid, there are other types of equally important trace evidence that may be recovered. Condoms are made from a variety of synthetic and natural materials. Latex rubber is the most popular. Condom manufacturers add particulates (powders), lubricants, and spermicides to their products. Residues of those substances are referred to as condom trace evidence. Condom trace evidence can be recovered from sexual assault victims during the medical examination process.
- c. The identification of condom trace evidence may assist investigators and prosecutors in proving penetration, even in the absence of seminal fluids. To assist the forensic laboratory in the analysis of condom trace evidence, investigators should make every effort to collect all condom-related evidence including, but not limited to:
 - Used condoms;
 - Unused condoms;
 - Condom wrappers;
 - Partial or empty boxes of condoms;
 - Tissues from the trash;
 - Lubricants; and
 - Evidence inside/outside of condom.

5. PACKAGING

- a. The manner in which evidence is packaged is critical because it can directly affect the degradation or preservation of the evidence. If the evidence is not properly packaged and protected from contamination, it can be rendered virtually useless even if the best identification and collection practices have been adopted.
- b. Investigators should adhere to the following with respect to the packaging of evidence:
 - Each item should be packaged separately;

- Hairs, fibers, or other trace evidence, should be placed in a paper envelope and sealed with evidence tape; and
 - Clothing and other evidence specimens must be sealed in paper or cardboard containers as the use of plastic could result in the destruction of evidence.
 - All evidence packaging must be properly sealed with evidence tape.
 - At a minimum, all evidence should be labeled identifying the content, date and time located, date collected and by whom, agency and case number.
- c. If the clothing/material/tampons/condoms are wet, the items should be air dried before being packaged. When transporting such evidence to a secure, drying location, placing it temporarily in plastic bags is acceptable practice. The container or bag used to transport the wet evidence to the drying location, as well as the drop cloth placed under the wet evidence, should also be submitted for processing.
- d. Careless packaging can result in one garment/item accidentally contaminating another potentially making it impossible for the examiner to accurately interpret the findings. To prevent cross- contamination, each garment must be placed in a separate paper bag.

6. CHAIN OF CUSTODY

It is critical to document the chain of custody of all evidence identified and collected. This is accomplished by completing an evidence log upon the collection of evidence and any time it is moved or it changes possession from the date and time of collection. The evidence log should contain, at a minimum, the date and time it was collected/transferred, the name of the person who both took and lost possession of the evidence, a description of the evidence and a department name and case number. This documentation practice must be adhered to each time the evidence is handled or it may result in loss of evidence at trial.

7. MASSACHUSETTS SEXUAL ASSAULTS EVIDENCE COLLECTION KITS (MSAECK) AND THE SEXUAL ASSAULT NURSE EXAMINER (SANE)

- a. The victim's body may have both observable and unobservable evidence. This critical evidence is best collected in a hospital by a Massachusetts Sexual Assault Nurse Examiner (SANE) utilizing the Massachusetts Sexual Assault Evidence Collection Kit (MSAECK).

- b. SANEs undergo specialized training, providing them with advanced skills in sexual assault patient care, forensic exam assessment, and evidence collection. Although SANEs are not in every Massachusetts hospital, SANEs are positioned widely throughout the Commonwealth and usually work in high volume hospitals/medical centers.
- c. Police officers should refer sexual assault victims to SANE sites to access specialized services whenever possible. SANEs are available 24 hours a day, seven days a week to designated SANE sites and will respond when a sexual assault patient presents at an emergency department within five days (120 hours) of the assault. All hospitals across the Commonwealth are given SANE Protocols to follow when collecting evidence in the event a SANE is not available.
- d. If the victim seeks care at a SANE site before contacting the police, the SANE will ask the patient if they wish to make a police report. In these instances, the SANE may initiate police contact to facilitate the patient's report of the crime. SANEs' specialized and unique training make them a valuable resource to the investigator and can often facilitate the victim's reporting of the assault within the emergency department. A best practice, if timing allows, is for the SANE and the investigating officer to obtain a history of the assault from the patient together. This practice will decrease the number of times a victim will have to recount their experience.
- e. The average SANE exam will take approximately three to four hours and cannot be interrupted once the evidence collection is started. SANEs obtain written consent from victims for every step of the evidence collection process using six detailed MSAECK forms.
- f. As of April 2015, there are 17 MSAECK steps to the evidence collection process. Comprehensive toxicology testing may take place if appropriate based on the case facts and circumstances of the case. Also completed is a physical assessment (including a pelvic exam), evidence collection, forensic photography, medication education and administration, and the coordination of discharge and follow-up care.
- g. Time is important in sexual assault evidence collection:
 - Investigators should attempt to collect a known DNA standard from any consensual partners from the 5 days (120 hours) prior to collection of the MSAECK.
 - Evidence on a patient aged 12 years and older can be collected up to 5 days (120 hours) after the assault. Evidence can be collected even if the victim has bathed and or showered since the assault.

- h. In addition to the Sexual Evidence Collection Kit, toxicology samples are packaged in the Massachusetts Comprehensive Toxicology Kit and turned over to law enforcement with the MSAECK for transport to the Massachusetts State Police Crime Lab. It is imperative that kit pickup and transport occur as soon as possible to maintain evidence integrity.
- i. If there is suspicion that a drug was used to facilitate the commission of a sexual assault, specific toxicology testing is available to victims, with their consent, within 96 hours of the assault. The collection of urine and/or blood through the use of a Comprehensive Toxicology Kit, as a part of the MSAECK, is available at most hospital emergency departments.
- j. Victims can have toxicology testing completed even if they do not report the assault to the police. In these circumstances, toxicology results will be made available through a phone system which the victim is given access to at discharge. The victim can call the provided number to obtain the results approximately six weeks after collection. After receiving the results, the victim may then decide to initiate a police report.
- k. In addition to the collection of valuable forensic evidence, victims may also be concerned about potential medical risks. Prompt medical attention provided in the emergency department is critical to the victim's health and wellbeing. Medications can be prescribed to prevent pregnancy, HIV, and other sexually transmitted illnesses from occurring.

8. INTERVIEWING MEDICAL PERSONNEL

- a. Medical personnel and Sexual Assault Nurse Examiners (SANEs) may have important information to share related to the assault and medical assessment of the victim post examination. However, federal and state law may require the victim to provide explicit consent in order for the attending medical personnel/SANE to disclose any information.
- b. The role of the medical provider/SANE conducting a forensic examination is to document the patient's account of the assault and any physical findings. This may also include photo-documentation of non-genital injuries.
- c. Medical providers/SANEs collect forensic evidence by swabbing areas of the victim's body, often based on history as reported by the victim. Such evidence is often not visible to the naked eye. It is important to recognize that for a variety of reasons, the majority of sexual assaults do not result in physical injury and the lack of observable trauma does not mean that an assault did not occur.

- d. Furthermore, in assaults in which physical trauma is reported, injuries may not be observable to the medical personnel/SANE at the time of their examination. Victims who report their assault to law enforcement should be encouraged to notify law enforcement if injuries become visible in the following days. Follow-up photographs may be obtained by the appropriate LE photographer at that time. Medical providers/SANEs do not conduct forensic testing or analysis of any evidence collected.
- e. If a victim is transported by ambulance, investigators are encouraged to obtain copies of the run sheets and interview ambulance personnel as appropriate.

9. EVIDENCE IDENTIFICATION

All collected evidence from the MSAECK and Massachusetts Comprehensive Toxicology Kit is identified with one specific kit number whether the case is reported by the victim to the police or not. This kit number identifies the victim's evidence collection encounter and is how the evidence kit(s) are tracked. If the victim chooses to directly report the incident to the police, his/her name is noted on the kit. In cases when evidence is collected, but not reported to the police, a kit number will be the only identifier. In this circumstance, there should be no victim name on the kit. The victim is provided the kit number upon discharge and is instructed that the kit number identifies the kit and the evidence collected.

10. DISPOSITION OF THE MASSACHUSETTS SEXUAL ASSAULT EVIDENCE COLLECTION KIT

- a. Following the collection of medical evidence, the sealed MSAECK(s) are refrigerated and any clothing or other evidence is bagged and stored separately at the medical facility. The hospital will contact the police department of jurisdiction to facilitate the transfer of the kit and other evidence from the medical facility to the crime lab.
- b. It is the responsibility of the investigator to deliver the kit and other evidence to the nearest Massachusetts State Police Crime Laboratory as soon as possible to avoid the destruction of vital evidence. The investigator must ensure that the kit is refrigerated and that the chain of custody is maintained.
- c. Evidence must be collected even if the patient decides not to report the sexual assault to the police.

- d. It is the responsibility of the police department of jurisdiction where the assault occurred to pick up and transport the evidence to the crime lab, in a timely fashion, whether or not the case is reported at the time of the exam.
- e. If there are extenuating circumstances associated with the investigation or legitimate reasons the local police cannot transport the sexual assault kit and/or evidence, the Massachusetts State Police should be contacted for the transport of evidence.
- f. Unreported cases may be reported at a later date. MSAECKs are retained for fifteen (15) years, during which time the victims may decide whether they want to report the assault to the police and have the evidence analyzed.
- g. In the event the alleged sexual assault occurs out of state but the forensic exam is performed in Massachusetts, the closest Massachusetts State Police barracks should be contacted for the transportation of the kit and any associated evidence to the crime lab.

11. SUSPECT EVIDENCE COLLECTION

- a. Through arrest, consent, or search warrant, investigators may have an opportunity to collect evidence and/or biological specimens from the suspect's body or clothing. If performed before the degradation of biological material, the examination may link the suspect to the crime. Through accurate documentation and collection of blood, hair, nails, wounds, body fluids or other evidence, examination of the suspect may corroborate the victim's account of the assault.
- b. If the suspect voluntarily consents to a forensic examination, the appropriate consent forms should be signed. If the suspect does not voluntarily consent to such an examination, a search warrant/court order may be necessary and should specify all the evidence to be collected. A copy of the search warrant/court order needs to be present and submitted to the technician prior to the collection of evidence. A copy of the order/search warrant must be shown to the suspect at the time the search is conducted and the suspect should be given an opportunity to read it. A supervisor and/or the District Attorney's Office should be consulted to ensure proper legal requirements have been met.
- c. Genetic material from the victim detected on the suspect's body or clothing may also corroborate allegations that a sexual assault occurred. Additionally, a swabbing of the suspect's penis may retrieve secretions from the mouth, vagina or rectum of the victim. In cases involving digital penetration, swabbing of the suspect's fingers or scrapings/clippings of the suspect's

fingernails may retrieve secretions originating from the various body cavities of the victim. In addition, don't overlook the possibility of swabbing less obvious areas of the body which may have been handled (e.g. legs, wrists, neck, etc.).

- d. Photograph the suspect, naked if necessary. If seizing the suspect's clothing, be sure to first photograph him/her fully clothed then photograph each item of evidence separately once removed. Be respectful and provide the suspect with appropriate clothing or cover once done. The facts and circumstance of the case will impact which evidentiary items are relevant for seizure. Be sure to consider any legal restrictions and/or requirements prior to seizure of evidence to minimize the chance of suppression at trial. Ensure proper packaging and chain of custody procedures are adhered to.
- e. Regardless of what facility is used for evidence collection, the suspect and victim should never encounter one another. The security and safety of the victim and potential medical technician/examiner should also be taken seriously. Law enforcement should be present during the suspect's entire examination and processing for evidence collection.
- f. The officer should expect that only the evidence listed on the search warrant will be collected. In the event that additional evidence is identified during the course of the forensic evaluation, an additional search warrant may be required and then served prior to the collection of that evidence (e.g. not in plain view). In the event this occurs, contact the District Attorney's Office for consultation; however, it may be permissible to detain the suspect while the second search warrant is obtained.
- g. A Sexual Assault Evidence Collection Kit should never be used when collecting evidence from sexual assault suspects. The kits are for the collection of evidence from victims ONLY and do not provide for the collection of all the necessary specimens from sexual assault suspects.
- h. It is the responsibility of the investigating law enforcement agency to ensure that the evidence is collected in a proper manner and that it's delivered to the crime laboratory in a timely fashion.

12. CHAIN OF CUSTODY

To prevent the loss, or misplacement of evidence at the time of kit pick-up, officers should expect hospital emergency staff to ask for identification for documentation purposes. Police officers picking up evidence should be prepared to provide hospital staff with their name and identification/badge number. This

practice is to protect the integrity of the chain of custody and is to comply with evidence transport guidelines.

13. COMBINED DNA INDEX SYSTEM (CODIS)

- a. The nation-wide standardization of forensic DNA analysis provides the ideal platform for crime labs to share DNA information derived from evidence and sexual offenders. Using the Federal Bureau of Investigation's Combined DNA Index System (CODIS), DNA profiles obtained from body fluids, stains, or other evidentiary sources of DNA with unknown offenders may be linked to other cases or known offenders. This has allowed crime labs to scientifically document known sex offenders.
- b. A DNA profile derived from evidence may lead investigators to the identity of a single assailant, multiple offenders, or link multiple cases. The information obtained from a CODIS report serves as an invaluable investigative tool lead helping direct investigator to potential offenders.
- c. DNA profiles must meet eligibility requirements before being submitted to CODIS.

VII. ADDITIONAL INVESTIGATIVE TOOLS AND RESOURCES

A. ELECTRONIC EVIDENCE

1. In any investigation, investigators must consider all electronic media and storage devices as potential sources of evidence and insight into the circumstances of the case. In doing so, the investigator should consider the following:
 - Is digital evidence potentially involved in the crime?
 - Survey the scene for digital evidence, including phones, cameras, computers, thumb drives and other external storage devices.
 - If there a question as to the location of the suspect or victim at the time of the crime, and they routinely carry their cell phone on their person, cell site location information (CLSI) can be gained with a search warrant.
 - Interview victim/witnesses as to the use of these devices. Text or social media communication between victim and suspect, before and after the crime has occurred, can carry evidentiary value.
 - Identify all locations of potential digital evidence:
 - On-scene (e.g. phones, computers, data storage devices)
 - On-line (e.g. Internet Service Providers, "cloud" storage services)

- Other locations (e.g. in possession of victim or suspect)
 - Determine search authority:
 - Consent, plain view, search warrant, exigency, etc.
 - Electronic Communication Privacy Act (ECPA)
 - The digital crime scene may include information stored by service provider and may require a Preservation Order followed by a search warrant.
 - Always be cognizant of the fact that some devices can be erased or otherwise tampered with from remote locations. Care should be taken to protect devices from any incoming signals (e.g. use of a Faraday bag or switching of the device to “airplane mode”).
2. There can often be technological nuances and search warrant requirements associated with electronic storage devices and evidence recovery. Therefore, it is strongly recommended that a computer forensic unit and/or the District Attorney’s Office is consulted prior to handling or seizing such evidence.

B. ELECTRONIC MONITORING - PROBATION

1. The Massachusetts Probation Service Electronic Monitoring (ELMO) provides a critical level of services designed as an alternative to incarceration. Law Enforcement agencies may request ELMO information, by submitting a written request to Elmo.Inforequests@jud.state.ma.us from a verifiable Law Enforcement agency email address. Probation typically responds within 24 to 48 hours. Please note that ELMO will supply GPS information “For Investigative Purposes Only”.
2. **IMMEDIATE NEED:** In the interest of public safety, if a Law Enforcement agency makes an urgent request (i.e. AMBER Alerts, Major/Catastrophic events, and requests for real time locations of specific monitored offenders for the purpose of serving a warrant or effectuating an arrest) and provides verifiable credentials (such as the main phone number of the requesting agency, the officer’s badge number, contact information, and that the Officer is currently assigned to investigate the matter at hand) information for investigative purposes may be provided immediately.
3. If an agency is requesting a point tracking search (Crime Correlation) for a particular location, this request should include a defined period of time and should disclose for what purpose the request is being made. All requests should be sent to Elmo.Inforequests@jud.state.ma.us. Law enforcement may also contact ELMO directly at 978-365-2970 for assistance.

C. COURT ORDERS / GRAND JURY SUBPOENAS

In certain circumstances such as obtaining financials, phone records, medical records, or other documentation, court orders and/or grand jury subpoenas may be necessary. These requests must be coordinated with the District Attorney's Office.

D. POLYGRAPH EXAMINATIONS

1. The use of polygraph examinations can be an effective and reliable tool to include or exclude an individual as a suspect in criminal investigations. The use of polygraph examinations for victims is strongly discouraged except in cases where there is a reasonable basis to believe the victim is making a false claim or report. In addition, the use of or the suggested use of a polygraph examination should not be used as a condition of proceeding with an investigation, charge, or prosecution of an offense.
2. In Massachusetts, the results of polygraph exams are inadmissible in criminal trials and may not be used for any purpose or in any capacity for criminal prosecution. In addition, the submission to, or failure to submit to, a polygraph examination is inadmissible in court.

E. SEX OFFENDER REGISTRY BOARD (SORB)

The Sex Offender Registry Board (SORB) is the state agency responsible for compiling and maintaining a database of convicted sex offenders and classifying each offender. The SORB is an important partner with local law enforcement to ensure sex offender registration and compliance enforcement. The SORB is also an excellent resource for law enforcement offering investigative support. They have access to records and information regarding offender histories which may not be available through traditional data base searches (e.g. Triple III, BOP etc.).

F. OUTSIDE DOCUMENTATION

1. The use of outside agency documents and reports can be powerful circumstantial evidence to corroborate your investigation. Consider checking the following sources for information regarding the suspect or possible suspects:
 - Board of Probation record (BOP);
 - Interstate Identification Index (III) (federal Criminal History Record Information);
 - Incident reports from other arrests and/or law enforcement involvements;
 - Field interrogations reports (FIO reports);
 - Employment records;
 - Military records;
 - Educational documents;
 - Passports and travel documents;

- Probation/Parole records;
 - Financial records;
 - 911/Turret tapes;
 - Outside video;
 - Professional boards (e.g. medicine, education);
 - Department of Transitional Assistance;
 - Department of Children and Families;
 - Disabled Persons Protection Commission;
 - Rental information; and
 - GPS, and electronic monitoring transponders.
2. The above is not an exhaustive list. The limits and constraints of investigative tools and resources are only as limited as an investigator's imagination, so utilize all available resources. Assemble as comprehensive and professional investigative package as possible.

VIII. OTHER INVESTIGATIVE CONSIDERATIONS

A. HIGH PROFILE INVESTIGATIONS

Sexual assault investigations cross all social, economic, and professional boundaries. Because of these intersections, an investigator may be placed in delicate or difficult situations. The investigator's job is to investigate and report the facts as they are found. The investigator's ability to be impartial and ensure the victim is treated fairly and with dignity is paramount. If an investigation creates a real or perceived conflict, the best practice may be to have the case handled by an independent and detached party. Consult the Department policy, supervisor, and/or the District Attorney's Office when such situations arise.

B. MEDIA RELATIONS AND INTERACTION

1. When addressing the media regarding any criminal investigation or pending criminal case, it is recommended that the investigator consult the Department's policy and guidelines and ensure that the information contained in the log is appropriate for public dissemination. Coordinate any press releases with the District Attorney's Office where warranted or as prescribed by the Department policy.
2. Aside from the legal restrictions that prohibit the release of information regarding victims of sexual assault, there are often a myriad of other issues and concerns which may be present for the victim. These include the ongoing threat of and/or risk of continued domestic and sexual violence or retaliation. Safety

risks may require additional layers of protection and precaution by law enforcement to protect the identity and location of the victim.

3. There are several Massachusetts General Laws which impact public dissemination and media disclosure. The primary statute which affects law enforcement is G.L. c. 265, § 24C. This statute states that the portion of records of any court or any police department in the Commonwealth or any of their political subdivisions which contain the name of a victim in an arrest, investigation, or complaint for rape or assault with intent to rape, shall be withheld from public inspection, except with consent of a justice of such court where the complaint or indictment would be prosecuted. Said portion of the court record or police record shall not be deemed to be a public record. In addition to the above, it is also important to be cognizant of the added legal restrictions surrounding the release of information regarding juveniles.

IX. TRAINING

All sworn and communications personnel shall be trained in this policy, and shall review and refer to ***Training Bulletin 2.06*** relative to Sexual Assault Investigations for additional training and guidance.

APPENDIX INDEX

- A. JANE DOE, INC. MAP OF VICTIM RELATED SERVICES

- B. NETWORK OF SEXUAL ASSAULT & DOMESTIC VIOLENCE SERVICE PROVIDERS IN MASSACHUSETTS

- C. SEXUAL ASSAULT NURSE EXAMINER SITES

APPENDIX A JANE DOE, INC. MAP OF VICTIM RELATED SERVICES

NETWORK OF SEXUAL ASSAULT & DOMESTIC VIOLENCE SERVICE PROVIDERS IN MASSACHUSETTS

Use this map to find free and confidential support and services at a sexual or domestic violence program near you.

You can also find programs by visiting www.janedoe.org/find_help/search for an interactive search engine which allows you to locate programs by city or zip code.



There are over 60 community-based sexual assault and domestic violence service providers in the state of Massachusetts. They advocate on behalf of victims and offer confidential, crisis and long-term support and services to tens-of-thousands of victims and survivors of sexual and domestic violence and their families each year.

STATEWIDE PROGRAMS		
<p>If you are not sure where to call for help, call 411.</p> <p>☉ Asian Task Force Against Domestic Violence (ATASK) 24-Hour Multilingual Helpline 617-338-2355 ☎ ES</p> <p>☉ Our Deaf Survivors Center Hours: 5pm Monday - 5am Saturday 1-844-ODSC-SAFE (1-844-637-2723)</p>	<p>☉ SaferLink Toll-free statewide Domestic Violence Hotline PH: 877-785-2020 ☎ TTY: 877-521-2601 ☎</p> <p>★ Llamamos y hablamos Toll-free Spanish Sexual Assault Helpline 800-223-5001</p> <p>☉ The Network/La Red Ending partner abuse in LGBTQ, SM and Poly communities PH: 617-742-4911 ☎ ES TTY: 617-338-SAFE (7833)</p>	<p>☉ MA Alliance of Portuguese Speakers 617-864-7600</p> <p>☉ SAHELL: Friendship for South Asian Women 866-472-4354</p>

SYMBOL KEY		
☉ Domestic Violence Program	☎	24 Hour Free & Confidential Hotline
★ Sexual Assault / Rape Crisis Program	ES	Emergency/ Domestic Violence Shelter
JDI members in bold		

VISIT OUR WEBSITE:
www.JaneDoe.org



14 Beacon Street, Suite 507, Boston, MA 02108
 TEL: 617-248-0922 TTY: 617-263-2200 FAX: 617-248-0992

See other side for a list of programs by region. →

APPENDIX B NETWORK OF SEXUAL ASSAULT & DOMESTIC VIOLENCE SERVICE PROVIDERS IN MASSACHUSETTS

METRO BOSTON		CENTRAL & METROWEST		NORTHEAST REGION		WESTERN REGION	
AWAKE Program (Children's Hospital) Boston: 617-355-6389	HAVEN at MGH Boston: 617-724-0054	Domestic Violence Services Network Concord: 888-389-6111	The Domestic Violence/Sexual Assault Program of Newton Wellesley Hospital Newton: 617-243-6521	Alternative House Lowell: 888-291-6220	Center for Women & Community Amherst: 413-545-0800 TTY: 413-517-0940	Safe Passage Northampton: 888-345-5282 TTY: 413-588-5069	
Boston Medical Center Domestic Violence Program Boston: 617-414-5467	International Institute of Boston Boston: 617-895-9990	Journey to Safety (JFCS) Waltham: 781-647-5327	Center for Hope & Healing (Rape Crisis Services of Greater Lowell) Lowell: 800-542-5272	Elizabeth Freeman Center Pittsfield: 888-401-2425	Womenshelter/Compañeras Holyoke: 877-536-6228	WYCA Western Massachusetts Springfield: 800-766-8711 TTY: 413-733-7100	
Boston Area Rape Crisis Center (BARCC) Cambridge: 800-841-8371	Passageway at Brigham & Women's Hospital Boston: 617-732-8753	New Hope, Inc. South County/Westster: 800-323-4673	Community Teamwork Inc. Lowell: 978-458-0551	HANWC - Healing Abuse Working for Change Salem: 978-744-6641	NEICMHT Greenfield: 413-772-0805		
Casa Myrna Boston: 877-785-2020	Portal to Hope Salem: 781-308-8978	REACH Beyond Domestic Violence Waltham: 800-889-4000	HANWC - Healing Abuse Working for Change Salem: 978-744-6641	A New Day/Reynolds's Place (Health Imperatives) Brookline/Quincy: 508-889-8235 508-889-2041			
Center for Violence Prevention and Recovery at Beth Israel Deaconess Medical Center Boston: 617-697-9141	Renewal House Roslindale/Boston: 617-566-9881	Pathways for Change (Rape Crisis Center of Central Massachusetts) Worcester: 800-870-5905	Jeanna Geiger Crisis Center Newburyport/Amesbury: 978-388-1888	A Safe Place Nantucket: 508-228-2111 TTY: 508-228-7095			
Community Advocacy Program of CCHERS Boston: 617-373-4591	RESPOND Inc. Somerville: 617-523-5900	Project "We Can Talk About It", Children's Charter Waltham: 781-894-4307	Supportive Care, Inc. Lawrence: 978-688-1300	Cape Cod Shelter and Domestic Violence Services Falmouth: 508-594-7233			
DOVE Inc. Quincy: 888-314-3683	Safe Havens IntraInn Partnership Boston: 617-461-3980	Spanish American Center Lynn: 978-534-3145	YWCA of Greater Lawrence Lawrence: 877-538-9822 984-372-9822	CONNECT to End Violence Wareham: 508-696-7233 TTY: 774-549-9559			
The Elizabeth Stone House Jamaica Plain/Boston: 617-427-9801	The Second Step Newton: 617-465-3999	Voices Against Violence Frammingham: 800-593-1125	YWCA North Shore Rape Crisis Center Lynn: 800-922-8772 TTY: 781-477-2315	Family & Community Resources Brookline: 800-281-6468			
EmPath (Formerly Catterton Women's Union) Brighton: 617-782-7800	Transition House Cambridge: 617-861-7203	Wayside Valley Rape Crisis Program Miford: 800-511-5070		SSTAR Women's Center Fall River: 508-673-0087			
FINEX House Jamaica Plain/Boston: 617-288-4054 (Also TTY)	Violence Recovery Program (Fenway Health) Greater Boston: 617-927-8250	YWCA Central Massachusetts Domestic Violence Services. BWR and Daybreak Worcester: 508-755-9030 Lynn: 508-755-9030					
HarborCOV Chelsea: 617-884-9909							

SYMBOL KEY	
Ⓢ	24 Hour Free & Confidential Hotline
ES	Emergency Domestic Violence Shelter
JDJ members in bold	

APPENDIX C

SEXUAL ASSAULT NURSE EXAMINER SITES

SEXUAL ASSAULT NURSE EXAMINER PROGRAM DESIGNATED SITES AND STAFF CONTACT INFORMATION	
<p><u>Designated Boston Area SANE Sites:</u> Boston Medical Center Brigham and Women's Beth Israel Deaconess Cambridge Hospital Children's Hospital Boston Massachusetts General Hospital Newton Wellesley Hospital MetroWest Medical Center* <small>*Receiving MA TeleSANE services through the National TeleNursing Project</small></p>	<p><u>Regional Coordinator:</u> <u>Claire Shastany, RN, SANE</u> Phone: (781) 718-9164 Fax: (617) 624-5715 E-Mail: Claire.Shastany@state.ma.us <u>Boston Operational Coordinator</u> <u>Laurie Ferguson, RN, SANE</u> Phone: (781) 718-6731 Fax: (617) 624-5715 E-Mail: Laurie.Ferguson@state.ma.us</p>
<p><u>Designated Northeastern SANE Site:</u> Lawrence General Hospital Lowell General Hospital</p>	<p><u>Regional Coordinator:</u> <u>Deb Perry, RN, CEN, SANE</u> Phone: (978) 478-8138 Fax: (617) 624-5715 E-Mail: Deborah.Perry@state.ma.us</p>
<p><u>Designated Southeastern SANE Sites:</u> Beth Israel Deaconess – Plymouth (Jordan) Brockton Hospital Chariton Memorial Hospital Morton Medical Center South Shore Hospital St. Luke's Hospital Tobey Hospital St. Anne's Hospital* <small>*Receiving MA TeleSANE services through the National TeleNursing Project</small></p>	<p><u>Regional Coordinator:</u> <u>Kristi Holden, RN, BSN, SANE</u> Phone: (774) 274-0757 Fax: (617) 624-5715 Email: Kristi.Holden@state.ma.us</p>
<p><u>Designated Central Massachusetts SANE Sites:</u> Harrington Memorial Hospital Milford Regional Medical Center St. Vincent's Hospital UMASS Memorial Hospital UMASS University Hospital</p>	<p><u>Regional Coordinator:</u> <u>Jennifer Powell, RN, BSN, SANE</u> Phone: (508) 688-4402 Fax: (617) 624-5715 Email: Jennifer.Powell@state.ma.us</p>
<p><u>Designated Western Mass. SANE Sites:</u> Baystate Medical Center Berkshire Medical Center Cooley Dickinson Hospital Mercy Medical Center UMASS Amherst University Health Services Wing Memorial Hospital</p>	<p><u>Regional Coordinator:</u> <u>Mary Walz-Watson, RN, BS, SANE</u> Phone: (857) 207-0789 Fax: (617) 624-5715 Email: Mary.Walz-Watson@state.ma.us</p>
<p><u>Designated Cape/Islands SANE sites:</u> Cape Cod Hospital Falmouth Hospital Nantucket Cottage Hospital</p>	<p><u>Regional Coordinator:</u> <u>Kathleen Ecker, MSN, NP-BC, Pediatric and Adult SANE</u> Phone: (774) 274-0944 Fax: (617) 624-5715 E-Mail: Kathleen.Ecker@state.ma.us</p>

**SEXUAL ASSAULT NURSE EXAMINER PROGRAM
DESIGNATED SITES AND STAFF CONTACT INFORMATION**

Joan Meunier-Sham, MS, RN
Director
MA SANE Program
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone: (781) 718-9107
Fax: (617) 624-5715
E-Mail: Joan.Sham@state.ma.us

Jennifer Bastin
Program Operations Coordinator
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Office: (617) 624-6052
Fax: (617) 624-5715
E-Mail: Jennifer.bastin@state.ma.us

Katherine Dudich, RN, MS, JD
Pediatric Associate Director
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone (617) 624-5458
Fax: (617) 624-5715
E-Mail: Katherine.B.Dudich@state.ma.us

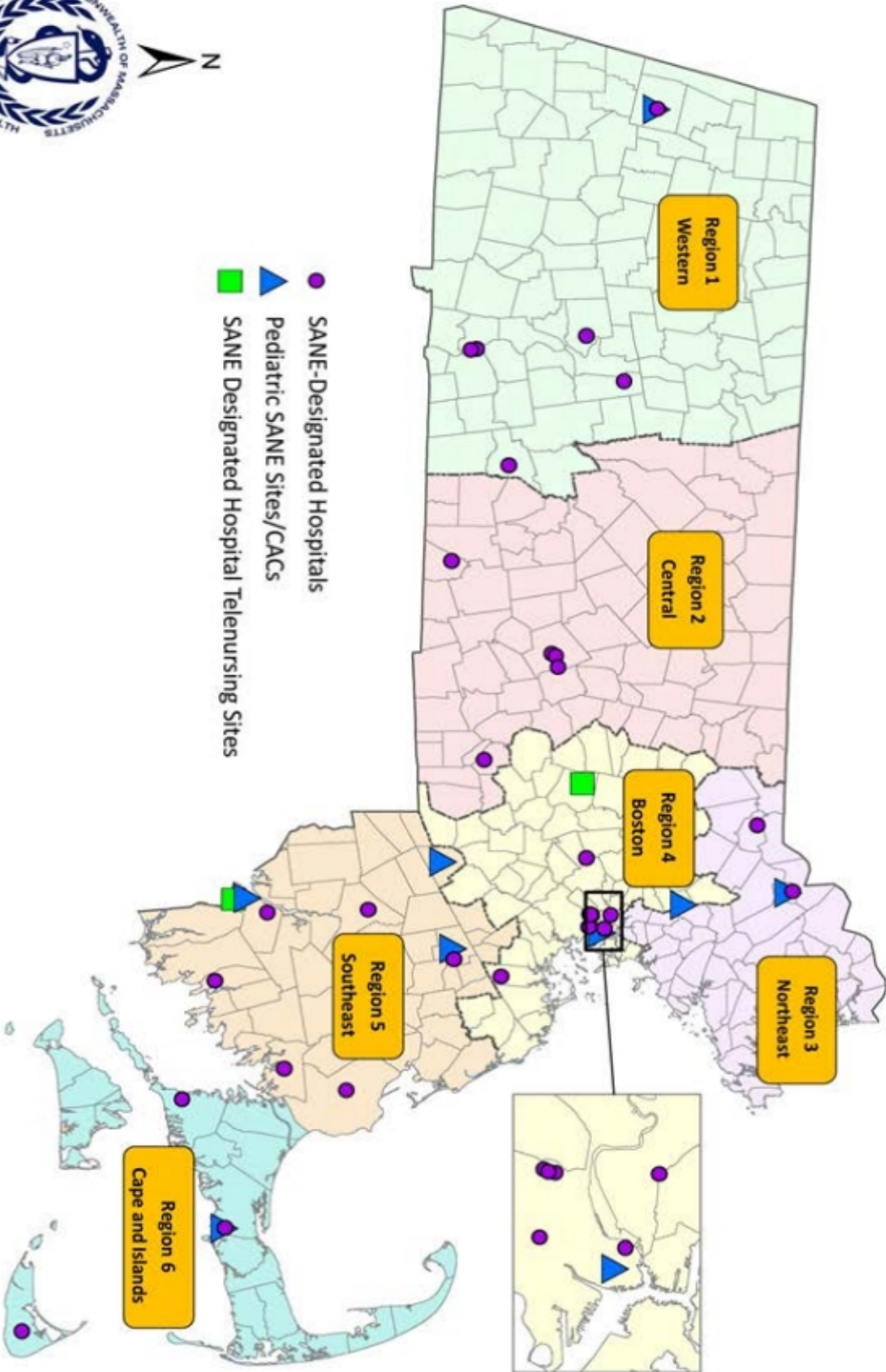
Cheryl Re, RN, BSN, SANE
Associate Director
Adult and Adolescent SANE
MA SANE Program
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone: (413) 265-8559
Fax: (617) 624-5715
Email: Cheryl.Re@state.ma.us

Karen Hazard, RN, BS, SANE
Training and Outreach Coordinator
Massachusetts SANE Program
MA Department of Public Health
Boston, MA 02108
Phone (339) 440-1476
Fax: (617) 624-5715
E-Mail: Karen.Hazard@state.ma.us

Cynthia Moore, PNP, SANE
Pediatric SANE Clinical Coordinator
MA SANE Program
MA Department of Public Health
Boston, MA 02108
Phone (781) 400-4313
Fax: (617) 624-5715
Email: Cynthia.moore@state.ma.us



Massachusetts SANE Sites and Children Advocacy Centers



BIAS CRIMES

POLICY & PROCEDURE NO. 2.17	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/22/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy is designed to assist officers in identifying crimes motivated by bias toward an individual's race, religion, ethnicity, handicap, sexual orientation or gender and to define appropriate steps for assisting victims and apprehending suspects.

The key to a successful law enforcement response to bias crimes is building a partnership with victimized communities. Citizens need to be encouraged to come forward whenever a hate crime occurs and to have confidence that the police will handle these matters with the seriousness and concern they deserve.

Also, recognizing the particular fears and distress typically suffered by victims of these crimes, the potential for reprisal and escalation of violence, and the possible far-reaching negative consequences of these acts on the community and the department, particular attention shall be given to addressing the security and related concerns of the immediate victims as well as their families and others affected by the crime. See departmental policy on **Victim/Witness Assistance** .

II. POLICY

It is the policy of this department that:

- A. All personnel are committed to safeguard the state and federal civil rights of all individuals irrespective of their race, religion, ethnicity, handicap, sexual orientation or gender;
- B. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes that are designed to infringe upon every person's civil rights will be treated seriously; and
- C. Bias crimes are viewed very seriously and will be given high priority. The department will use every necessary resource rapidly and decisively to identify

the perpetrators, arrest and prosecute them, and take vigorous enforcement action.

III. DEFINITIONS

- A. Advocacy Organization:** Any non-profit or not-for-profit group which represents or serves constituencies targeted in hate crimes motivated by the forms of bias enumerated at 501 CMR 4.02(3); or gathers information relating to the incidence, circumstances, patterns, causes, or nature of hate crimes or incidents or any specific type(s) of hate crime or incidents.¹
- B. Bias Indicators:** Objective facts, circumstances, or patterns attending a criminal act(s) which, standing alone or in conjunction with other facts or circumstances, suggest that the offender's actions were motivated, in whole or in part, by any form of bias enumerated at 501 CMR 4.02.²
- C. Bias Motive:** Hatred, hostility, or negative attitudes towards, or prejudice against, any group or individual on account of race, religion, ethnicity, handicap, gender or sexual orientation, which is a contributing factor, in whole or in part, in the commission of a criminal act. A bias motive can be inferred from the presence of one or more bias indicators. A bias motive may also consist of intent to interfere with, disrupt, or deprive another person(s) of his/her constitutional rights by threats, intimidation, harassment, or coercion. The specific forms of bias covered by the Hate Crime Reporting Act are:³
 - 1. Racial/Ethnic/National Bias
 - a. Anti-Black
 - b. Anti-White
 - c. Anti-Asian
 - d. Anti-Hispanic
 - e. Anti-Arab
 - f. Anti-Other Racial/Ethnic/National Group
 - 2. Religious Bias
 - a. Anti-Jewish
 - b. Anti-Catholic
 - c. Anti-Protestant
 - d. Anti-Islamic (Muslim)
 - e. Anti-Other Religion
 - 3. Sexual Orientation Bias
 - a. Anti-Gay (Male)
 - b. Anti-Lesbian (Female)
 - c. Anti-Other Sexual Orientation

-
4. Handicap Bias
 - a. Anti-Person with AIDS
 - b. Anti-Physically Disabled
 - c. Anti-Mentally Disabled (i.e., mental illness, mental retardation)
 5. Gender Bias
 - a. Anti-Male
 - b. Anti-Female
 - c. Anti-Transgender Bias (as further defined by the Governor's Task Force on Hate Crimes).
 6. Crime Reporting Unit: A joint project of the state police and the Criminal History Systems Board responsible for collecting incident reports submitted by law enforcement authorities and disseminating periodic reports analyzing and interpreting crime rates and trends in the Commonwealth.⁴
 7. Hate Crime: Bias Crime - Any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender or sexual orientation prejudice, or which otherwise deprives another person of his/her constitutional rights by threats, intimidation or coercion, or which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation; and also includes violations of:⁵
 - a. M.G.L. c. 265, §37 (Violations of Constitutional Rights);
 - b. M.G.L. c. 265, §39 (Assault or Battery to Intimidate);
 - c. M.G.L. c. 266, §127A (Destruction of Place of Worship); or
 - d. M.G.L. c. 272, §92A (Advertisement, Book, Notice or Sign Relative to Discrimination).
- D. Hate Crime Report:** An account of a hate crime from a law enforcement source received or collected by the Crime Reporting Unit.⁶
- E. Hate Group:** An organization, formal or informal, which promotes bias, animosity, hostility, or malice against persons belonging to a racial, religious, ethnic/national origin, handicap, sexual orientation or gender group (e.g., the Ku Klux Klan, American Nazi Party, etc.).⁷
- F. Hate Incident:** Any act whether consisting of conduct, speech or expression, to which a bias motive is evident as a contributing factor, without regard for whether the act constitutes a crime.⁸
- G. Hate Incident Report:** An account of a hate incident from a civil rights agency or advocacy organization received or collected by the Crime Reporting Unit.⁹

IV. BIAS INDICATORS AND FACTORS

A. Bias Indicators ¹⁰

1. **GENERALLY:** The following criteria can assist law enforcement officers in determining whether a particular crime should be classified as a bias crime. These criteria are not all-inclusive, and each case must be examined on its own facts and circumstances. Common sense judgment should also be applied in making the determination whether a crime should be classified as a bias crime.
2. **RACIAL, ETHNIC, GENDER AND CULTURAL DIFFERENCES**
 - a. The offender and the victim were of different racial, religious, ethnic/national origin, handicap and sexual orientation or gender groups. For example, the victim was black and the offenders were white.
 - b. The victim is a member of a racial, religious, ethnic/national origin, handicap, sexual orientation or gender group which is overwhelmingly outnumbered by members of another group in the area where the victim lives and the incident took place.
 - c. The victim was engaged in activities promoting a racial, religious, ethnic/national origin and handicap, sexual orientation or gender group. For example, the victim is a member of the NAACP, participated in gay rights demonstrations, etc.
 - d. The incident coincided with a holiday relating to the victim's group (e.g., Martin Luther King Day, Rosh Hashanah, Gay/Lesbian Pride Day, etc.).
 - e. A historically established animosity exists between the victim's group and the offender's group.
 - f. The victim, although not a member of the targeted racial, religious, ethnic/national origin, handicap, sexual orientation or gender group, is a member of an advocacy group supporting the precepts of the victim group, or is friendly with members of a victim group.
 - 1) **COMMENTS, WRITTEN STATEMENTS AND GESTURES:** Bias-related oral comments, written statements, or gestures were made by the offender that indicate his/her bias. For example, the offender shouted a racial or anti-gay epithet at the victim.
 - 2) **DRAWINGS, MARKINGS, SYMBOLS AND GRAFFITI:** Bias-related drawings, markings, symbols, or graffiti were left at the crime scene. For example, a swastika was painted on the door of a synagogue.
3. **ORGANIZED HATE GROUPS**
 - a. Certain objects, items, or things which indicate bias were used (e.g., the offenders wore white sheets and white hoods) or left behind by the offender(s) (e.g., a burning cross was left in front of the victim's residence).

-
- b. There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.
4. PREVIOUS EXISTENCE OF BIAS CRIME/INCIDENTS
 - a. The victim was visiting a location where previous hate crimes had been committed against other members of his/her racial, religious, ethnic/national origin, handicap, sexual orientation or gender group and where tensions remain high against his/her group.
 - b. Several incidents have occurred in the same locality, at or about the same time, and the victims are all of the same racial, religious, ethnic/national origin, handicap, sexual orientation or gender group.
 - c. The victim has received harassing mail or phone calls or has been the victim of verbal abuse based on his/her affiliation with a targeted group.
 5. VICTIM/WITNESS PERCEPTION: Victims or witnesses perceive that the incident was motivated by bias.
 6. MOTIVE OF SUSPECT
 - a. The offender was previously involved in a similar bias crime or is a member of, or associates with, an organized hate group.
 - b. The victim was in or near an area or place commonly associated with or frequented by a particular racial, religious, ethnic/national origin, handicap, sexual orientation or gender group (e.g., a gay bar).
 - c. The victim was in the company of, or married to, a member of a targeted group.
 - d. The victim was perceived by the offender as violating or breaking from traditional conventions or working in a non-traditional employment.
 7. LACK OF OTHER MOTIVES: There was no clear economic or other motive for the incident.

B. Factors to Aid in Identifying Possible Bias Crimes/Incidents

1. Officers must attempt to determine whether a particular crime or incident should be classified as a Bias Crime/Incident.
2. Officers must, therefore, evaluate the presence of the following factors:
 - a. The crime/incident involves an act, threat or attempt:
 - 1) That constitutes an expression of racial, religious, ethnic, or sexual orientation hostility; or
 - 2) To injure, intimidate, interfere with or oppress any person or group in the free exercise or enjoyment of any right or privilege secured to him/her by the constitution or laws of the Commonwealth or the United States;
 - 3) Against the person or property of another;

- 4) By an individual or a group.
- b. The crime/incident involves:
 - 1) Telephone calls or writings that contain racial, religious, ethnic/national origin, handicap, sexual orientation or gender slurs or epithets;
 - 2) Assaults or vandalism attributable to the victim's race, religion, ethnicity, handicap, sexual orientation or gender group; or
 - 3) Symbolic gestures, drawings, markings, or graffiti with racial, religious, ethnic/national origin, handicap, sexual orientation or gender connotations.

V. PROCEDURES

A. Patrol Officer Responsibilities: When an officer at the scene of an incident believes that it may have been motivated by racial, religious, ethnic/national origin, handicap, sexual orientation or gender bias, the officer shall take any preliminary actions necessary, such as:

1. Determining whether any perpetrators are present and, if so, taking appropriate enforcement measures;
2. Restoring order to the crime scene and taking any necessary actions to gain control of the situation;
3. Responding in a courteous, respectful and professional manner to the needs of the victim (see department policy on **Victim/Witness Assistance**);
4. Identifying any injured parties and taking steps to provide medical assistance;
5. Identifying any witnesses or others who have knowledge of the crime;
6. Protecting the crime scene;
7. Summoning a patrol supervisor or OIC to the scene; and
8. Conducting the preliminary investigation of the incident (see department policy on **Preliminary Investigations**), and filing a complete and detailed report according to department procedures.
 - a. Note any information that may indicate that it was a bias crime.
 - b. Note specifically in the title of the report that the incident appears to be a possible bias crime.

B. Patrol Supervisor or OIC Responsibilities: Upon responding to the scene of the incident, the patrol supervisor or OIC shall:

1. Confer with the initial responding officer;;
2. Take measures to ensure that all necessary preliminary actions have been taken and inform his/her immediate supervisor or OIC of the incident;
3. Request any appropriate additional personnel necessary to complete the preliminary investigation and begin the follow-up investigation;

4. Provide immediate assistance to the crime victim(s), allowing them a period of time in which to express their feelings;
5. Assist the victim in identifying or contacting individuals or agencies that may provide support and/or assistance, such as family members, friends, clergy, and/or community service agencies;
6. Provide security and precautionary advice to the victim;
7. Supervise the preliminary investigation to include preliminary interviews of the victim and any witnesses to the incident; and
8. Review incident and/or arrest report and make an initial determination as to whether the incident should be classified as a bias crime.

C. Investigator Responsibilities

1. When responding to the scene of an alleged bias crime and/or incident, investigators (may be detective or patrol officer assigned to investigate the crime) shall assume control of the follow-up investigation and shall:
 - a. Ensure that the scene is properly protected, preserved, and processed and that all physical evidence of the incident is photographed, collected, labeled, and submitted according to current departmental procedures;
 - b. Confirm that if evidence of an inflammatory nature cannot be physically removed (e.g., painted words or signs on a wall), the owner of the property shall be contacted to remove such material as soon as possible once it has been photographed;
 - c. Conduct a comprehensive interview with all victims and witnesses at the scene, or as soon as possible thereafter, and canvass the neighborhood for additional personal sources of information;
 - d. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense, and its potential inflammatory and related impact on the community;
 - e. Work closely with the district attorney's office and State Police Detective Unit to ensure that a legally adequate case is developed for prosecution;
 - f. Coordinate the investigation with other appropriate law enforcement agencies in an effort to obtain an analysis of any discernible patterns, organized groups, and/or suspects potentially involved in the offense;
 - g. Make the final determination as to whether the incident should be classified as a bias crime or incident; and
 - h. Complete any reports necessary to comply with statistical reporting requirements for Hate Crimes.
2. Investigative officers shall also take the lead role in providing ongoing assistance to the crime victim, to include:
 - a. Providing ongoing information to the victim about the status of the criminal investigation; and,

- b. Contacting the victim periodically to determine whether [s]he is receiving adequate and appropriate assistance.

D. Community Relations and Crime Prevention

1. Hate crimes and incidents are viewed in the community not only as crimes against the targeted victim, but also as a crime against the victim's racial, religious, ethnic/national origin, and handicap, sexual orientation or gender group as a whole.
2. Working constructively with segments of this larger audience after such incidents is essential to help reduce fears, stem possible retaliation, help prevent additional bias crimes and/or incidents, and encourage any other previously victimized individuals to step forward and report those crimes.
3. Towards this end, the department's community relations function, or officers so assigned, shall take the following steps as appropriate:
 - a. Meet with neighborhood groups, residents in target communities, and other identified groups to allay fears, relay the department's concerns over and response to this and related incidents, reduce the potential for counter-violence and provide safety, security, and crime prevention information;
 - b. Provide direct and referral assistance to the victim and his/her family;
 - c. Conduct public meetings on racial, religious, ethnic, and sexual orientation threats and violence in general, and as they relate to specific incidents;
 - d. Establish a liaison with formal organizations and leaders;
 - e. Expand, where appropriate, existing preventive programs such as anti-hate seminars for school children; and
 - f. Create Memoranda of Understanding with community civil rights organizations and advocacy groups.

E. Reporting

1. It shall be the responsibility of the detective unit or investigating officer to ensure that all bias crimes are properly reported to the Crime Reporting Unit on a monthly basis.¹¹
2. The Massachusetts Hate Crime Reporting Form shall be used to report Hate Crimes to the Crime Reporting Unit.¹²
3. If additional information becomes available, an amended report or additional data or information shall be submitted to the Crime Reporting Unit.¹³
4. Names of victims and perpetrators of bias crimes should not be reported to the Crime Reporting Unit on the prescribed form. Crimes shall be referenced and identified by the case number, the time and date of the incident, and other particularized information deemed relevant by the Crime Reporting Unit.¹⁴

¹ 501 CMR 4.02.

² 501 CMR 4.02.

³ 501 CMR 4.02.

⁴ M.G.L. c. 22C, §32.

⁵ M.G.L. c. 22C, §32.

⁶ 501 CMR 4.02.

⁷ 501 CMR 4.02.

⁸ 501 CMR 4.02.

⁹ 501 CMR 4.02.

¹⁰ 501 CMR 4.04.

¹¹ 501 CMR 4.03.

¹² 501 CMR 4.03.

¹³ 501 CMR 4.03.

¹⁴ 501 CMR 4.08.

MISSING PERSONS

POLICY & PROCEDURE NO. 2.18	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 02/22/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

A missing person is one who is absent with no apparent reason or under circumstances which may indicate involuntary disappearance. It should be remembered that missing persons are not fugitives and often have voluntarily left home for personal reasons, of which the person making the report may be reluctant to inform the police. Despite limited resources and the fact that many of these reports may be unfounded or unnecessary, the department cannot ignore such reports and must be prepared to respond to all missing persons reports.

II. POLICY

It is the policy of this department to:

- A. Ensure that reports of missing persons are promptly recorded, assessed, and investigated.
- B. Ensure that response to calls for missing children shall be given a priority, and great care shall be exercised in investigating any missing child case, as all missing children must be considered at risk until circumstances prove otherwise.[41.2.6(a)]

III. DEFINITIONS

- A. **AMBER Alert** : (America's Missing: Broadcast Emergency Response) - A voluntary, cooperative effort involving the Massachusetts Chiefs of Police Association, State Police, MEMA, and local broadcasters. Radio, cable and television stations statewide will receive a child abduction alert message and may broadcast it every thirty minutes for up to four hours to solicit the public's assistance in recovering an abducted child and quickly apprehending the suspect.

IV. PROCEDURES

A. Missing Persons, Initial Response

1. CALL TAKER

- a. Upon receipt of a missing person complaint, the call taker shall log the call and screen the incident for an appropriate initial police response.
- b. The dispatcher shall immediately ascertain:
 - 1) The age of the person;
 - 2) Circumstance under which [s]he was discovered missing;
 - a) Missing from home;
 - b) Missing from a public place;
 - c) Missing for several days;
 - d) Runaway; or
 - e) Overdue.
 - 3) Endangerment (medical condition, handicap, clothing, abduction).
- c. If the call is a report of a missing child or any person considered to be in immediate danger, the call shall be considered high priority and the dispatcher shall:
 - 1) Immediately dispatch two patrols to respond to the scene (if a second patrol is available);
 - 2) Notify the supervisor or OIC; [42.2.6(b)]
 - 3) Notify the on-duty detective, Supervisor or OIC.
- d. For all other missing person calls, the dispatcher shall dispatch an officer to take a report and begin a preliminary investigation.
- e. Officers should patrol local locations where the missing person may be located, if circumstances permit.
- f. The dispatcher shall obtain other information, if possible, to relay to responding officers to aid them.

2. PRELIMINARY INVESTIGATION [41.2.5(A)]

- a. An officer shall immediately be assigned to assess the situation and conduct a preliminary investigation.
- b. As much of the following information as possible shall be obtained:
 - 1) A description of the missing person, including:
 - a) Name;
 - b) Age;
 - c) Gender;

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- d) Physical description;
 - e) Clothing description;
 - f) Details of any known mental, emotional or physical impairment and any medications. If medications are required,
 - i. The type,
 - ii. Frequency, and
 - iii. Last administration should be ascertained, if possible;
 - 2) Time and place at which the person was last seen;
 - 3) Names and relationships of anyone who may be with the person;
 - 4) Any likely destination;
 - 5) The name and address of the person making the report and his/her relationship with the missing person;
 - 6) The extent of any search already performed by the caller or other parties, including a list of friends, coworkers, and associates who have been contacted and a list of any who have not been reached;
 - 7) Whether the person has ever been reported missing on previous occasions;
 - 8) Other information that may be useful in locating the person (for example, particular habits or personal interests, places frequented, location of out-of-town relatives or friends, etc.) and determining whether the person is a potential victim of foul play;
 - 9) Whether the person is drug dependent (prescribed medication, or user's habit); and
 - 10) The reason for any delay in reporting the person missing.
 - c. Appropriate steps shall be taken if the missing person is considered to be "at risk," including juveniles, the elderly, the mentally impaired or the suicidal. Further information is available in **Special Considerations** in this policy.
3. DISSEMINATION OF MISSING PERSON INFORMATION [42.2.5(B)]
- a. CJIS Entry: The dispatcher shall enter the missing person into the CJIS Missing Persons data base. If appropriate, an administrative message may also be sent regarding the missing person. For further information, see the department policy on **Communications** . [42.2.5(c)]
 - 1) Missing Person Under 21: Immediately upon notification of the incident by the reporting party, even if a written report has not yet been completed.¹
 - 2) Missing Person 21 or Older: Immediately once a missing person report has been completed and signed by the reporting party.

- b. The dispatcher shall broadcast to all personnel on duty all information necessary for the recognition and identification of the missing person.
- c. If appropriate, the dispatcher may broadcast the missing person information to other government departments (highway and water departments, etc.) and other police agencies (neighboring police, State Police).

B. Missing Children, Initial Response

- 1. The initial response to missing children complaints shall include the procedures outlined in the previous section, and in addition, the following procedures as well.
- 2. FIRST ARRIVING OFFICER
 - a. The officer taking the report for the preliminary investigation shall quickly evaluate the situation, and seek consent (if necessary) for police to conduct an immediate hasty search of the area where the child was last seen (including the home).
 - b. The officer shall notify the supervisor or OIC if the circumstances appear to meet the criteria for an AMBER Alert.
 - c. The reporting officer shall obtain the following mandatory information for entry into CJIS: [41.2.6(c)]
 - a) Date of birth;
 - b) Date of emancipation (age 18);
 - c) Date of last contact;
 - d) Eye color;
 - e) Hair color;
 - f) Height;
 - g) Name;
 - h) Race;
 - i) Sex; and
 - j) Weight.
 - d. The officer shall determine other relevant information, such as:
 - 1) Whether the child's absence is a significant deviation from established patterns of behavior and cannot be explained;
 - 2) Whether the child may be with adults, including parents and other relatives, who may endanger the welfare of the child; and
 - 3) The name of the school the child attends and, if relevant, the name of the person who was supposed to pick up the child.

3. ADDITIONAL OFFICERS

- a. If a young child is reported to be immediately missing, the second (and subsequent, if necessary) officer will conduct a hasty search of the area in which the child was last seen, to include the child's home and the curtilage of the home. Children, though missing, are often discovered to be hiding or sleeping.

NOTE: In order to enter private property in search of a missing person, ordinarily a search warrant is required. However, in a true emergency situation, there is no need for a warrant to enter premises where the officer has reason to believe the missing person is located.²

- b. If the child is reported missing from a public area, such as a store or mall, additional resources must be brought to bear quickly. Such resources may include:
 - 1) Additional police;
 - 2) Store employees;
 - 3) Mall security; and
 - 4) Other government employees.
- c. If the child is missing in a rural area, conduct a hasty search. See **Search and Rescue** in the department policy on **Special Operations** .
- d. A permanent record shall be made of what activity is undertaken to locate the child.

4. "AMBER" ALERT [41.2.6(D)]

- a. Criteria for Alert: The AMBER alert system may be activated providing:
 - 1) The child is age 17 or younger;
 - 2) The police believe the child is in danger of serious bodily harm or death; and
 - 3) There is enough descriptive information about the child, abductor, and/or the suspect's vehicle to believe the immediate broadcast alert will help.
- b. An AMBER alert is not appropriate in cases where:
 - 1) No foul play is suspected;
 - 2) The child is a runaway;
 - 3) The child is missing as a result of a custodial dispute and the child is not considered to be at risk of bodily harm or death; or
 - 4) An adult is missing.
- c. A supervisor or OIC may authorize a request for an AMBER alert.
 - 1) An AMBER Alert activation request form should be completed prior to making such request. A current photo of the child, suspect, and/or

suspect vehicle, should be provided if available, preferably in electronic format.

- 2) The request shall be reviewed by a supervisor or OIC to ensure that, in the supervisor or OIC's opinion, the criteria for such an activation request have been met and that such an activation is appropriate.
 - 3) The request shall be made either:
 - a) Orally by telephone by calling the State Police Communications Section 508-820-2121; or
 - b) By faxing an AMBER Alert activation request, 508-820-2150.
 - 4) The request will be screened by a State Police AMBER Alert Activation Officer. The supervisor or OIC shall be prepared to confirm the information with the State Police AMBER Alert Activation Officer.
- d. Termination: The State Police Communication Section shall be notified immediately in the event that the child is found or recovered, or if the circumstances no longer meet the activation criteria.

C. Follow-Up Investigation [41.2.5(e), 41.2.6(f)]

1. INVESTIGATOR

- a. The investigating officer should interview the person who reported the person missing to verify information already available and to obtain further facts which may be helpful to the investigation.
- b. Where appropriate, police records should be consulted for any further information about the missing person.

2. ADDITIONAL MATERIALS

- a. The investigator shall request written authorization for the release of medical and dental records. (See Release Form.)³
- b. The investigator may request additional materials for investigative purposes, as appropriate:
 - 1) Photographs of the victim for disbursement to police patrols, the media, and other organizations supporting the search or investigation;
 - 2) A DNA kit (if available) or a toothbrush, brush, or other source of cells for DNA testing; and
 - 3) A copy of the missing person's fingerprints, if available.

3. INVESTIGATOR NOTIFICATIONS

- a. The District Attorney's office (CPAC) may be notified.
- b. The Massachusetts Missing Persons Clearing House should be notified: Commonwealth Fusion Center, 124 Acton Street, Maynard, MA, 01754, Voice (978) 451-3700, FAX: (978) 451-3707.

- c. In cases of apparent stranger abductions, the FBI field office should be contacted.
4. MISSING CHILDREN NOTIFICATIONS
- a. The juvenile officer, if any, shall be notified, regardless of to whom the investigation is assigned.
 - b. MANDATORY: The last known elementary or secondary school where the child was enrolled shall be notified in accordance with Massachusetts law.⁴
 - 1) Such schools are required to mark the records of missing children and report any requests for such records to police.
 - 2) Upon finding the child, the school shall be notified in order to remove “lost child” markings.
 - c. National Center for Missing and Exploited Children HOTLINE: Report missing children, 1-800-THE-LOST (1-800-843-5678).
5. MEDIA NOTIFICATION: Notification of the general public through any of the news media can be valuable in locating a missing person.
- a. A decision to use the media shall be made after approval by the Chief of Police and consultation with the family of the missing person.
 - b. Considerations should be made for “at risk” missing persons.
6. CONTACT WITH REPORTING PARTY: Investigators assigned to a missing person case should maintain contact with the family members and/or the reporting party. A follow-up report shall be filed within ten (10) days of the filing of the missing person report, with additional reports on the status of the investigation filed at least every month for as long as the case remains open.

D. Special Considerations

1. VOLUNTARILY MISSING (RUNAWAY) JUVENILES
- a. A voluntarily missing case investigation focuses on the family, friends, school, and lifestyle of the missing juvenile.
 - b. In determining whether a juvenile is voluntarily missing, officers should consider whether the juvenile took any items to which [s]he has a particular sentimental attachment.
 - c. Other units in the department and nearby jurisdictions should be informed of the case and provided with pictures of the missing juvenile.
 - d. The officer should instruct the parent(s) to secure a Warrant of Protective Custody via the Child Requiring Assistance (CRA) process through the juvenile court as soon as possible to aid in the recovery of the juvenile.
 - 1) The warrant will be entered into WMS by the court.
 - 2) An officer may detain a runaway child without a warrant if the officer has probable cause to believe that the child has run away from the

home of his/her parents and may not respond to a summons (will run away again). The officer may not return the juvenile to the police station and should activate the state 211 program.

- e. Any indication of neglect or abuse in the family should be considered, and upon recovery of the missing juvenile, appropriate follow-up action shall be taken by the investigating officer where appropriate, including filing a neglect and abuse report with the Department of Social Services.⁵

2. PARENTAL KIDNAPPING

- a. A non-custodial parental kidnapping case requires a thorough investigation, as the abducting parent is in violation of the law, and the juvenile abducted by a parent may be in serious danger.⁶ The investigation focuses on the abductor parent, his/her friends and relatives, and on the needs of the juvenile for public care.
- b. A thorough check of bank records, employment, labor unions, credit bureaus, and any other governmental agencies should be made in an attempt to locate the abductor.
 - 1) Child Support Enforcement, Massachusetts Department of Revenue: 1-800-332-2733
 - 2) Federal Parent Locator Service: (202) 260-7855 FAX: (202) 401-5647
- c. If friends or relatives are thought to be in contact with the abductor through the mail, the postal inspector's office may be asked to place a "cover" on that individual's mail.
- d. When sufficient supporting data is provided, criminal charges should be filed against the abductor parent and an arrest warrant obtained.
 - 1) The District Attorney's office should be notified in noncustodial parental kidnapping cases to expedite court procedures.
 - 2) In certain cases, the District Attorney's office may seek a Federal Unlawful Flight to Avoid Prosecution Warrant through the United States Attorney's office.

3. STRANGER ABDUCTION OF JUVENILES

- a. Stranger abduction cases require that the juvenile be considered in extreme danger and, therefore, every available resource of the department shall be utilized to find the juvenile and ensure his/her safety.
- b. A command post should be set up away from the juvenile's home. An officer should be stationed at the house to maintain communication between the command post and the parents.
- c. The District Attorney's office and State Police Missing Persons Unit should be notified in all stranger abduction cases. The FBI should also be informed of the abduction.

4. JUVENILES MISSING FOR UNKNOWN REASONS: Juveniles missing for unknown reasons shall be assumed to be kidnapped and investigated aggressively.
5. ALZHEIMER'S DISEASE
 - a. When a person with Alzheimer's is reported missing, an investigation shall be initiated immediately, as such persons are considered at risk.
 - b. The officer taking the missing person report or dispatcher shall telephone **Safe Return** at 1-800-572-1122. **Safe Return** is a national Alzheimer registry available to law enforcement to help resolve lost elder cases. The Alzheimer's Association operates **Safe Return** twenty-four hours per day. It will issue a Fax Alert to area police departments, hospitals, shelters and elder service agencies and will follow up with the missing person's caregivers. The investigating officer shall notify **Safe Return** when the person is located.
 - c. Patrol officers shall periodically recheck the area where the person was last seen. These individuals are usually found within a mile or two from where they disappeared. They will usually not respond to shouts nor will they cry out for help.

E. Recovery of Missing Person [41.2.6(f)]

1. REPORTED MISSING AND RECOVERED IN THE JURISDICTION OF THIS DEPARTMENT
 - a. Whenever a missing person is located, officers shall ensure that medical attention is provided, if required.
 - b. If the recovered person was reported missing to this department, the Officer-in-Charge shall ensure:
 - 1) Notification of all of the agencies involved in the recovery effort, to include:
 - a) Law Enforcement agencies;
 - b) AMBER Alert 508-820-2121, (FAX) 508-820-2150;
 - c) The last elementary school attended;
 - d) National Center for Missing and Exploited Children 1-800-THE-LOST (1-800-843-5678);
 - e) Missing Persons Clearing House (Fusion Center) Voice (978) 451-3700, FAX: (978) 451-3707; and
 - f) Safe Return (Alzheimer's) 1-800-572-1122.
 - 2) The removal of the information from CJIS; [41.2.5(c)]
 - 3) That the investigating officer is notified that the missing person has been located.

- c. When an adult missing person is located, the investigating officer shall notify the party originating the report of the status of the missing person, bearing in mind the missing person's right to privacy. [41.2.5(d)]
 - d. When a missing juvenile is found, the investigating officer shall notify the parent or legal guardian of the juvenile's location so that the parent or guardian may retrieve the juvenile. If the parent or guardian is unable to do so, the Department of Social Services shall be notified in an effort to provide temporary custody for the child.
 - e. All missing persons, when found, shall be questioned as to their whereabouts and activities.
 - f. Officers should determine whether the missing person was the victim of any crime during the period of absence. Eliciting a full account of the missing person's whereabouts is essential to future corroboration of the missing person's story.
 - g. Officers locating a missing person shall file a report detailing the circumstances surrounding the finding of the person, and note any particular difficulties encountered (for example, reluctance or refusal to return home), as this may signal neglect or abuse in the family. If there is any indication of neglect or abuse of a child, a report should be filed with the Department of Social Services.⁷ Any other appropriate follow-up action, including the filing of criminal charges, should be taken.
 - h. If a missing person is found dead, see the department policy on **Dead Bodies** for further information.
2. REPORTED MISSING IN THIS JURISDICTION AND RECOVERED IN OUTSIDE JURISDICTION
- a. Upon notification that a missing person has been found outside the department's jurisdiction, the Officer-in-Charge shall ensure:
 - 1) Notification of all of the agencies previously notified or involved;
 - 2) The removal of the information from NCIC; and [41.2.5(c)]
 - 3) Notification of the investigating officer that the missing person has been located.
 - b. The investigating officer shall notify the party originating the report.
 - c. The investigating officer shall file a report detailing the conclusion of the missing person's investigation in accordance with departmental procedures.
3. REPORTED MISSING OUTSIDE OF THIS JURISDICTION AND RECOVERED IN THIS JURISDICTION
- a. The jurisdiction shall be notified of the recovery, circumstances, and condition of the recovered missing person.
 - b. The supervisor or OIC will ensure that any needed or requested investigative assistance is provided.

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- c. The department shall assist in arranging accommodations or contact DSS in the event that the person is a juvenile.
 - d. Children: Transportation and Accommodations: The National Center for Missing & Exploited Children's (NCMEC) Hotline coordinates a program to assist families in the reunification process by arranging for transportation and lodging for families who cannot afford these costs when picking up their missing child once found: 1-800-THE-LOST (1-800-843-5678).
4. CHILD ABANDONMENT
- a. In cases where children have been reported to be, or appear to be abandoned, and an officer has reason to believe that such child is abandoned, the following procedure applies:
 - 1) Take the child into custody.
 - 2) Provide any medical assistance.
 - 3) Interview the child in an attempt to determine:
 - a) The identity of the caretaker(s);
 - b) Relatives in the immediate area; and
 - c) Circumstance of the abandonment.
 - 4) Notify the Department of Social Services to transfer custody.
 - 5) Conduct an appropriate investigation to:
 - a) Locate the parent, guardian, or caretaker;
 - b) Determine the circumstance of the abandonment; and
 - c) Identify any criminal violations.
5. RECOVERED UNIDENTIFIED PERSONS
- a. Follow the procedure above.
 - b. Obtain information for entry into the CJIS Unidentified Persons File. Obtain appropriate data for the following mandatory data fields:
 - 1) Body parts status (if deceased);
 - 2) X-Rays available;
 - 3) Manner and cause of death;
 - 4) Date body found;
 - 5) Estimated year of birth;
 - 6) Eye color;
 - 7) Footprints available (mandatory in certain cases);
 - 8) Fingerprint classification (mandatory in certain cases);
 - 9) Hair color;

- 10) Height;
 - 11) Race;
 - 12) Sex; and
 - 13) Weight.
- c. Complete instructions for CJIS entry are available in the CJIS Users Manual, Part 10, Unidentified Persons File.
 - d. Contact the National Center for Missing and Exploited Children: 1-800-THE-LOST (1-800-843-5678).
 - e. The Massachusetts Missing Persons Clearing House should be notified: Commonwealth Fusion Center, Voice (978) 451-3700, FAX: (978) 451-3707.

¹ M.G.L. c. 22A, §4.

² Com. v. Bates, 28 Mass. App. Ct. 217, 548 N.E.2d 889 (1990).

³ M.G.L. c. 22A, §6.

⁴ M.G.L. c. 22A, §9.

⁵ M.G.L. c. 119, §51A.

⁶ M.G.L. c. 265, §26A.

⁷ M.G.L. c. 119, §51A.

DEATH INVESTIGATIONS

POLICY & PROCEDURE NO. 2.19	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	
	LAST REVIEWED DATE: 03-19-19

I. GENERAL CONSIDERATIONS AND GUIDELINES

Death can be classified into five categories:

1. Lawful homicide (lawful self-defense, by soldier in time of combat, etc.);
2. Unlawful homicide (murder, if malice is present or legally inferable, manslaughter if the element of malice is not present; provocation is in no way the equivalent of justification, such as lawful self-defense);
3. Suicide;
4. Accidental death; and
5. Natural death.

Although it is the function of the police to determine whether any crime may have been committed which caused or contributed to the death of a human being, the medical, scientific and forensic training and expertise needed to determine the cause of any death necessitates that the Medical Examiner plays a major role in this process. The General Laws prescribe the duties and authority of the Medical Examiner in relation to taking charge of the body of the deceased, conducting searches and examinations and providing for the removal and disposition of the body. ¹ In addition, the same statute defines the role and responsibility of the District Attorney's office in these circumstances.

II. POLICY

It is the policy of this department to:

- A. Preserve dead bodies until the Medical Examiner authorizes their removal, preserve surrounding environs for possible crime scene investigation, and make all appropriate notifications promptly; and
- B. Diligently pursue all appropriate investigations into criminal activity surrounding a death.

III. DEFINITIONS

1. Detective - For the purposes of this policy, the word 'Detective,' or any derivative of the word 'Detective' shall be defined as the primary investigating officer of the death investigation being discussed.

IV. PROCEDURE

a. Responding Officer

- i. An officer who discovers or is dispatched to the scene of an apparent or unattended death shall:
 - 1. a. Immediately evaluate the victim and attempt resuscitation if there is any possibility of reviving the victim;
 - i. b. Request medical assistance to treat the victim or pronounce the victim deceased; and
 - 2. c. Attempt to obtain a dying declaration if the person is near death or dying.
- ii. If the person is obviously dead, the officer shall immediately:
 - 1. a. Secure the scene.
 - a. b. Clear the largest area possible. The scene area can be contracted by investigators.
 - b. c. Secure and isolate the actual crime scene.
 - c. d. Secure a larger area for police personnel conducting the investigation.
 - d. e. Begin a "Crime Scene Sign-in Sheet," recording the name, agency, date and time of all persons entering the inner crime scene.
 - 2. f. Notify the Supervisor of Operations through the Chain of Command.
 - 3. g. Request a response from medics to examine the deceased and make a pronouncement of death.
 - 4. h. Notify investigators to respond (State Police Detective Unit & Medical Examiners Officer).
- iii. Officers at the scene shall be observant for persons foreign to the scene or behaving in a suspicious manner.

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- iv. An officer shall obtain information for a preliminary investigation and report to provide to investigators upon their arrival. Such information should include:
 1. a. The date and time of his/her arrival;
 2. b. Decedent's name, address and age;
 3. c. Any known medical conditions;
 4. d. Any known medications;
 5. e. The date and time of the last interaction with others and the identity of last person to see or speak with the decedent;
 6. f. Location and condition of the body;
 7. g. Any unusual circumstances, body position, injuries, or articles in relation to the body;
 8. h. Next of kin;
 9. i. The names and addresses of witnesses;
 10. j. The names and time of arrival of officials responding to the scene;
 11. k. Any "Do Not Resuscitate" order (DNR);
 12. l. If the death was anticipated or unexpected; and
 13. m. Name and telephone number of the funeral home requested by family for when the body is released by the medical examiner.
 - v. A police officer shall remain at the scene until relieved.

b. Investigation

I. GENERALLY

1. Once the Medical Examiner arrives, [s]he has the lawful right to take charge of the dead body.²
2. In cases of unnatural or suspicious death, the District Attorney or his/her representative shall have the authority to direct and control the criminal investigation of the death.³
3. Officers shall cooperate and coordinate their efforts with those of the Medical Examiner and the District Attorney.⁴
4. The Medical Examiner may take charge of any money or other personal property of the deceased found on or near the body, or may ask the department to take charge of the property.⁵
 - a. Property of the deceased, which is not evidence, shall be delivered to the person entitled to its custody and

possession (usually the next of kin or other appropriate person).

- b. Property may be held in the event that it is required as evidence.⁶
- c. For further information, see the department policy on **Evidence and Property Control** .

ii. ASSESSMENT: Detective(s) responding to the scene of a death shall:

1. Speak with the responding officer to obtain information about the deceased and the circumstances of death, if known.
2. Make observations of the scene for evidence that may indicate the likelihood that a criminal act resulted in the death.
3. Speak with friends, family, witnesses, or other involved persons.

III. NOTIFICATIONS:

1. Detectives shall notify:
 - a. The District Attorney's Office (CPAC);⁷and
 - b. The Office of the Medical Examiner.⁸
2. Detectives shall provide as much of the following information as is known at the time;
 - a. Deceased's name, address, and age;
 - b. Location where the body was found;
 - c. Any known medical conditions;
 - d. Likely cause of death if known;
 - e. If criminal activity is suspected or if the death was expected; and
 - f. Any other requested information, if known.
3. When the time is appropriate, ensure that notifications of the next-of-kin are made. See the department policy on **Death or Injury Notification** .

IV. INVESTIGATION

1. District Attorney's Office Declines to Respond:
 - a. In the event that the District Attorney's representative (CPAC) declines to respond, detectives/officers shall conduct a complete investigation to include:
 - i. Photographs of the scene and the body;

- ii. Any evidence;
 - iii. Observations of officers and detectives; and
 - iv. Information on attempts to identify, locate, and interview all persons who had contact with the deceased person during the period immediately before his/her death or disappearance.
- b. A copy of all reports and photos shall be forwarded to the District Attorney's representative. (CPAC)
2. District Attorney's Office Responds: In the event that the District Attorney's representative (CPAC) responds to the scene of the death, department detectives shall assist those investigators.⁹

c. Moving Dead Bodies

I. GENERALLY

1. A dead body, regardless of the cause of death, shall only be moved at the direction of the Medical Examiner or District Attorney.
2. The Medical Examiner may require a specific funeral home to respond.
3. In the event that the body is released by the Medical Examiner, a funeral home of the decedent's family's choosing should be considered, if practical.

II. EXIGENCY:

1. A body may be moved by the police when one of the following circumstances exists:
 - a. A badly mangled body open to public view may be covered. Officers should consider the consequences of forensic contamination to the body prior to covering it.
 - b. If the death is due to a traffic accident and the remains create a traffic hazard, the body may be relocated to a nearby suitable site.
 - c. If the dead body is found in the water, it may be removed to the nearest suitable shelter.
 - d. The body may be moved when the Medical Examiner is unable to respond in an expeditious manner and after consultation with the District Attorney.
2. Before moving a body, the police personnel shall:

- a. Document all facts relevant to the appearance, condition and position of the body;
- b. Document facts and circumstances tending to show the cause and circumstances of death; and
- c. If possible, the location shall be marked and the body and scene photographed prior to moving.¹⁰

d. Statutory Provisions Relating to Dead Bodies

- i. If the Medical Examiner examines a dead body and is of the opinion that the death may have resulted from injuries sustained in a motor vehicle accident, and the death occurred within four hours of the accident, and the deceased was the operator and sole occupant of the motor vehicle, and no other individuals were involved in the accident, the Medical Examiner shall take a blood sample and submit it for analysis to the State Police laboratory.¹¹
- ii. Transportation of bodies of persons who have died from any disease dangerous to public health must be in accordance with the rules and regulations of the Department of Public Health.¹²
- iii. An officer who has reasonable cause to believe that a child under the age of eighteen (18) has died as a result of abuse, including sexual abuse, or from neglect, including malnutrition or from physical dependency on any addictive drug at birth, shall report the death to the Department of Social Services, to the appropriate superior officer, to the District Attorney for the county in which such death occurred, and to the Medical Examiner of the district of the county wherein the body lies.¹³
- iv. A search warrant may be obtained for the purpose of searching for the dead body of a human being.¹⁴
- v. Officers should be aware that the following are crimes:
 1. Unauthorized disinterring, removing or conveying of any human body or the remains thereof;¹⁵
 2. Buying or selling or possession with intent to sell any dead body of a human being;¹⁶
 3. Willfully destroying, mutilating, defacing or removing any tomb, monument, gravestone or other structure as a memorial to the dead;¹⁷
 4. Wantonly or maliciously disturbing the contents of any tomb or grave;¹⁸
 5. Unauthorized removal of gravestones and other memorials;¹⁹
 6. Other acts of desecration of any place of burial.²⁰

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- vi. The discovery of any unidentified dead body shall be reported to the Department of Public Safety, C.J.I.S., and N.C.I.C. It shall also be reported to the Colorado Bureau of Investigation (CBI) Unknown Dead File (via the National Law Enforcement Telecommunications System, Inc. - NLETS). Refer to operations manuals for C.J.I.S., N.C.I.C. and NLETS for input format and procedures. (See department policy on **Missing Persons** .)

¹ M.G.L. c. 38.

² M.G.L. c. 38, § 4.

³ M.G.L. c. 38, § 4.

⁴ M.G.L. c. 38, §5.

⁵ M.G.L. c. 38, §15.

⁶ M.G.L. c. 38, §15.

⁷ M.G.L. c. 38, §4.

⁸ M.G.L. c. 38, §3.

⁹ M.G.L. c. 38, §4.

¹⁰ M.G.L. c. 38, §4.

¹¹ M.G.L. c. 38, §4A.

¹² M.G.L. c. 111, §107.

¹³ M.G.L. c. 119, §51A.

¹⁴ M.G.L. c. 276, §1.

¹⁵ M.G.L. c. 272, §71.

¹⁶ M.G.L. c. 272, §72.

¹⁷ M.G.L. c. 272, §73.

¹⁸ M.G.L. c. 272, §73.

¹⁹ M.G.L. c. 272, §73A.

²⁰ M.G.L. c. 272, §74.

STRUCTURE FIRES

POLICY & PROCEDURE NO. 2.20	ISSUE DATE: 10/05/15
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HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 03/19/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

The role of the police at a fire scene is to support fire fighting operations by assisting in the preservation of life, protection of property, prevention of crime, establishment of fire lines, control of crowds and direction of vehicular traffic.

Because of the nature of their primary patrol function, especially during the nighttime and early morning hours, the police are often the first to discover a fire, the first on the scene and the first to alert and assist the occupants of a burning building.

Police officers, as part of their regular patrol duties, should note and report any conditions which could constitute a potential fire hazard to the fire department for necessary action.

II. POLICY

It is the policy of this department to:

- A. Support fire fighting operations by assisting the fire department in isolating access to the fire scene by bystanders and on-lookers, providing fire scene access to fire fighting personnel and equipment, establishing fire lines, controlling crowds, and directing vehicular traffic at fire scenes; and
- B. Cooperate fully and impartially with statutory authorities whose responsibility it is to determine the cause and nature of structure fires.

III. PROCEDURES

A. Fire Reporting

1. Each officer shall familiarize himself/herself with the municipal system for announcing the existence and location of fires

2. Employees shall also be familiar with the procedure by which railroad trains give notice of fire adjacent to their tracks (one long and three short whistle blasts).¹ This requires the police to investigate and notify the fire department, if necessary.
3. Fires discovered by police officers shall be reported immediately to the fire department.
4. When a fire is reported, the dispatcher shall create and log an incident in the daily log to include:
 - a. The location of the fire; and
 - b. Any other matter of potential importance to units arriving on the scene.
5. If the police department is notified of a fire in person by a citizen, the officer receiving the notification shall:
 - a. Obtain the street location of the fire;
 - b. Request information on the nature of the fire (for example, "wooden dwelling house, upper floor");
 - c. Immediately notify the fire department and relay pertinent information; and
 - d. Request the identity of the citizen reporting the fire.
6. Upon notification of a fire by any means, the dispatcher shall notify the fire department and dispatch officers to the scene of the fire. For further information, see the department policy on **Communications** .

B. Responding to a Fire Scene

1. PRIOR TO ARRIVAL OF FIRE DEPARTMENT
 - a. **Do not block access of fire fighting equipment to the scene with parked police vehicles.**
 - b. Park police vehicles away from the immediate fire scene.
 - c. Take note of the following, as applicable, and notify the fire department:
 - 1) The part of the structure which is on fire and where flames are visible;
 - 2) The volume, color, and location of the heaviest smoke;
 - 3) The direction of the wind, if any;
 - 4) The presence of any odors which suggest gasoline, kerosene, paint thinner or other accelerants may be burning in the fire;
 - 5) Whether any signs of forced entry into the structure are present and whether any windows are broken or left open; and
 - 6) Any hazards which may inhibit access to the scene by firefighters or fire equipment, or best routes of access if known.

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- d. Warn inhabitants of any buildings involved by the fire and inform them of adjacent areas to escape and seek refuge. This may be accomplished by use of the siren and public address system in the officer's cruiser.
 - e. Do not attempt to enter a fire-involved building unless doing so is necessary to save human lives, and the risk to the employee's own life is not unreasonable.
 - 1) If the officer decides that entry of the building is necessary, [s]he should not open any door which is hot to the touch, as this indicates the presence of fire inside.
 - 2) Evacuees and the officer in smoky areas should keep their heads low, possibly by crawling on hands and knees, until they are outside the building, in order to avoid inhalation of smoke and toxic gases.
 - f. Prevent any person who has exited a fire-involved building from reentering the building.
 - g. Take reasonable emergency measures to inhibit the spread of the fire without unnecessary risk to the employee, especially if human life is not presently endangered by the fire.
 - h. Police officers must be aware of the possibility of arson and be observant for any person acting suspiciously at a fire scene. Officers should identify and interview:
 - 1) Anyone who arrived at the scene before the first police and fire units; and
 - 2) Anyone who makes mention of having observed any suspicious people in the vicinity.
 - i. If personnel and equipment are available, an officer should videotape or photograph crowds and persons watching the fire and firefighting operations.
2. AFTER ARRIVAL OF FIRE DEPARTMENT
- a. The ranking firefighter at the scene will normally be the incident commander.
 - 1) The first police officer or unit arriving at the scene of the fire shall be in command of other police officers until the arrival of a higher ranking officer.
 - 2) The police commander shall remain accessible to the incident commander.
 - b. After the arrival of fire department personnel, police officers shall not enter a burning building unless:
 - 1) It is absolutely necessary to do so to save a life; or
 - 2) A request to do so is made by a superior officer of the fire department for the performance of a proper police function.

- c. Cooperation with the fire department is essential. To this end, the police at the scene shall:
 - 1) Establish fire lines and maintain, extend or contract the lines as requested by the fire department, including the closing off of streets whenever necessary;
 - 2) Remove any vehicles within the lines which interfere with the movement of firefighters and their equipment;
 - 3) Ensure that access to hydrants is unobstructed at all times;
 - 4) Prevent vehicles from passing over fire hoses unless directed otherwise by a member of the fire department;² and
 - 5) Provide other forms of assistance as requested.
- 3. CROWD CONTROL
 - a. Crowds must be kept a safe distance from the fire. This will ensure the safety of the persons gathered and prevent interference with fire fighting equipment and personnel.
 - b. Police officers shall not permit any person through the fire lines other than:
 - 1) Members of the fire and police departments;
 - 2) Emergency medical personnel;
 - 3) Clergymen whose services are needed within the lines; or
 - 4) Authorized members of the news media who provide proper identification. (See department policy on **Police Media Relations** .)
 - c. Police officers shall take steps to safeguard fire and police apparatus at the scene. Persons interfering with apparatus or the extinction efforts shall be arrested, if necessary.³
- 4. FIRE INVESTIGATION
 - a. The responsibility for the investigation of fires of incendiary or suspicious origin is with the local fire department officials who may call the State Fire Marshall's Office or the police department for assistance.⁴
 - b. The local district attorney's office has jurisdiction for the investigation into any death resulting from a fire. See department policy on **Dead Bodies** .
- 5. POST-FIRE RESPONSIBILITIES
 - a. Police officers shall remain at the building or dwelling until the fire is extinguished and the area is secured, consistent with their responsibilities to the rest of the community.
 - b. Police may be required to remain at the scene:
 - 1) While a search warrant is being sought;
 - 2) Until hazardous situations have been mitigated; or

3) Until the area is secured against looting.

¹M.G.L. c. 160, § 237.

²M.G.L. c. 89, §7A.

³M.G.L. c. 268, §32A.

⁴M.G.L. c. 148, § 2.

VEHICLE FIRES

POLICY & PROCEDURE NO. 2.21	ISSUE DATE: 10/05/15
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HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 03/19/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

After a local fire department extinguishes the flames of a burning motor vehicle, the cause of such fire has to be determined by the proper authorities. When a fire or explosion destroys or damages property, the local fire department must initiate an investigation to determine if "carelessness or design" caused the fire or explosion. An investigation to determine the cause of a fire must adhere to Fourth Amendment standards. The process of determining the cause of such fire lends itself to certain search and seizure issues, such as:

- Whether a vehicle may be impounded pending the issuance of a search warrant to determine the cause of said fire;
- Should a criminal or administrative search warrant be sought; and
- Does the warrant type affect the scope of a search?

II. POLICY

It is the policy of this department to cooperate fully and impartially with statutory authorities whose responsibility it is to determine the cause and nature of motor vehicle fires.

III. PROCEDURE

A. Impounding the Motor Vehicle

1. Fire investigators have authority to impound a vehicle prior to obtaining a search warrant despite the owner's request that the vehicle be towed to a location of his/her choice.¹

2. The department may post an officer to secure the vehicle in order to preserve the chain of custody while a warrant is being obtained.
3. If a vehicle is impounded, the fire investigator should immediately begin the process of applying for either an administrative search warrant or a criminal search warrant. This process should be completed as soon as possible.
4. If exigent circumstances are present, such as if it appears that the impounded vehicle could contain evidence easily lost or destroyed despite its impoundment, investigators shall conduct a brief, immediate search in order to recover such evidence.²
5. Fire investigators shall then obtain an appropriate warrant to conduct a detailed examination of the automobile where an extended period of time will lapse before commencement of the examination.

B. Obtaining the Appropriate Search Warrant

1. ADMINISTRATIVE SEARCH WARRANTS

- a. If the fire investigator does not have probable cause to believe that the fire was intentionally set, or that the vehicle contains evidence of a crime, [s]he may nonetheless apply for an administrative search warrant in order to determine the cause and origin of the fire.³ For example, if there is no information that the vehicle is stolen, and there is no probable cause to believe that the vehicle contains evidence of a crime or was intentionally set on fire, then an investigator should seek an administrative search warrant.
- b. The scope of an administrative search warrant is narrower than that of the criminal search warrant, being limited to seeking evidence of whether carelessness or design caused the fire or explosion.
- c. An administrative search warrant does not authorize a fire investigator to conduct a general search for evidence of a crime. For example, a fire investigator may not examine the ignition to determine if it has been defeated or search for identification evidence.
- d. Evidence of a crime which is in plain view may be seized. This may include evidence of a crime other than arson (e.g., weapons, contraband, drugs, etc.). However, any additional search for evidence of such crimes (even identification evidence such as fingerprints) must be done pursuant to a criminal search warrant.
- e. While conducting an administrative search, if an investigator makes plain view observations and accumulates enough evidence to establish probable cause to believe that the fire was intentionally set or the vehicle was stolen (e.g., evidence of forced entry or tampered ignition), [s]he should immediately suspend the administrative search and apply for a criminal search warrant.

2. CRIMINAL SEARCH WARRANTS

- a. If a fire investigator has probable cause to believe that a fire was intentionally set and/or there would be evidence of a crime within a vehicle, [s]he should apply for a criminal search warrant before searching for evidence of a crime.
- b. Probable cause to believe that the fire was intentionally set may arise from observations of the fire fighters or the investigator and from the facts surrounding the fire itself. For example, if the fire was inside the vehicle's passenger compartment (as opposed to under the hood); if the firefighters detected the presence of accelerants inside the compartment; and/or if the seat cushions were burned more extensively than the rest of the automobile, a criminal search warrant to search for evidence of arson should be sought.
- c. A criminal search warrant should be sought when the investigator has probable cause to believe that a vehicle is evidence of another crime. For example, the owner may have reported the vehicle stolen prior to the fire, or a witness may have identified the vehicle as being used during the commission of a crime.
 - 1) In such circumstances, the fire investigator should obtain a criminal search warrant to examine the vehicle for evidence of both the underlying crime and arson. For example, if the owner has reported a vehicle stolen, the criminal search warrant should allow the fire investigator to search for and seize identification evidence (fingerprints, etc.), evidence that the vehicle was stolen (examine the ignition to see if it was defeated, etc.), and evidence of arson (presence of accelerant, igniter, etc.).
 - 2) The fire investigator's affidavit should specify that, based on his/her training and experience, [s]he has probable cause to believe that whoever stole the vehicle or used it to commit another crime probably set fire to the vehicle intentionally in order to destroy evidence.
 - 3) When considering whether to apply for a criminal search warrant, a fire investigator should consider whether the vehicle's owner might have reported it stolen and then intentionally set it on fire in order to obtain insurance money. A criminal search warrant authorizing a fire investigator to seize evidence that a vehicle was stolen and purposely set ablaze could reveal that the vehicle was intentionally set ablaze but not that it was stolen. For example, the search may reveal that the ignition was not defeated or tampered with. These facts might lead to the conclusion that the owner was the arsonist.
- d. A search warrant need not be obtained if the owner consents to the search of the vehicle for evidence of arson and for evidence of any other crimes.

C. Checklist after Suspicious Vehicle Fires

1. After the fire is extinguished, immediately make a brief examination of the vehicle and remove any evidence that may be lost or destroyed during impound, pending further investigation.
2. Impound the vehicle.
3. Determine if probable cause exists to indicate that a crime has been committed or the vehicle contains evidence of a crime.
4. If no probable cause exists, apply for an administrative search warrant to determine carelessness or design.
5. If during the execution of an administrative search warrant, probable cause of a crime becomes evident, stop the search immediately and apply for a criminal search warrant.
6. Execute the criminal search warrant and seize all evidence.
7. Refer any questions you may have to the local district attorney's office.

¹M.G.L. c. 148, §2; Com. v. Mamacos, 409 Mass. 635, 568 N.E.2d 1139 (1991); Com. v. Hall, 366 Mass. 790, 323 N.E.2d 319 (1975).

²Michigan v. Tyler, 436 U.S. 499 (1978); Com. v. Markou, 391 Mass. 27, 459 N.E.2d 1225 (1984).

³M.G.L. c. 148, §2.

IDENTITY THEFT

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I. GENERAL CONSIDERATIONS AND GUIDELINES

Identity theft is the unlawful use of another person's personal information, such as name and date of birth, credit card numbers, Social Security number, or driver's license information, for the purpose of committing fraud or some other form of deception. It is one of the fastest growing forms of criminal conduct in the United States.

Although the unauthorized use of another person's identity is in itself a crime under federal and Massachusetts law, it is almost always a means of committing other crimes, such as bank fraud, check fraud, credit card fraud, Internet fraud, the fraudulent obtaining of loans, or the avoidance of criminal prosecution.

The first step in the compromising of a person's identity may be the theft of trash, the skimming of a credit card, the obtaining of information via the Internet, or some other technique that may not even be detected by the victim. In other cases, the theft of an identity may begin with the theft of a wallet or purse, or the interception of mail. Early detection of identity theft can minimize the amount of financial loss and the extent of damage done to the victim's credit.

The term "victim" in this policy refers to the person whose identity has been compromised, yet financial institutions, retail merchants and mail order companies often suffer greater financial loss than the citizen whose information has been unlawfully used.

II. POLICY

It is the policy of this police department to investigate instances where a citizen's identity has been compromised for an unlawful purpose.

- A. In each case of reported identity crime, whether the victim resides in this community or a fraudulent transaction occurs here, a police officer will conduct an investigation and immediately file a report.
- B. Officers investigating instances of identity theft will provide victims with information that will assist them in repairing their credit and diminishing the amount of theft.
- C. The department will refer to other law enforcement agencies' information about fraudulent transactions occurring in their jurisdictions.
- D. The department will seek to educate the public about the issue of identity crime, including methods for preventing it.

III. DEFINITIONS

- A. **Personal Identifying Information:** Any name or number that may be used, alone or in conjunction with any other information, to assume the identity of an individual, including any name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, credit card number or computer password identification.
- B. **Victim:** Any person who has suffered financial loss or any entity that provided money, credit, goods, services or anything of value and has suffered financial loss as a direct result of the commission or attempted commission of a violation of this section.

IV. PROCEDURES

A. Initial Investigation and Reporting

1. **JURISDICTION:** The jurisdiction for an identity theft victim to file a police report is very broad. A victim may file a police report: ¹
 - a. In any county where the victim resides;
 - b. In any county where the victim's personal information is stored or maintained or the principal place of business of the entity that stores or maintains the data; or
 - c. In the county where the breach of security occurred in whole or in part.
2. **IDENTITY THEFT AFFIDAVIT [42.2.8(B)]**
 - a. Officers should recommend that victims use the Federal Trade Commission Identity Theft Affidavit.
 - b. The form's instructions contain valuable information to the victim and also provide for the capture of the information necessary to meet the requirements of an "Identity Theft Report" and for police to conduct a thorough investigation.

- c. The victim should be encouraged to complete the form, have it notarized, and return a copy of the form to the investigating officer.
 - d. A completed copy should be obtained and filed with the police report or the investigator's file.
3. IDENTITY THEFT REPORTS [42.2.8(A)]
- a. Police reports and incident numbers are critical documents for victims of identify theft to resolve issues with creditors and credit reporting agencies.
 - b. The report can be used to:
 - 1) Permanently lock fraudulent information that results from identity theft from appearing on the victim's credit report;
 - 2) Ensure these debts do not reappear on the credit reports;
 - 3) Prevent a company from continuing to collect debts that result from identity theft, or selling them to others for collection; and
 - 4) Allow a victim to place an extended fraud alert on his or her credit report.
 - c. The report must contain details about the accounts and inaccurate information that resulted from the identity theft.
 - d. A report will be filed prior to the end of the officer's shift, unless unusual circumstances cause it to be filed at a later date.
 - 1) The victim's copy of an Investigative Case Report Form will meet the time requirements for the purpose of reporting.
 - 2) The officer's report should also be submitted.
 - e. A victim shall be provided a copy of the police report within twenty-four hours of its being requested.²
 - f. Financial institutions often require victims to forward a police report, so the filing of the report should never be delayed more than one tour of duty.

B. Assisting the Victim [42.2.8(c)]

1. RESOURCES FOR VICTIMS
- a. Police officers investigating an identity theft must not only attempt to identify the subject(s) responsible, but also assist the victim in minimizing the damage done.
 - b. An officer investigating an identity theft shall provide the victim with appropriate brochures, documents, other resources to assist the victim in stopping further victimization and correcting damage caused by the crime. In addition to victim brochures, these resources include:
 - 1) Dispute Letter for New Accounts;
 - 2) Dispute Letter for Existing Accounts; and

3) Identity Theft Affidavit (Federal Trade Commission)].

2. VICTIM CONTACT WITH CREDIT BUREAUS

a. Victims should be advised to contact one of the three major credit bureaus and place a fraud alert on their credit reports. As soon as the credit bureau confirms the fraud alert, the other two credit bureaus will automatically be notified to place fraud alerts. Once a fraud alert is placed, victims are entitled to order one free copy of their credit report from each of the three nationwide consumer reporting companies.

b. The three credit bureaus are:

- Equifax Credit Information Services

(800) 525-6285

P.O. Box 740241

Atlanta, GA 30374-0241

www.equifax.com

- Experian Information Solutions

(888) 397-3742

P.O. Box 9530

Allen, TX 75013

www.experian.com

- TransUnion

(800) 680-7289

Fraud Victims Assistance Division

P.O. Box 6790

Fullerton, CA 92634-6790

www.transunion.com

3. NOTIFICATIONS TO FINANCIAL INSTITUTIONS: The officer should ensure that the victim notifies each financial institution where the victim has an account, so that those institutions can check the accounts for undetected fraud.

4. FEDERAL TRADE COMMISSION: The officer should advise the victim to contact the Federal Trade Commission and file a complaint. Complaints should be filed online at www.consumer.gov/idtheft.

5. COMPROMISE OF SOCIAL SECURITY NUMBERS: In cases where a victim's Social Security number has been compromised, the Social Security Administration should be notified at 800-269-0271, or at www.ssa.gov/oig.

6. DOCUMENTING CONTACTS: The officer should advise the victim to maintain a log detailing each instance where his/her identity has been compromised, and each contact [s]he makes with a financial institution, credit bureau, store, or law enforcement agency.
7. ID THEFT AFFIDAVIT: The victim should be provided a blank ID Theft Affidavit, and be asked to provide the police department with a copy once it has been completed. Completed affidavits should be filed with the case. [42.2.8(B)]
8. INFORMATION SHARING: The officer should inform the victim that information about the case will be shared with the Identity Theft and Financial Crimes Task Force, and with bank security investigators that may be assigned to the case by the victim's bank.

C. Follow-up Investigation

1. INITIAL FOLLOW-UP
 - a. Cases that require an in-depth investigation may be referred to the department's Detective Bureau for follow-up.
 - b. Upon receiving the referral, the Detective Supervisor or OIC shall screen and evaluate the case for additional investigative resources.
 - 1) Cases that show little possibility of being investigated to a successful conclusion shall be closed.
 - 2) Cases which may be continued further by patrol personnel shall be returned to the referring officer for further investigation.
 - 3) Cases identified for further investigation shall be assigned to an investigator.
 - c. Detectives assigned to investigate should follow up on promising leads which may include:
 - 1) Determining the point of compromise;
 - 2) Interviewing or causing to be interviewed employees of financial institutions and stores;
 - 3) Securing and preserving images of the suspects;
 - 4) Tracing goods fraudulently purchased;
 - 5) Interacting with bank and credit card company fraud departments; and
 - 6) Investigating instances where the victim's identity was used to avoid criminal prosecution.
 - d. Investigations which lead to another jurisdiction shall be coordinated with the appropriate federal, state, or local law enforcement agency.

- e. Detectives must keep victims apprised of all significant developments in the investigation, and shall contact them in all instances where it is learned that their identity has been further compromised or used.
2. REFERRALS FROM OTHER LAW ENFORCEMENT AGENCIES [42.2.8(D)]
- a. Referrals of identity theft from outside agencies will normally be referred to the Detective Bureau.
 - b. Upon receiving a referral, the detectives shall coordinate investigative efforts with the referring agency. This may include:
 - 1) Following-up on all leads as requested by the referring agency;
 - 2) Documenting all fraudulent transactions;
 - 3) Securing all available evidence, including photographs, stolen property, and relevant documents;
 - 4) Informing the referring agency, officer or agent of all significant developments in the investigation; and
 - 5) Preparing a comprehensive report of the follow-up investigation, and providing a copy to the referring law enforcement agency or official.
3. DISSEMINATION OF SURVEILLANCE PHOTOGRAPHS
- a. Images of subjects conducting transactions related to identity theft may be shared with other agencies through:
 - 1) State and regional identity theft and counter crime taskforces;
 - 2) New England State Police Network; and
 - 3) MassMostWanted.org web site.
 - b. The detective should also view images received from these and other sources to determine if a subject has committed crimes in other jurisdictions or suspects are known to the detective.

D. Prevention and Education [42.2.8(e)]

- 1. The department will keep the public informed on the subject of identity fraud in general, and specifically about steps that the public can take to prevent becoming a victim.
- 2. BROCHURES: The department will make brochures relating to avoiding identity theft available to the public.
- 3. PUBLIC PRESENTATIONS: The department will maintain an education and prevention program available for presentation to civic groups by members of the department.
- 4. WEB SITE: The department web site will maintain links to sites that offer information about identity theft.

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5. MEDIA: The department will utilize the media where appropriate to warn citizens about trends in identity crime.

¹ M.G.L. c. 266, §37E.

² M.G.L. c. 266, §37E.

VICTIM/WITNESS ASSISTANCE

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I. GENERAL CONSIDERATIONS AND GUIDELINES

Throughout history, police departments have traditionally been primarily concerned with apprehending and prosecuting offenders. They often overlook the victim or witness and are unaware of his/her needs and concerns until [s]he is needed to testify at the trial. This lack of concern on the part of the police department can (and probably will) lead to only half-hearted cooperation on the part of the victim or witness when called upon to follow through in the system.

This policy aims to ensure that the victim or witness receives the same quality of care we often give the offender. By increasing awareness of this situation, our goal is to foster a better relationship between the police and the victims and witnesses of crime. This will ensure their full and complete cooperation in matters being investigated and prosecuted. It will also ensure the victim and witness that their concerns will be heard, and that the confidentiality of records and files, in so far as Massachusetts Law permits, will be upheld.

II. POLICY

It is the policy of the department that:

- A. All employees of the police department treat any victim or witness of a crime with fairness, compassion and dignity; and,
- B. The department shall work in partnership with the District Attorney's Office and its Victim/Witness Assistance Program.
- C. The On-Call A.D.A. for the Child Abuse Unit Shall be contacted when a victim is a child.

- D. Victims/Witnesses who have experienced a significantly traumatic event shall be offered local trauma support services. Services include those provided through Clinical and Support Options (hand-out forms available)

III. PROCEDURE

A. Summary of Victim Bill of Rights [55.1.1]

1. **GENERALLY:** In 1984, the Massachusetts Victim Bill of Rights, Massachusetts General Law, Chapter 258B, was enacted into law, creating, at that time, the most comprehensive rights for victims of crime in any state in the United States. The bill applies to victims of crimes or, if a victim is deceased, to family members. Portions of the bill apply to witnesses of crimes as well. Except where noted, the rights are provided by the prosecutor.
2. **VICTIM RIGHTS:** Victims of crime have the right to information and assistance regarding:
 - a. Their rights in the criminal process: ¹
 - 1) How a case progresses through the criminal justice system;
 - 2) What the victim's role is in the process;
 - 3) What the system may expect from the victim; and
 - 4) Why the system requires this.
 - b. Level of protection available and ability to receive protection from police, from harm and threats of harm, for cooperating with police and prosecution.²
 - c. Right to request confidentiality in the criminal justice system from the court.³ [55.1.3(b)]
 - d. Being present at all court proceedings.⁴
 - e. Allowing one family member of a victim of homicide to possess a photo of the victim in the courtroom, with certain restrictions.⁵
 - f. A secure waiting room, to the extent available, apart from the defendant, defendant's friends, family, witnesses and counsel.⁶
 - g. Timely notification of changes in the schedule of court proceedings.⁷
 - h. Right to confer with the prosecutor before:⁸
 - 1) The commencement of the trial;
 - 2) Any hearing on motions by the defense to obtain psychiatric or other confidential records;
 - 3) Any act by the Commonwealth terminating the prosecution; and
 - 4) Submission of proposed sentence recommendations to the court.
 - i. Upon request, periodic appraisal of significant developments in the case.⁹
 - j. Prompt disposition of the case.¹⁰

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- k. Conferring with the probation officer prior to the filing of a full pre-sentence report.¹¹
 - l. Victim Impact Statement: the opportunity to inform the court, orally or in writing, of the impact of the crime.¹²
 - m. Being informed of the final disposition of the case, conditions of probation and contact information for the probation officer, if any, assigned to the defendant.¹³
 - n. Being informed regarding the defendant's parole eligibility and status in the criminal justice system.¹⁴
 - o. Notification rights and certification process to obtain, from the custodial facility, prior notice of release from custody, movement to a less secure facility, or prompt notification of escape.¹⁵
 - p. Victim of Violent Crime Compensation.¹⁶
 - q. Financial Assistance and other social services, and how to apply for them.¹⁷
 - r. Restitution, documenting the loss and a payment schedule from the Probation Department.¹⁸
 - s. Right to pursue a civil action.¹⁹
 - t. Freedom from employer sanctions for being absent from work to testify after receiving a subpoena.²⁰
 - u. Witness fees.²¹
 - v. Employer and creditor intercession services.²²
 - w. Prompt return of property from the court, prosecutor or police, within ten days, if not contraband, or evidence for prosecution.²³
3. WITNESS RIGHTS: Witnesses of crimes have the following rights pursuant to General Law Chapter 258B:
- a. Timely notification of changes in the schedule of court proceedings.²⁴
 - b. Prompt disposition of the case.²⁵
 - c. To be free from employer sanctions for being absent from work to testify after receiving a subpoena.²⁶
 - d. Information and assistance regarding:
 - 1) Level of protection available and ability to receive protection from police, from harm and threats of harm, for cooperating with police and prosecution.²⁷
 - 2) Right to request confidentiality in the criminal justice system from the court.²⁸ [55.1.3(b)]
 - e. A secure waiting room, to the extent available, apart from the defendant, defendant's friends, family, witnesses and counsel.²⁹

- f. Witness fees.³⁰
- g. Employer and creditor intercession services.³¹
- h. Submitting or declining an interview with defense counsel, except when responding to lawful process.³²

B. Police Department Role [55.1.3(a)]

1. POLICE LIAISON: It shall be the responsibility of the department **court officer** to:
 - a. Act as liaison between the police department and the victims and witnesses of crime, as well as the District Attorney's Office, regarding victim and witness rights;
 - b. Administer and coordinate the role of the police department in victim and witness assistance services;
 - c. Ensure that records and files of victims and witnesses are held in confidential files, subject to release only under the requirements of Massachusetts Public Records Law - Chapter 4, Section 7(26); and [55.1.3(b)]
 - d. Advise the prosecutor of the need to have a victim/witness advocate from the Victim/Witness Service Bureau of the Court/County District Attorney's office assigned to the case and to maintain contact with the court advocate during the course of events which follow.
2. SERVICES PROVIDED [55.2.1(A)]
 - a. 24 Hour Access to Victim/Witness Services
 - 1) A victim or witness of a crime may call the police department dispatcher at any time for twenty-four hour information/referral purposes. [55.2.1]
 - 2) When the dispatcher is contacted by a victim or witness for assistance or services beyond the scope of those the police provide, [s]he shall refer to the victim/witness resource directory located in the dispatch area to provide the name and telephone number of agencies within the county or regional service area that can provide the needed service. [55.2.1]
 - 3) For incidents involving domestic violence, see the department policy on **Domestic Violence** .
 - b. Status of Suspect/Arrestee.: Upon the request of a victim or witness, or when, in the opinion of the case officer or Supervisor or OIC, a victim or witness should be notified, officers who arrest a suspect for the commission of the crime shall notify the victim or witnesses on the following: [55.2.5]
 - 1) An arrest being made;
 - 2) The charges being brought against the arrestee; and

-
- 3) The arrestee's status (out on bail or incarcerated).
 - 4) Should the arrestee's status change, the involved officers should keep the victim or witness informed of such a change.
- c. Preliminary Investigations
- 1) Patrol officers and detectives conducting preliminary investigations shall be prepared to render assistance, including the following:
 - a) Provide information to victim/witness regarding services available through the police department, such as medical attention and referrals for counseling. [55.2.3(a)]
 - b) Advise that additional resources are available through the District Attorney's Office, such as victim advocacy and financial assistance. [55.2.3(a)]
 - c) Advise the victim/witness on procedures to follow should the suspect, companions of suspect, or family of suspect, intimidate the victim/witness. [55.2.3(b)]
 - d) Inform victim/witness of the case number assigned to the complaint and the steps that will follow the preliminary investigation. [55.2.3(c)]
 - e) Provide victim/witness with a business card or telephone number to call should the victim or witness have additional information to report or wish to check on the status of the investigation. [55.2.3(d)]
 - 2) Officers assigned to domestic violence cases shall give the victim a copy of the notice of domestic violence rights form. The rights shall be provided in the victim's native language whenever possible.³³
- d. Follow-Up Investigations: Investigators or patrol officers assigned to conduct the follow-up investigation shall be prepared to offer the victim or witness assistance during the course of their involvement with the case.
- 1) If the impact of the crime has been unusually severe and has resulted in providing victim or witness assistance beyond the standard, the investigator shall, within twenty-four hours of initial contact, check with the victim or witness to determine if his/her needs are being met. A second contact shall be made within ten days. [55.2.4(a)]
 - 2) The investigator shall explain to the victim or witness the procedures involved in the prosecution of the case and his/her role in that process. [55.2.4(b)]
 - 3) If feasible, investigators shall schedule all line ups, interviews or other required appearances of the victim or witness at such person's convenience and, if necessary, provide transportation to and from the site of such appearance. [55.2.4(c)]

- 4) Whenever possible, the investigator shall arrange for the prompt return of the property of the victim or witness as permitted by law or rule of evidence. Property may be held if it is: [55.2.4(d)]
 - a) Contraband;
 - b) Evidence needed for prosecution; or
 - c) Property with ownership in dispute.
 - d) For further information, see the department policy on **Evidence and Property Control** .
3. THREATS AND INTIMIDATION [55.2.2]
 - a. Evaluating Threats
 - 1) In the event that a police officer becomes aware that a victim of or a witness to a crime has been threatened or intimidated by the suspect or suspect's friends, family, attorney or other associates:
 - a) The case officer shall be notified.
 - b) The officer shall consider the nature of the threat and potential for its being acted upon.
 - c) If, in the opinion of the investigating officer or Supervisor or OIC, the threat appears credible, it should be further investigated.
 - d) Appropriate action should be taken.
 - 2) If, in the opinion of the investigating officer or Supervisor or OIC, there exists an express specific, credible reason for fearing intimidation or further intimidation, appropriate action should be taken.
 - b. Statutes Addressing Threats and Intimidation of Victims or Witnesses:
 - 1) **M.G.L. c. 268, §13B; Intimidation of Witnesses. A felony.**
 - 2) **M.G.L. c. 209A, § 7; Abuse Prevention Orders: A misdemeanor with statutory right to arrest.**
 - 3) **M.G.L. c. 275, §2; Threat to Commit a Crime: Misdemeanor, no statutory right of arrest.**
 - 4) M.G.L. c. 265.43; Stalking: Felony.
 - c. Police Response
 - 1) Police response should be appropriate given the circumstances known at the time and may include:
 - a) Immediate arrest for appropriate charge;
 - b) Application for an arrest warrant;
 - c) Summons (may request an expedited hearing date);
 - d) Show cause hearing; and

- e) Conferring with District Attorney's Office regarding appropriate action, including:
 - i. Arrest or prosecution of appropriate person(s);
 - ii. Security for victim or witness; and
 - iii. Relocation of victim or witness.
 - 2) In cases of an immediate, credible threat, a Supervisor or OIC may confer with Chief of Police & DA Office regarding emergency measures to provide protection for the victim or witness.
 - 3) In the event that a victim or witness is located outside of the department's jurisdiction, the agency having jurisdiction where the victim or witness is located shall be notified.
4. SERVICES PROVIDED, OTHER THAN POLICE DEPARTMENT [55.2.1(B)]:
Additional victim and witness services are available from sources other the department.
- 1) District Attorney's Office (see Victim Bill Of Rights in this policy).
5. TRAINING OF DEPARTMENT PERSONNEL
- a. Upon hiring, as part of initial in-house training, all employees shall receive a copy of and training regarding the Victim Bill of Rights. Employees shall be trained in regard to department and other programs and procedures designed to offer assistance to victims and witnesses of a crime, as specified in this policy.
 - b. Training documentation shall be filed with the Chief of Police.

¹ M.G.L. c. 258C, § 3(a).

² M.G.L. c. 258C, §3(d).

³ M.G.L. c. 258C, §3(h).

⁴M.G.L. c. 258C, §3(b).

⁵ M.G.L. c. 258C, §3(v).

⁶ M.G.L. c. 258C, §3(i).

⁷ M.G.L. c. 258C, §3(c).

⁸ M.G.L. c. 258C, §3(g).

⁹ M.G.L. c. 258C, §3(a).

¹⁰ M.G.L. c. 258C, §3(f).

¹¹ M.G.L. c. 258C, §3(n).

¹² M.G.L. c. 258C, § 3(p).

¹³ M.G.L. c. 258C, §3(q).

¹⁴ M.G.L. c. 258C, §3(s).

¹⁵ M.G.L. c. 258C, §3(t).

¹⁶ Chapter 258C.

¹⁷ M.G.L. c. 258C, §3(e).

¹⁸ M.G.L. c. 258C, §3(o).

¹⁹ M.G.L. c. 258C, §3(u).

²⁰ M.G.L. c. 258C, §3(l).

²¹ M.G.L. c. 258C, §3(j).

²² M.G.L. c. 258C, §3(k).

²³ M.G.L. c. 258C, § 3(r).

²⁴ M.G.L. c. 258C, §3(c).

²⁵ M.G.L. c. 258C, §3(f).

²⁶ M.G.L. c. 258C, §3(l).

²⁷ M.G.L. c. 258C, §3(d).

²⁸ M.G.L. c. 258C, §3(h).

²⁹ M.G.L. c. 258C, §3(i).

³⁰ M.G.L. c. 258C, §3(j).

³¹ M.G.L. c. 258C, §3(k).

³² M.G.L. c. 258C, §3(m).

³³ M.G.L. c. 209A, §6.

EVENT DECONFLICTION POLICY

POLICY & PROCEDURE NO. 2.24	ISSUE DATE: 03/05/24
	EFFECTIVE DATE: 03/05/24
HADLEY POLICE DEPARTMENT	REVISION DATE: _____

Purpose

The purpose of this policy is to ensure appropriate use of an event deconfliction pointer system. Event deconfliction, along with the sharing of event and investigative information with other law enforcement agencies, and proper case activation procedures enhance officer safety and the efficiency of criminal investigations. As such, the following policy will be adhered to when executing a planned operation or conducting a high risk criminal investigation.

Definition of Event Deconfliction

Event deconfliction is the process of determining when law enforcement personnel are conducting events in close proximity to one another at the same time. By notifying a central location of a planned event prior to its execution, officers will not unknowingly target or conflict with another law enforcement officer or compromise another investigation. This is particularly important for agencies in concurrent or contiguous jurisdictions that are involved in high risk activities such as undercover operations, surveillances, execution of search warrants, or fugitive apprehensions.

When certain elements (e.g. location, date and time) are matched between two or more events/operations, a conflict (or hit) results. Immediate notification is then made by the deconfliction system to the involved agency personnel. The event deconfliction process is a pointer system, alerting officers that they may be operating near one another.

When a conflict exists, both agencies are notified in order for them to determine the nature of the conflict and individually decide the extent to which they wish to share case details.

Policy

It is the policy of the Hadley Police Department to engage in event deconfliction in an attempt to avoid dangerous confrontations and/or unintentional consequences for law enforcement personnel and our citizens by entering qualifying events into the (*NESPIN, RISSafe or SafeTNet*)

system.

All information entered is considered confidential and law enforcement sensitive.

The following activities/events shall be entered into the event deconfliction system:

1. The service of search warrants;
2. The service of arrest warrants (excluding arrests in public such as motor vehicle stops)
3. The planned arrest of a person immediately after he or she has delivered or received, or attempted to deliver or receive, contraband to or from an officer or informant (buy-busts, reverse sting operations, controlled drug deliveries, stolen or burglarized property, etc.);
4. Taking delivery of any contraband from a suspect who is not arrested, but permitted to leave pending further investigation (“buy-walk”);
5. Informant or officer face-to-face meetings with suspects for the purpose of receiving, delivering, or negotiating the receipt or delivery of any contraband;
6. Approaching a person at his or her place of domicile and requesting permission to search for any contraband (“knock and talk”); especially in anticipation of activities involving a felony crime or drug related crime;
7. Predetermined surveillances, whether stationary or mobile, including those occurring in our agency’s jurisdiction or the jurisdiction of a non-participating law enforcement agency;
8. Covert activity by officers, or by informants acting under the direction of officers, that could initiate a response from citizens or local police who may reasonably believe that a crime is in progress;
9. Fugitive operations which are operational (roundups);
10. Long term covert operations (storefronts);
11. Any other high-risk or specialized law enforcement activities that would benefit from event deconfliction.

Personnel conducting field operations as described above shall ensure that these operations are entered into the event deconfliction system either online or by telephone **(800) 343-5682 NESPIN**. All operations requiring entry into the event deconfliction system shall be made as soon as information is available, but at least two hours prior to the event taking place, if possible.

Information entered into the deconfliction system shall include:

1. Date and time of planned operation;
2. Type of operation;
3. Location of the operation, including any staging areas;
4. Information about the suspect(s), including full names, aliases or monikers, date of birth, vehicle information, phone numbers, contraband to be purchased and amount of money involved;
5. Lead and participating agency names;
6. Name and agency of the person entering the operation, including cellular telephone number, along with a secondary point of contact for the operation.
7. Specify the radius of deconfliction (if not preset by the deconfliction system).

If a conflict with other law enforcement activity is identified both of the contact personnel will be notified by the event deconfliction system or watch center personnel. Each affected law enforcement entity is responsible for contacting one another and resolving the conflict before taking further action. Investigating personnel must refrain from executing any operations until identified conflicts have been resolved.

Unresolved operational conflicts will be immediately referred to command/supervisory level personnel.

Any exemption or deviation from this procedure shall be considered on a case-by-case basis and approved only by a command/supervisory level officer.

Training and Access

All personnel with assignments that may require them to perform event deconfliction shall receive training enabling them to obtain appropriate security access and to navigate through the event deconfliction system. Training is available through New England State Police Information Network (NESPIN)

Target and Investigative Information Deconfliction

Event deconfliction applies to geographical conflicts that occur at the same time and in the same proximity. Target and investigative activity deconfliction applies to subjects, gangs, locations, telephone numbers, vehicles, and other investigative information about criminal activity.

Upon opening an investigation on any crime, information shall be queried and/or stored through available national, regional, or local systems to determine whether another agency has an ongoing investigation with common investigative information, to reduce parallel investigations and to promote investigative collaboration. If a conflict is discovered in either target or investigative activity, contact shall be made with the other agency to resolve and coordinate issues and information.

Compliance

Event deconfliction is a key component of officer safety during planned police operations and high risk investigations. Consequently, failure to comply with this policy may result in disciplinary action.