

TRANSPORTATION OF DETAINEES

POLICY & PROCEDURE NO. 3.01	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 03/19/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

The proper transporting and handling of detainees is essential to ensure the safety of both officers and detainees. A person who faces the loss of freedom may become desperate and dangerous. [S]he may be ready to attack and flee at any time the opportunity presents itself.

Escape is not only embarrassing but may also create a serious danger to the community or to other police officers before the detainee is recaptured. At all times, an officer should expect the unexpected. [S]he should not be "lulled" by the apparent cooperation of the detainee. Every precaution should be taken to be prepared to handle sudden dangerous activity. The purpose of the procedures outlined below is to assist an officer in avoiding such problems.

The transportation of detainees by law enforcement officers is a frequent requirement. Detainees are transported under many circumstances, such as transport by the arresting officer immediately after arrest; transfer to or from other agencies or holding facilities; movement of detainees from holding facilities to medical treatment centers; and transfer to court. The adherence to proper procedures for handling and transporting detainees is essential to ensure both the rights of the detainee and the safety of the transporting officer(s), the detainee(s), and the general public. Adherence to proper procedures will also minimize the possibilities of injury, escape, or accusations of mistreatment.

II. POLICY

It is the policy of this department that:

- A. Arresting officers, in handling and transporting detainees, will use only such force as is reasonable and necessary to control the detainee and to ensure the safety of the officers; and

- B. Arresting and transporting officers shall take all appropriate measures to ensure the preservation of the rights and safety of detainees and to prevent their escape.

III. PROCEDURE

A. Transport Vehicles

1. TYPES OF VEHICLES: The following vehicles may be used to transport detainees, listed in order of preference:
 - a. Caged two-person cruiser;
 - b. Caged one-person cruiser;
 - c. Uncaged vehicle.

NOTE: A vehicle without a barrier shall be used only if there is no caged cruiser available.

2. SAFETY MODIFICATIONS

- a. All department vehicles normally used to transport detainees shall have:
 - 1) A safety barrier to protect the front occupants; [70.4.1]
- b. All vehicles used for transporting detainees shall be modified to minimize opportunities for the detainee to exit from the rear compartment of the vehicle without the aid of a transporting officer. Such modifications may include: [70.4.2]
 - 1) Disable rear passenger power window controls;
 - 2) Remove rear passenger window hand cranks; and
 - 3) Disable or remove rear passenger interior door latch handles.

3. TRANSPORT VEHICLE SEARCHES [70.1.2]

- a. All vehicles normally used for transporting detainees shall be checked for operational suitability, and searched for weapons and contraband at the beginning of each shift.
- b. Before placing a detainee in a police vehicle, the vehicle shall be searched to ensure that there are no articles present that can be used as weapons. This will also ensure that items subsequently found (e.g., contraband, evidence, etc.) can be more easily attributed to the detainee.
- c. At the completion of all detainee transports, the officers assigned to the vehicle will conduct a search of the area within the vehicle where the detainee was located for evidence and/or contraband that may have been discarded by the detainee.

B. Detainees

1. DETAINEE SEARCHES [70.1.1]

- a. All detainees shall be thoroughly searched immediately prior to being transported.

-
- b. Whenever an officer takes custody of a detainee to transport, the officer should never assume that the detainee has already been searched. The officer shall conduct a thorough search of the detainee himself/herself, provided the officer is of the same sex.
 - c. If the detainee is of the opposite sex of the transporting officer:
 - 1) An officer or trained police employee of the same sex may search the detainee.
 - 2) If such officer or employee is not available, an officer of the opposite sex may conduct the search if there is reason to believe the detainee is armed with an item with which [s]he could cause harm to himself/herself or the officer.
 - 3) The officer should conduct this search in the presence of another officer or a reasonable adult witness to minimize any accusation of misconduct.
 - d. Juvenile detainees shall be processed in the same manner as adult detainees with regard to searches; however, consideration shall be given to the age and sensitivity of the juvenile detainee.
2. DETAINEE RESTRAINING DEVICES [70.2.1]
- a. All detainees shall be handcuffed prior to being placed into the transport vehicle. Officers may use:
 - 1) Metal handcuffs, or
 - 2) "Flex Cuffs."
 - b. Detainees shall be handcuffed with their hands behind their back, palms facing outward unless there are exigent circumstances (such as an injury, etc.).
 - c. Handcuffs shall be double locked. Handcuffs shall be placed on the skin above the wrists, securely, but not so tightly as to affect circulation. Handcuffs shall not be placed over sleeves or clothing.
 - d. At no time will a detainee be handcuffed to any part of the transport vehicle during transport.
 - e. Leg restraints may be used in addition to handcuffs when the officer believes the detainee has a potential for violent behavior or flight; leg restraints may be used in lieu of handcuffs due to injury or disability.
 - f. Officers shall not transport detainees who are restrained in a prone position.
 - g. Officers should be aware of the issue of positional asphyxia when placing restrained detainees into a vehicle.
 - h. Officers may transport without handcuffs provided there are extenuating circumstances (e.g., very young juvenile, handicapped, injured).

3. MULTIPLE DETAINEES

- a. Whenever several similar suspects (adult males, juvenile males, etc.) who have been arrested as participants in the same criminal activity are to be transported:
 - 1) They should be handcuffed in the standard way.
 - 2) Their arms may be interlocked and their hands handcuffed behind their backs, palms facing outward.
 - 3) The detainees may be cuffed together by handcuffing the right wrist of suspect #1 to the right wrist of suspect #2. The left wrist of suspect #2 would then be handcuffed to the left wrist of suspect #3. If there are four or more suspects, they should be handcuffed in groups of two or three.
- b. Male and female detainees shall not be transported together to or from court.¹

4. SEATING IN POLICE PATROL VEHICLES

- a. Officers shall ensure that detainees being transported are visually observable at all times.
- b. Detainee Transport with Two Officers, Caged Vehicle
 - 1) The detainee(s) will be seated in the rear seat. Both officers will be seated in the front seat.
 - 2) The officer in the passenger position will maintain visual contact with the detainee(s).
 - 3) Safety belts with a shoulder harness shall be used if available.
- c. Detainee Transport with Single Officer, Caged Vehicle: If the transporting officer cannot be provided with a backup and must transport the detainee alone, [s]he will follow this procedure:
 - 1) Handcuff the detainee with his/her hands behind his/her back, palms facing outward;
 - 2) The detainee will be seated in the right rear seat; and
 - 3) Safety belts with a shoulder harness shall be used if available.
- d. Detainee Transport in Uncaged Vehicle: When transporting a detainee in an unmarked vehicle or cruiser without a cage: [70.1.3]
 - 1) Only one detainee at a time will be transported;
 - 2) The detainee shall be placed in the front seat, passenger side;
 - 3) If there is a second officer available, [s]he will ride in the front seat with the operator and the detainee will be placed in the rear seat behind the passenger; and
 - 4) Safety belts with a shoulder harness shall be used if available.

NOTE: This type of transport should only be made in situations where the offense is minor in nature and the detainee is cooperative.

C. Transport to Booking Facility

1. **GENERALLY:** An officer shall not attempt to transport more persons than [s]he can safely control.
2. **FEMALES AND JUVENILES:** Whenever possible, male and female detainees and juvenile detainees will be transported separately from each other.
3. **ESCORTING DETAINEES TO TRANSPORT VEHICLE:** A time of potential danger to the officers and detainee is when the detainee is being escorted to the transporting vehicle. To help reduce the danger, officers should keep the detainee isolated from other persons in the area when going to the transport vehicle and during the transport.
4. **COMMUNICATING WITH DISPATCH:** Immediately upon commencing the transport, the officer shall communicate the following information to the dispatcher:
 - a. The number and sex of arrestees, and whether the arrestee(s) are juveniles;
 - b. The present location and the vehicle's odometer reading; and
 - c. The destination.
5. **TRANSPORT ROUTE**
 - a. A detainee in custody shall be transported directly to the station, using an expedient route from the scene of custody to the booking facility.
 - b. All traffic regulations shall be observed, unless an emergency exists.
6. **COMMUNICATION WITH DETAINEE DURING TRANSPORT [70.1.5]**
 - a. Because an arrestee in a police vehicle is in custody, no questioning of the arrestee shall be initiated by officers unless and until the arrestee has been fully advised of the Miranda Warnings and has knowingly and intelligently waived those rights.
 - b. Unless a situation exists that makes a verbal exchange necessary, transporting officers should not allow detainees to communicate with other persons while being transported.
 - c. If a citizen, including the detainee's attorney, requests to speak with a detainee, the officer should advise that person of the destination of the detainee transport.
7. **ARRIVAL AT BOOKING FACILITY**
 - a. Upon arrival at the booking facility, notify the dispatcher of the time of arrival and the vehicle's odometer reading.
 - b. Booking will be accomplished according to the department policy on **Detainee Processing** .

D. Transport of Detainee to Another Facility

1. PREPARING DETAINEE FOR TRANSPORTATION: When a detainee is to be transported from the holding facility to another holding facility or to court, the officers involved will comply with the following procedures:
 - a. Detainee Identity: Verify which detainee is to be transported.
 - b. Positively Identify the Detainee Prior to Transport: The transporting officer shall positively identify that the detainee to be transported is, in fact, the correct detainee. Positive identification may be ascertained from another employee, or by checking the identification of the detainee against the description, booking photo, cell number, and booking photo, etc. [70.5.1(a)]
 - c. Destination: Verify the destination of the detainee transport.
2. HEALTH SCREENING: Before transfer to another facility, the detainee shall be screened by the officer preparing the detainee for transport. This screening shall consist a brief inquiry into:
 - a. The current health of the detainee;
 - b. Any medications being taken;
 - c. Behavioral observations, including consciousness and mental status; (also see Suicide Risk Screening in this department's policy on **Detainee Processing**); and
 - d. A notation of any obvious body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc.

Note: All observations shall be noted on the intake form.
3. VIOLENT/ESCAPIST DETAINEES: If a detainee to be transported to court or another custody facility has been or is extremely violent or is an escape risk, the officer-in-charge will make this fact known to the receiving agency prior to the detainee's being transported, so that the receiving agency is prepared to accept the detainee. [70.1.6(d)]
4. SUICIDAL DETAINEES: If the detainee is or is felt to be a suicide risk, the receiving agency will be advised in writing of the exact nature of the threat or attempt and the appropriate CJIS entry will be made in accordance with M.G.L. c. 40, §36A. [70.5.1(c)]
5. DOCUMENTATION: The transporting officer shall ensure that the proper documentation, as appropriate, accompanies the detainee. [70.5.1(b)]
 - a. Court [If court paperwork is not transported separately from the detainee]:
 - 1) Application for complaint or criminal citation;
 - 2) Served arrest warrants; and
 - 3) Suicide risk evaluation, if appropriate.
 - b. Juvenile holding facility:

-
- 1) Booking sheet;
 - 2) Suicide risk evaluation; and
 - 3) Mental health evaluation: Application for mental health evaluation if issued.
- c. Other police agency:
- 1) Booking sheet;
 - 2) Served arrest warrants; and
 - 3) Suicide risk evaluation.
- d. Property:
- 1) Transfer the detainee's property to the custody facility or court, provided that the court will accept the property.
 - 2) Any property not accepted by the receiving facility shall be turned over to the property officer to be held for safe keeping.
6. UPON ARRIVAL AT ANOTHER FACILITY: Upon arrival at the custody facility or court, the officers will:
- a. Advise the dispatcher of their location and the vehicle's odometer reading at the beginning and end of the transport;
 - b. Secure firearms at the accepting facility in accordance with the procedures of the receiving agency; [70.1.6.a]
 - c. Escort the detainee into the facility and deliver all necessary documentation and personal property to the receiving officer; [70.1.6.c]
 - d. Maintain control of the detainee until relieved by the receiving agency;
 - e. Advise the receiving agency personnel of any potential medical issues, disease, suicide risk, infectious disease, open wounds, sores, vermin or security risks; [70.1.6(d)]
 - f. Remove restraining devices only if directed to do so by the receiving agency; and [70.1.6(b)]
 - g. Obtain the name and signature of the receiving agency official if possible. [70.1.6(e)]
7. TRANSPORT OF DETAINEE FROM ANOTHER AGENCY'S CUSTODY:
When transporting a detainee from another facility to the department's holding facility (e.g., picking up a detainee arrested on a warrant by another agency), the transporting employees will:
- a. Upon arrival at the holding agency, notify the dispatcher;
 - b. Secure their firearms in accordance with the procedures of that agency;
 - c. Verify the identity of the detainee by checking any description of the detainee contained on the warrant or other documents;

- d. Ensure that all required paper work is properly signed and executed and accompanies the detainee;
- e. Obtain the detainee's property;
- f. Prepare the detainee for transport according to department procedure:
 - 1) Search,
 - 2) Restraints,
 - 3) Seating in the transport vehicle;
- g. Notify the dispatcher when they are beginning their return transport, and give the vehicle's odometer reading at the beginning and end of the transport; and
- h. Transport the detainee directly to the department's holding facility.

E. Special Transport Situations

1. TRANSPORTING DETAINEES OF THE OPPOSITE SEX

- a. When transporting a detainee of one sex by an officer of the opposite sex, an additional officer may be requested to accompany the transport whenever practical.
- b. Whenever one or two officers transport a detainee of the opposite sex, the following procedures will apply:
 - 1) The transporting officers will call in the mileage on their patrol vehicle and their location. The dispatcher will make an entry into the log.
 - 2) The transporting officers will proceed directly to their destination using the shortest practical route.
 - 3) Upon arrival at the destination of the transport, the transporting officers will call in the ending mileage on their patrol vehicle. This information will be noted by the dispatcher in the log.

2. SICK, INJURED, OR HANDICAPPED DETAINEES [70.3.1]

- a. If medical care is necessary:
 - 1) The officers shall arrange for Emergency Medical Technicians to come to the scene and evaluate the detainee's medical needs.
 - 2) The detainee will either be transported by ambulance to a hospital or be treated and released to the officers' custody.
- b. If hospital care is necessary:
 - 1) An officer may, at the discretion of a Supervisor or OIC, or at the request of medical personnel, accompany the detainee in the ambulance.

-
- 2) If an officer does not ride in the ambulance, the officer shall follow the ambulance to the hospital.
 - 3) Handcuffing of Sick, Injured, or Handicapped Detainees
 - a) When handcuffs are used, they should be used in a manner so as not to further aggravate the handicap or injury. If Emergency Medical Technicians are present, handcuffs should be applied as suggested by them.
 - b) Leg shackles may be used when handcuffs are not appropriate.
 - 4) Upon arrival at the hospital, the officer shall meet the ambulance and accompany the detainee through triage.
 - 5) The detainee shall remain in custody and in the presence of the officer (unless emergency circumstances prevent it) until his/her release from the treating facility and/or release from custody (such as bail).
- c. For further information, see the department policy on **Detaining Prisoners**.
3. TRANSPORTING HANDICAPPED DETAINEES
 - a. Officers will make reasonable accommodations when transporting handicapped detainees.
 - b. When it is necessary to lift a wheelchair or bed-ridden detainee, two or more persons shall be used.
 - c. A non-emergency ambulance may be used if appropriate.
 - d. Any wheelchairs, crutches, prosthetic devices, and medication should be transported with, but not in the possession of, the detainee.
 4. TRANSPORTING MENTALLY DISTURBED DETAINEES: Mentally disturbed detainees may pose a significant threat to themselves and/or the transporting officers. If required, handcuffs should be used until a more appropriate restraining device can be applied.
 5. LONG-DISTANCE TRANSPORTATION
 - a. Two officers shall be used in any long-distance transport of a detainee of over **100** miles. There should be at least one officer or police employee of the same sex as the detainee being transported.
 - b. The use of optional restraints should be considered, such as:
 - 1) Waist chains, or
 - 2) Leg shackles.
 - c. Visual Contact: Transporting employees should maintain visual contact with the detainee at all times.
 - d. Use of Toilet Facilities: The officers shall contact the nearest available police department to make arrangements for the use of their facilities.
-

- e. Food: If transporting officers must provide food for detainees during transport:
 - 1) Fast food may be provided and consumed in the transportation vehicle.
 - 2) The officer may contact a police facility to make arrangements for the detainee to be placed in a cell and fed.
- 6. INTERRUPTION OF TRANSPORT [70.1.4]
 - a. The primary duty of the transporting officers is the safe delivery of detainees in their care to the proper destination.
 - b. While transporting a detainee, the transporting officers will stop to provide police services only in the following circumstances and only if this activity can be accomplished without serious risk of injury to the detainee or escape of the detainee:
 - 1) Where immediate response is required to prevent severe bodily injury or death to an individual;
 - 2) Where serious injury has occurred requiring immediate attention; and
 - 3) Where a serious or violent crime is in progress and/or a criminal is fleeing and immediate apprehension is required to ensure public safety.
- 7. SPECIAL SITUATIONS
 - a. Officers shall not transport detainees to visit critically ill persons, to attend funerals or other such special situations.
 - b. Where circumstances warrant, an officer should explain bail procedures to a detainee or his/her family and assist in having the detainee's request for bail addressed promptly. [70.3.3]

F. Detainee Escape

- 1. TRANSPORTING OFFICERS
 - a. If a detainee escapes during arrest, transportation, or booking, the officers will notify the dispatcher giving as much information as possible, including the following: [70.1.7(c)]
 - 1) Detainee's name, if known;
 - 2) Description, including clothing;
 - 3) Area where escape occurred;
 - 4) Direction of flight;
 - 5) Probable destination, if known; and
 - 6) Any other pertinent information available.

-
- b. Begin an area search and attempt to regain custody of the detainee.
 - c. The officer from whose custody the detainee escaped shall submit a written report, before the end of the shift, detailing the events leading to the escape to the Supervisor or OIC. [70.1.7(b)]
2. DISPATCHER [70.1.7(A)]
 - a. The dispatcher will immediately notify the officer-in-charge of the detainee escape, and [s]he will deploy additional officers as necessary.
 - b. The dispatcher shall call additional resources at the request of the Supervisor or OIC:
 - 1) Canine Teams;
 - 2) State Police Air Wing; and
 - 3) Other law enforcement agencies.
3. OFFICER-IN-CHARGE: The officer-in-charge will submit a written report concerning the events leading to the escape, the actions taken to regain custody, and any recommendation concerning possible corrective measures or department disciplinary proceedings. [70.1.7(b)]
 4. DEPARTMENT COMMAND STAFF: Review reports and take actions to prevent any recurrence.

¹ M.G.L. c. 276, §53.

DETAINING PRISONERS

POLICY & PROCEDURE NO. 3.02	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 03/30/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

The focus of this policy is the care, safety and security of detainees being held in the custody of this department.

While detainees are being held in police custody, their well-being is the responsibility of the department. Even though prisoners are normally housed for only short periods of time, the environment of police lockups can become volatile and emotionally charged, as evidenced by incidents of prisoner suicide and injury. Post-arrest detention is a time when the emotional impact of the arrest becomes evident to many prisoners. Particularly prone to actions which may cause injury to themselves or others are persons with mental illness, persons who are intoxicated due to drug or alcohol use, drug addicts, and persons who have other arrest warrants against them. Strict adherence to procedures governing the monitoring of prisoners and the bringing of weapons and tools into the cell block area is necessary to ensure facility security and prisoner well-being.

II. POLICY

It is the policy of this department to operate the holding facility in a manner which ensures detainee and officer safety and protects the constitutional rights of detainees.

III. PROCEDURES

A. Prisoner Supervision

1. ACCOUNTABILITY FOR DETAINEES

- a. Upon each change of shift, the off-going Supervisor or OIC shall inform the incoming Supervisor or OIC of the number of persons being detained in the holding facility.
- b. The off-going dispatcher shall inform the incoming dispatcher of the number of persons being detained in the holding facility.
- c. This briefing shall include:
 - 1) Any bail status;
 - 2) Suicide risks;
 - 3) Injuries, medical or medication issues;
 - 4) Need for Jenkins hearings; and
 - 5) Detainees at other facilities (hospital, KEY program, etc.).
- d. The incoming Supervisor or OIC shall conduct a physical check of each detainee to verify the number of persons being held. In any event, such detainee count shall be done at least once every eight hours.

2. DETAINEE MONITORING UNDER NORMAL CONDITIONS [72.8.1]

- a. There shall be a twenty-four-hour per day supervision of detainees by department staff.
- b. The officer-in-charge shall be responsible to ensure that regular checks are made of each detainee and that such checks are properly recorded.
- c. Detainee checks may be made by physically looking in the cell to observe the detainee and listening to the sounds emanating from the cell area to ensure that the detainee is all right. Such physical checks shall normally be made at least every fifteen minutes.
- d. Additional detainee checks may be augmented by:
 - 1) Looking at the detainee on the cell video monitor and listening to the sounds emanating from the holding cell; and
 - 2) If either audio or video is inoperative, or there is any question as to the condition of the detainee, making the checks physically.
- e. Checks of the detainee shall be documented by using the cell check recording system or, if such system is inoperative, by logging the checks on paper.¹

3. SUICIDAL DETAINEES

- a. For any detainee who exhibits any signs or symptoms of suicidal behavior, obtains a medium or higher rating on the suicide risk screening during

booking, or whose name appears on the Q5 query, the Supervisor or OIC shall be immediately notified.

- b. The Supervisor or OIC shall determine if a detainee should be placed on suicide watch. A detainee shall be placed on suicide watch if:
 - 1) The risk screening indicates a medium or higher suicide risk;
 - 2) The detainee exhibits signs or symptoms of suicidal behavior;
 - 3) The detainee threatens to commit suicide;
 - 4) The detainee attempts to commit suicide;
 - 5) The detainee's name appears on the Q5, Suicide Risk File; or
 - 6) The detainee is brought to a hospital for a mental health evaluation, released, and returned to the police holding facility.
 - c. The level of a suicide watch shall be proportional to the degree of the detainee's suicide risk.
 - d. The officer-in-charge shall consider the detainee's charges, mental state, behavior and other factors and determine if the detainee should be transported to a hospital for a mental health evaluation. See the department policy regarding **Handling the Mentally III** .
 - e. In-Station Incidents: Whenever any detainee attempts or threatens suicide within the holding facility, the officer-in-charge shall do the following:
 - 1) Write or cause to be written an incident report.
 - 2) Prior to the end of the shift, but within twenty-four hours of such incident, enter the detainee's name and other required information into the CJIS Suicide Risk File.²
 - 3) If a detainee attempts or threatens suicide while in police custody and is transferred to another holding facility, the shift Supervisor or OIC is responsible to notify the receiving facility, in writing, of the exact nature of the attempt or threat. A copy of the suicide risk form shall accompany the detainee to the next facility and shall be given to the accepting staff.³
 - f. In the event that an individual brought to a hospital or medical facility for a suicide evaluation is returned to the holding facility for detainment, the officer-in-charge shall institute a suicide watch until such time as the detainee is released from custody or transferred to another agency.
4. SUICIDE WATCH
- a. Low Risk suicide watch may include:
 - 1) Awareness of the detainee's condition and behavior;
 - 2) Physical checks of the detainee every fifteen minutes; and
 - 3) Periodic audio monitoring of the detainee's cell.

- b. Medium Risk suicide watch may include, at the Supervisor or OIC's discretion:
 - 1) A more heightened awareness of the detainee's condition and behavior;
 - 2) Checks of the detainee every ten minutes; and
 - 3) Periodic audio monitoring of the detainee's cell.
 - c. High Risk suicide watch may include, at the Supervisor or OIC's discretion:
 - 1) Heightened vigilance of the detainee's condition and behavior;
 - 2) Physical checks of the detainee at five minute intervals; and
 - 3) More frequent audio monitoring of the detainee's cell.
 - d. Very High Risk suicide watch may include, at the Supervisor or OIC's discretion, any of the following:
 - 1) A very high degree of vigilance of the detainee's condition and behavior;
 - 2) Constant observation of the detainee; and
 - 3) Constant monitoring of audio from the detainee's cell.
5. MONITORING DETAINEE ACTIVITIES
- a. Monitoring detainees of the opposite sex
 - 1) Detainees should be supervised by department staff of the same sex as the detainee. When this is not possible, there should be at least two employees present during all physical contact with detainee(s) of the opposite sex.
 - 2) Employees monitoring detainees of the opposite sex shall respect the detainee's privacy rights within the limits of facility security. A matron shall supervise all female detainees at all stations to which a matron is assigned.⁴ [72.8.3]
 - b. Audio and video monitoring
 - 1) Any video monitors and audio listening devices installed in the cell block areas shall be turned on whenever a person is placed into one of the cells in the holding facility and shall be left on as long as anyone is being detained there.
 - 2) In order to accommodate the personal privacy rights of individuals held in the facility: [72.8.2]
 - a) When a detainee speaks to his/her attorney, the audio listening devices will be turned off during the visit. The video shall remain on and be monitored for the protection of the attorney. [72.7.1(c)]

- b) When a detainee is using the toilet facility, the audio and visual devices will be turned off for a short time if an officer or other monitor is present to help ensure security and safety.
- 3) Cell monitoring equipment is never to be used for covert purposes.

B. Medical Care [72.6.1]

1. FIRST RESPONDER

- a. No department employees shall be allowed to go beyond the scope of their training in administering to the emergency or special medical needs of any person held in the custody of this department (i.e., CPR, First Responder, EMT, etc.).
- b. An ambulance shall be called when any detainee requests and/or is deemed in need of medical attention.
- c. A log entry shall be created for all medical assistance received by a detainee.
- d. When a detainee is transferred to an area hospital, [s]he shall be transported by ambulance to the Emergency Room of the departmentally specified hospital. For further information, see the department policy on **Transportation of Detainees** .

2. MEDICATION

- a. Detainees are permitted to take any necessary medication, over-the-counter or prescription, specifically prescribed in writing by a licensed medical provider, provided that the administration of the drugs is requested by the detainee. [72.6.5]
 - 1) Only the quantity of medication specified by the prescribing practitioner shall be given to the detainee.
 - 2) Any medications brought in by a detainee, or given to him/her in the course of any treatment [s]he may require while in department custody, shall be retained with the detainee's property.
 - 3) If there is any question concerning the administration of medications, the officer-in-charge may either confer by telephone with a qualified medical physician or pharmacist before administering the medication, medics may be called, or the detainee may be transported to the hospital and the medication administered there.
 - 4) The detainee may only receive the dosage of medication as noted on the label, and the administering officer must witness the detainee taking the medication.
 - 5) A written record of any medications administered to a detainee shall be maintained.

NOTE: G.L. c. 94C, § 9 prohibits the administration of a controlled substance by non-licensed persons. This policy simply affords a

detainee the opportunity to self-administer prescribed medicine in accordance with label directions.

C. Handling Violent, Intoxicated, Self-destructive Persons [72.5.4]

1. DETENTION

- a. The priority of police actions in dealing with violent, self-destructive, or intoxicated detainees is the protection from injury of the police staff, other detainees, and the detainee.
- b. Segregation or additional restraints shall not involve any other penalty other than the segregation or restraint. There shall be no abridgment of rights or privileges that would normally be granted to any other detainee.
- c. Any detainee who is uncontrollable due to the influence of alcohol or drugs, or is violent or otherwise self-destructive, shall, if transportation or removal to a detoxification or other mental health facility is not feasible, be placed in a single occupancy cell as deemed appropriate by the officer-in-charge. Under no circumstances shall this type of detainee be placed in a cell occupied by another person.
- d. All detainee behavior which requires segregation, restraint, transfer, or police response shall be included in an incident report.
- e. Such detainee shall be continuously monitored. The detainee's behavior should be taped or otherwise captured on video and audio, and the recording preserved, if the agency is so equipped.

2. IN-CELL RESTRAINT

- a. If, in the judgment of a Supervisor or OIC, a detainee becomes violent or uncontrollable, the detainee may be restrained while in the cell. Such restraint may include the use of:
 - 1) Handcuffs;
 - 2) Waist chains; and
 - 3) Restraint chair.
- b. Detainees should not be "hogtied" due to the risk of positional asphyxia.

3. HARMFUL CONDITIONS

- a. Conditions
 - 1) If the suspect displays impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or bizarre behavior AND during the arrest exhibited great strength and/or a diminished sensitivity to pain, the individual may be showing signs of excited delirium. Immediately after a struggle, sudden death may ensue.
 - 2) Persons suffering from cocaine intoxication, particularly if additional alcohol is used, are subject to increased blood pressure, heart rate and body temperature. Sudden death may occur in such persons.

- 3) Psychiatric patients who display hyperthermia (over heating), are in and out of consciousness and have lumpiness of skeletal muscles may be suffering from neuroleptic malignant syndrome and may also be prone to sudden death.
- b. Precautions
 - 1) Detainees displaying these symptoms should be checked by ambulance personnel.
 - 2) Such detainees should be closely monitored through video and audio monitoring or physical monitoring, if such monitoring can be done without further exciting the detainee.
4. TRANSFER OF CUSTODY: In cases where the detainee's actions pose a definite threat to the safety of the staff, other detainees, the detainee, or the security of the holding facility, the Supervisor or OIC may attempt to make arrangements with corrections officials for transfer to their custody.
5. IN-CELL ARRAIGNMENT
 - a. In the event that detainee's actions pose a definite threat to the safety of the staff, other detainees, the detainee, or the security of the holding facility, the Supervisor or OIC may request that the detainee be arraigned in the holding cell.
 - b. Such arraignment may be followed up by a release from custody or transfer to the Sheriff's Department.

D. Meals

1. Three meals will be provided to each detainee during each twenty-four hour period. Meals shall be provided at regular meal times; however, no more than fourteen hours shall elapse between any meals. [72.7.1(f)]
2. The morning meal should be provided in time to be consumed prior to being transported to court on any day that court is in session.
3. Detainee meals shall be provided by a vendor designated by the department. The content of meals shall be designated by the department and should be substantial enough to provide adequate nourishment for the detainee.⁵
4. Any special diet that is required in accordance with treatment prescribed by a licensed physician will be granted whenever possible, within the parameters of cost effectiveness and available resources.
5. Meals and food brought to a detainee by a family member or friend are discouraged, but may be provided at the discretion of a Supervisor or OIC. All meals or food shall be subject to search prior to being allowed into the holding facility.
6. No metal eating utensils or containers are allowed in the cell block area. All eating utensils shall be flexible, disposable plastic and shall not be re-used. [72.4.7]

7. Drinking cups shall be disposable plastic or paper. No common cups shall be shared among detainees. ⁶ No cups shall be re-used.
8. All containers shall be removed from the cell upon completion of the meal.
9. A record of meals served shall be kept by creating a log entry.

E. Entering Cell Area

1. GENERALLY

- a. Except during an emergency, such as a fire, firearms are not allowed in the cell area. [72.4.1]
- b. Whenever an officer closes a cell door to secure a detainee, the officer shall check the door to ensure that it is securely locked.
- c. If any problems in securing a cell door are encountered:
 - 1) The detainee shall be moved to an operational cell;
 - 2) The cell shall be taken out of service;
 - 3) The Supervisor or OIC shall be notified; and
 - 4) The holding facility manager shall be notified to make arrangements for repair.

2. OCCUPIED CELLS

- a. An officer or medic may only enter an occupied cell when: [72.4.2]
 - 1) At least one other officer is present, the officer is being actively monitored by another employee through audio-visual equipment, or is carrying a panic alarm;
 - 2) A medical or other emergency exists; or
 - 3) When releasing a prisoner from custody.
- b. Cells may be entered for the purpose of:
 - 1) Feeding the detainee;
 - 2) Providing blankets to the detainee;
 - 3) Removing refuse;
 - 4) Providing medication;
 - 5) Checking on the status of a sleeping or unconscious detainee;
 - 6) Conducting medical evaluations;
 - 7) Restraining the detainee; and
 - 8) Other necessary law enforcement purposes.
- c. Nonessential personnel [72.1.2]

- 1) Nonessential personnel will generally not be allowed access to the holding area while any cell in that area is occupied by a detainee. Escorted access may be authorized by a Supervisor or OIC.
- 2) Repairs or maintenance shall not be conducted in an occupied cell.
- 3) Members of the media shall have access to the cell block area only when the area is unoccupied, unless specifically authorized by the Chief of Police.
- 4) Tour groups shall be allowed in the cell block area only when the cell block is unoccupied.
- 5) When nonessential persons are granted access to the detainee holding area, their presence should not violate a detainee's privacy, impede facility operations, or frustrate future prosecutions.

F. Detainee Visitors [72.8.5]

1. DETAINEE VISITS

a. Generally

- 1) Person held in police holding facilities do not have a right to visits.
- 2) Visits to detainees are discouraged.
- 3) No visits shall take place unless authorized by a Supervisor or OIC.

b. Approved Visitors

- 1) Parents or guardians of juveniles may be approved.
- 2) An attorney representing the detainee may be approved.
- 3) Consular officials (foreign nationals) may be approved. See the department policy on **Consular Notifications** .
- 4) Immediate family members may be approved.
- 5) Relatives who are not immediate family or friends of the detainee do not have visitation rights. It will be the decision of the officer-in-charge regarding any special or extenuating circumstances which might justify such individuals being allowed to visit the detainee.

c. Visitor Security

- 1) Visitors must show positive picture identification, preferably a driver's license;
- 2) Visitors must be notified, prior to gaining access to the cell block area, that [s]he and his/her belongings are subject to a search and, at the discretion of the officer-in-charge, submit to a such search upon entrance to and exit from the area.
- 3) Visitors must sign-in and record name, address, and relationship to the prisoner.

- 4) The time the visitor enters and leaves the cell block is recorded.
- 5) An officer shall be in the cell block area during any visit, except an attorney's visit with his/her client.
- 6) No personal belongings of visitors (including pocketbooks and backpacks) are allowed into the cell block. [72.8.4]

2. ITEMS LEFT FOR DETAINEE

- a. Friends and family members may be requested by a detainee to leave change of clothing for court, medications, and other personal items.
- b. Any mail, packages, or other items to be given to a detainee shall be examined thoroughly by a police officer before being given to the detainee. [72.8.4(a)]
- c. The Supervisor or OIC shall have full authority to prohibit mail, a package, or any item in a package from being delivered. The following list of items is authorized: [72.8.4(a)]
 - 1) Clothing and shoes for court;
 - 2) Medications;
 - 3) Identification;
 - 4) Factory-sealed beverages in plastic containers, no metal;
 - 5) Food (see meals, this policy); and
- d. A record shall be made of all items received by the detainee in his/her property record. No item will be given to a detainee without the approval of the officer-in-charge. [72.8.4(c)]
- e. Items not specifically authorized under this policy or allowed by the Supervisor or OIC may not be left for or provided to detainees. [72.8.4(b)]
- f. Distribution of items:
 - 1) Clothing may be exchanged for clothing worn by the detainee. Detainee shall not have extra clothing in the cell.
 - 2) Food items may be given to the detainee.
 - 3) Medication may be given to the detainee in accordance with this policy. See **Medication** in this policy.
 - 4) Other items shall be stored with the detainee's property unless otherwise directed by a Supervisor or OIC.

3. ACCESS TO COUNSEL

- a. Attorneys do not have an absolute right of access to a detainee.
- b. Barring a specific right to counsel, attorneys may have access to a detainee: [72.7.1(c)]
 - 1) If approved by a Supervisor or OIC;

- 2) If the detainee wants to meet with the attorney;
 - 3) If the operation of the Police Department will not be unduly disrupted;
and
 - 4) If staffing allows.
- c. Attorneys shall comply with visitor security rules, or they will not be admitted.
 - d. An attorney may meet with a detainee in the detainee's cell or an interview room, provided: [72.7.1(c)]
 - 1) Audio monitoring devices are turned off in respect to the attorney to client privilege;
 - 2) An officer remains in the general vicinity of the cell or room, out of hearing, but within sight if possible; and
 - 3) The visit is monitored via video by a department employee for the safety of the attorney.

G. Release/Transfer of a Detainee

1. BAIL AND PROBABLE CAUSE HEARINGS: Bail is determined by the bail commissioner. Probable cause is determined by the Clerk or Assistant Clerk of Courts. For further information see the department policy on **Detainee Processing**.
2. RELEASING DETAINEE [72.5.7]
 - a. Detainee Identity: Verify which detainee is to be released.
 - b. Positively Identify the Detainee Prior to Release: The releasing officer shall positively identify that the detainee to be released is, in fact, the correct detainee. Positive identification may be ascertained from another employee, or by checking the identification of the detainee against the description, booking photo, cell number, and booking photo, etc.
3. TRANSFER TO ANOTHER AGENCY: See department policy **Transportation of Prisoners** for procedures to follow when a detainee is transferred to another agency or to court.
4. JUVENILES: See department policy on **Handling Juveniles** for procedures to follow when a juvenile is to be released.

H. Supervising Detainees at the Hospital [70.3.2]

1. GENERALLY
 - a. Trips outside of the confines of the holding facility present detainees with an increased opportunity to assault staff members or escape. Accomplices mixed in with the public may take supervising officers by surprise. Officers must remain vigilant while supervising detainees at a hospital.

- b. Supervisor or OICs should consider rotating staff through hospital posts every few hours to relieve boredom and complacency on the part of the officers.
 - c. Supervisor or OICs should consider providing officers with a copy of this section of this policy when detainees are transported to a hospital for treatment.
2. TRANSPORTATION
- a. The dispatcher shall log an incident for detainees transported to a hospital.
 - b. See the department policy on **Transportation of Detainees** .
3. ACCOUNTABILITY
- a. Detainees brought to a hospital for a mental health evaluation shall remain the responsibility of the transporting officer until such time that custody is transferred to the receiving hospital's personnel.
 - b. Detainees brought to a hospital under arrest shall remain the responsibility of the supervising officer until relieved by another officer, the custody of the detainee is transferred to another entity, the detainee is bailed, or the detainee is returned to the holding facility.
4. NOTIFICATION OF HOSPITAL POLICE
- a. When a detainee is transported to a hospital, the dispatcher or another department member shall notify the hospital police or security.
 - b. If there are any unusual risks or circumstances, the hospital police or security shall be advised.
5. SECURITY OF DETAINEE
- a. Violent or high security risk detainees may be accompanied by more than one officer while at the hospital, at the discretion of a Supervisor or OIC.
 - b. Officers may employ a higher level of security and vigilance for such detainees than is presented in this policy.
 - c. The detainee shall remain restrained while at the hospital unless the removal of restraints is required for medical reasons. The following restraints are acceptable:
 - 1) Detainee handcuffed with hands in front and hands together;
 - 2) Detainee handcuffed one hand to the bed, stretcher or gurney; and
 - 3) Leg restraints.
 - d. The supervising officer shall remain in the area of the detainee at all times, unless medical necessity dictates otherwise. In such an event, the officer should attempt to remain in a position to monitor the detainee as best [s]he can to prevent the escape of the detainee.
 - e. The supervising officer must remain alert for others who may assist the detainee in escaping or harm the detainee.

-
- f. The supervising officer must be aware of potential weapons in the immediate are of the detainee.
6. EMERGENCY TREATMENT
 - a. The supervising officer shall accompany the detainee through registration and triage. His/her knowledge may be helpful to medical staff in evaluating the detainee's claims of sickness or injury.
 - b. The officer should make periodic inquiries as to the progress of the evaluation and treatment, and keep the Supervisor or OIC up to date for the purpose of planning for staffing.
7. ADMITTANCE
 - a. In the event that the detainee is admitted, the officer should request that the detainee be placed in a private room for security purposes and the safety of other patients and staff members. A private bathroom with a single door is desirable.
 - b. Advise the dispatcher of the nature of the situation, room number, room telephone number and estimated length of in-patient treatment.
 - c. The dispatcher shall relay this information to the shift Supervisor or OIC and the hospital police or security department.
 - d. The officer shall sweep the interior of the room, closets, and bathroom for unnecessary potential weapons within reach of the detainee.
 - e. The officer must remain in the room or just outside of the room, but always within site of the detainee.
8. EATING
 - a. The officers should advise hospital staff that the detainee should be fed using disposable plates, cups and dinnerware.
 - b. The officer should visually inspect any meals or beverages prior to their being given to the detainee.
9. BATHROOM
 - a. The bathroom should be checked for potential weapons or routes of escape prior to being used by the detainee.
 - b. If the bathroom is shared with an adjoining room, the door for the other room should be locked prior to being used by the detainee. If the door locks from the inside only, the adjoining room door should be locked and the detainee's door should remain open. The officer may be mindful of the detainee's privacy, but must remain vigilant for signs of the detainee's using the other door to escape.
 - c. The detainee may be un-restrained, if necessary, to use the bathroom. The officer shall stay within sight/sound of the detainee.

- d. If the detainee needs assistance in using the bathroom, hospital staff must assist the detainee. The armed officer should not lift or steady the detainee.

10. VISITORS

- a. Detainees are under arrest and in police custody.
- b. The visitation policy that applies to the holding facility applies to the hospital as well.

11. BAIL OR ARRAIGNMENT

- a. In the event that a detainee will be admitted to a hospital for an extended period of time, a Supervisor or OIC may consider bailing the detainee at the hospital.
- b. The Supervisor or OIC may also request that the court arraign the detainee at the hospital.

12. RELEASE: Upon release of the detainee from the hospital, the supervising officer shall:

- a. Obtain any prescriptions and dosage instructions;
- b. Obtain any instructions for care of the detainee, including follow-up visits, while in custody;
- c. Advise the dispatcher of the release from the hospital and the return trip to the holding facility;
- d. Transport the detainee back to the holding facility;
- e. Return the detainee to the holding cell;
- f. Brief the dispatcher on any medications, care, or return visits while in custody, and create written instructions for subsequent shifts, if necessary; and
- g. Have the dispatcher annotate the return time in the log.

I. Receiving Persons from Outside Agencies [72.5.5]

1. M.G.L. c. 40 §37 requires that “lockups shall at all reasonable hours be accessible to the state police, sheriffs, constables and police officers for any legal and proper use.”⁷
2. Detainees may be held for other agencies. For information on detainee intake, see the department policy on Detainee Processing.
3. Unless bailed, released, or transferred, detainees shall be returned to the custody of the delivering agency.
4. For further information, see **Release/Transfer** of Detainees in this policy.

J. Escapes

1. In the event of an escape of a detainee from the department's holding facility:
[72.4.10]
 - a. The dispatcher shall immediately broadcast to all patrol units the name and a description of the escapee, the estimated time of escape, whether armed, whether on foot or in a vehicle, the possible direction of travel, and any other pertinent information.
 - b. An immediate search shall commence under the direction of the Supervisor or OIC. The use of a K-9 should be considered.
 - c. The dispatcher should consider contacting local cab companies to inquire if requests have been made for pick-ups and to alert them for possible fares.
 - d. The dispatcher shall then broadcast the same information to other area departments and agencies over the radio system.
 - e. As soon as possible, a message shall be sent over the CJIS system, advising other departments and agencies of the situation.
2. Should the escapee be caught, the dispatcher shall notify other law enforcement agencies of this fact through the appropriate communications channels, according to the time frame of the capture.

¹ M.G.L. c. 40, §36B.

²M.G.L. c. 40, §36A.

³ M.G.L. c. 40, §36A.

⁴ M.G.L. c. 147, §19.

⁵M.G.L. c. 40, §34.

⁶ 105 CMR 470.150; 151.

⁷ **M.G.L c. 40, §37:** "...and a keeper thereof neglecting to keep it so accessible, or refusing to said officers the use of the same, shall be punished by a fine of not less than five nor more than twenty dollars."

DETAINEE PROCESSING

POLICY & PROCEDURE NO. 3.03	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 03/30/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy addresses processing of detainees from their arrival at the police station to transfer or release. The actual detainment is addressed in the policy on **Detaining Prisoners**.

During this stage the detainee is searched, advised of rights, photographed, and fingerprinted, and the custody is documented. In addition, the presence or lack of injuries is documented, true identity may be validated, and the appropriateness and timing of their release is determined. For those charged with a crime, a criminal history file is created for each arrest.

Processing of detainees is a critical step in the custody process. It is during this stage that officers processing the detainee must take steps to ensure that the rights of the detainee are advised and honored. An omission of this responsibility may result in damage to the ability to prosecute the case, complaints against employees, or civil liability against employees, Supervisor or OICs and the municipality.

II. POLICY

It is the policy of this department to protect the constitutional rights of detainees during booking while protecting the safety of department employees and detainees.

III. DEFINITIONS

- A. Strip Search: An inspection of a naked individual, or the movement or removal of clothing to expose for inspection the buttocks, pubic area, or female breast area, without any scrutiny of the body cavities.
- B. Visual Body Cavity Search: A visual inspection of the anal and genital areas.

- c. **Body Cavity Search:** A search involving an internal physical examination of body cavities including the anal and genital areas.

IV. PROCEDURES

A. Arrival at Station

1. NOTIFICATIONS

- a. When officers transporting a detainee arrive at the police facility, transporting officers shall:
 - 1) Request that the sally-port door be opened.
 - 2) Notify the dispatcher, using the police radio, of their arrival and the odometer reading of their vehicle.
- b. Once inside, request that the sally-port door be closed.

2. POLICE FIREARMS [72.4.1]

- a. The transporting officers shall remove and secure their firearms prior to handling detainees.
- b. All persons, including but not limited to assisting officers, booking officers, detectives, and Supervisor or OICs shall secure their firearms prior to entering the booking area.
- c. No firearms are allowed in the booking room or holding facility during the processing or detention of detainees.

3. DOORS: All doors to the booking area will be secured during the entire booking process.

4. BOOKING ROOM ACCESS: Only authorized personnel are allowed in the booking area during processing.

5. VIOLENT OR UNCONTROLLABLE DETAINEES

- a. Detainees who are violent, intoxicated, or uncontrollable may be placed directly into a holding cell until such time as they are calm enough to process.
- b. Officers shall not remove restraints if the behavior of the detainee poses an excessive risk of injury to officers or the detainee.

B. Examination by Officer in Charge: Upon the arrival of a person in custody, the shift Supervisor or OIC shall:¹

- 1. Examine the detainee for injuries and note any medical complaints.
- 2. If any injuries do exist, inquire as to whether these injuries were sustained during or prior to the arrest.
- 3. Instruct the Booking Officer to make a notation of the injuries on the intake form.

4. Report to the Chief of Police or designee, in writing, any cuts, bruises or injuries found.
5. If a detainee complains of any medical problems, the shift Supervisor or OIC should follow the department's procedure on **Detaining Prisoners**.

C. Booking

1. STAFFING: At least two officers, if available, will conduct detainee booking when possible. It is strongly suggested that another officer, other than the arresting officer conduct each and every booking. When an officer is listed as a victim (such as of an A&B P.O.) or when a detainee is acting adversely towards an officer, every reasonable effort shall be made for that officer not to be involved in the booking, and for other on-duty personnel to conduct the booking.
2. DETAINEE SEARCH FOR WEAPONS
 - a. Prior to the removal of handcuffs, a full and thorough search shall be conducted of the detainee's person for weapons.
 - b. An officer of the same sex as the detainee shall conduct the search whenever possible.
 - 1) A trained department employee or an officer from another police agency of the same sex as the detainee may conduct the search, if necessary.
 - 2) If no officer or trained employee of the same sex is available, a search for weapons may be conducted by an officer of the opposite sex.
 - a) Depending upon the circumstances, a search may be able to be conducted without actually touching the detainee.
 - i. Some portion of clothing may be such that the outline of a weapon may be obvious.
 - ii. Pockets may be turned inside out.
 - iii. The waist band may be exposed and rolled outward to expose the body side.
 - iv. A hand-held metal scanner may detect the presence of metal items.
 - b) At no time will the safety of employees, other detainees or the detainee be placed in jeopardy by a detainee suspected of concealing a weapon.
 - i. The detainee may continue to be restrained until an officer of the detainee's same sex can be located to conduct a search.
 - ii. Detainees of the opposite sex may conduct the search, if necessary. Such search must be witnessed by another

employee and conducted in view of booking video cameras, if possible.

3. HANDCUFFS

- a. The transportation handcuffs shall remain on detainees until the booking officer instructs that they be removed.
- b. Detainees shall generally be handcuffed to the cuffing bar which is specifically designated for that purpose. Handcuffs may be removed:
 - 1) For the purpose of conducting a booking inventory;
 - 2) For the purpose of fingerprinting; or
 - 3) At the discretion of the booking officer.
- c. In making the decision to remove handcuffs from a detainee, the booking officer should consider the conduct of the arrestee, the offense for which the arrest has been made, and the recommendations of the arresting and/or transporting officers.

4. BOOKING INVENTORY

- a. An inventory of the detainee's property shall be conducted. [72.5.1(a)]
 - 1) When the handcuffs are removed, the detainee shall be directed to remove all articles or items of personal property that [s]he is carrying on his/her person. This will include:
 - a) All items in all pockets;
 - b) Items secreted on the detainee's person;
 - c) Belts; and
 - d) Jewelry. Note: In the event a piece of jewelry cannot be removed without damaging it, the jewelry may remain with the detainee.
 - 2) If the detainee is expected to be placed in a holding cell or taken directly to court after booking, the following items shall also be removed and placed with the detainee's property:
 - a) Shoe laces;
 - b) Draw strings; and
 - c) Other similar items.
 - 3) After the arrestee claims to have removed all personal effects from his/her person, [s]he will be subject to a full search of his/her person by an officer of the same sex. If such an officer is not available:
 - a) A trained department employee or an officer from another police agency, of the same sex as the detainee, may conduct the search, if necessary.
 - b) If no officer or trained employee of the same sex is available, as a last resort a search may be conducted by having the person:

-
- i. Turn pockets inside out, if possible.
 - ii. Lift the shirt off of the waist band and roll the waist band.
 - iii. Expose the interior of cuffs.
 - 4) The following items should be searched as part of the inventory:
 - a) All outer clothing worn by the arrestee;
 - b) Wallets;
 - c) Purses; and
 - d) Packs, bags, or other containers brought in as personal property.
 - 5) Any container or article found on the detainee's person or carried by the detainee shall be opened and its contents inventoried.
 - 6) Papers, documents or other writings found on the detainee's person may be examined only to the extent necessary to check the person's identity, ensure his/her physical safety, ensure the removal of items dangerous to cell administration, and protect the department from charges of theft. Any search of a detainee's papers or other possessions for investigative purposes may be conducted only upon obtaining either the arrestee's consent, preferably in writing, or a search warrant.
 - 7) The officer conducting the inventory shall list the inventoried items under the detainee property section of the booking program. The items should be exposed to the view of the booking video camera if possible.
[72.5.2(b)]

b. STORAGE

- 1) All items removed from the detainee shall be marked with the detainee's identification and placed in a property bin and kept inside the secure booking or cell corridor area.
- 2) Large, bulky items which do not fit into the detainee's property locker shall be placed in a large plastic bag, tied shut and tagged with the detainee's identification. The bag shall be kept in the same secure area as any property bin.

c. RETURN OF PROPERTY [72.5.1(d)]

- 1) Items removed from the detainee which are not taken as evidence shall be:
 - a) Returned to the detainee upon release from the facility; or

- b) Transported to court or to the receiving agency and turned over to the custody of the receiving officials.

Note: Bulky items which will not be accepted by the court shall be turned over to the property officer for safe keeping. Arrestee will be provided written notice of their responsibility to remove (or arrange for removal) within 30 days.

5. STRIP SEARCH/VISUAL BODY CAVITY SEARCHES

- a. A strip search or visual body cavity search of an arrestee is warranted only if officers have probable cause to believe that the arrestee is concealing contraband or weapons on his/her body.²
- b. All strip searches and visual body cavity searches must be approved by the officer-in-charge. [1.2.8(a)]
- c. Strip searches shall be conducted in a professional manner so as not to humiliate the detainee.
- d. All strip searches and visual body cavity searches shall be conducted by an officer/employee of the same sex as the detainee and out of the public view. Only the individual(s) conducting or witnessing the search should be able to see the person being searched. For safety purposes, additional employees may also witness the search in the event that it appears that the detainee may become violent.
- e. A private room shall be used when available. Video cameras and recorders, if active in the search area, shall be set so as not to display or record the search. Audio recordings are authorized. [1.2.8(b)]
- f. The officer/employee conducting the strip/visual body cavity search shall not touch or prod any body part.
- g. A suspect need not be completely naked to conduct a strip search. The removal of clothing and search of the upper body may be followed by the suspect's replacing the clothing, and the process then followed for the lower body.
- h. A report shall be made of all incidents where a strip search is conducted, identifying: [1.2.8(c)]
 - 1) The probable cause for the search;
 - 2) The Supervisor or OIC giving authority for the search;
 - 3) The officer conducting the search and assisting officers;
 - 4) The location where the search was conducted; and
 - 5) The results of the search.

6. MANUAL BODY CAVITY SEARCHES

- a. A body cavity search of an arrestee is warranted only if officers have probable cause to believe that the arrestee is concealing contraband or weapons in his/her body.³
- b. Body cavity searches shall not be conducted without the express approval of the officer-in-charge and a search warrant signed by a judge (not a Magistrate or Assistant Clerk Magistrate).⁴ [1.2.8(a)]
- c. Manual body cavity searches shall be conducted by medical personnel, in a private and hygienic setting, and in a medically approved manner.⁵ [1.2.8(b)]
- d. A report shall be made of all incidents where a body cavity search is conducted identifying: [1.2.8(c)]
 - 1) The probable cause for the search: this may be accomplished by referencing the search warrant;
 - 2) The Supervisor or OIC giving authority to request the search warrant;
 - 3) The names of medical staff conducting the search;
 - 4) The location where the search was conducted; and
 - 5) The results of the search.

7. DETAINEE RIGHTS

- a. During the booking process, the booking officer shall:
 - 1) Inform the detainee of his/her rights pursuant to Miranda by reading the Miranda Warning from a printed card or form.
 - 2) Inform the detainee again of his/her right to the use of the telephone. [S]he shall be allowed to exercise his/her right in order to contact family or friends, to arrange for bail, or to contact an attorney at the completion of the booking process.⁶
- b. The detainee shall be advised of his/her right to use the telephone and afforded the use of a telephone within one hour of being brought into the police station in custody.
- c. Toll calls will be made at the detainee's expense.
- d. Officers shall allow calls of a type, number and duration that are reasonable and practical, including access to an attorney. [72.7.1(c)]
- e. If a detainee is provided a monitored or recorded telephone, [s]he shall be informed of the monitoring (unless by court order), and a sign shall be posted in English and other language(s) prevalent in the community unless an audible signal is given on the telephone after detainees are told they are recorded or monitored. [72.7.1(e)]

- f. When arrested on a warrant, the arrestee shall, upon request, be provided with a printed copy of the warrant contained in the warrant management system within six hours of the request.⁷
 - g. OUI Arrest Rights: Any person arrested and held in custody for operating a motor vehicle while under the influence of intoxicating liquor shall be afforded all applicable rights and processed in accordance with department policy.
8. CJIS CHECKS
- a. A computer “wanted” check shall be run on all persons arrested or held in protective custody. The printed query sheet produced will be attached to the intake form.
 - b. A Board of Probation check shall be run on all persons arrested by this department. The hard copy produced will be attached to the intake form.
 - c. A suicide check (Q5) query shall be run on every person to be detained in the department's holding facility, and the hard copy produced shall be attached to the intake form.
9. IDENTIFICATION: Any detainee who is unknown to the personnel on duty at the station should be positively identified. Identification may be determined through:
- a. A government photo identification;
 - b. An investigative identification (name check, booking or RMV photo, etc.);
or
 - c. Fingerprint-based criminal history.
10. BOOKING [72.5.2(A)]
- a. All persons taken into custody under arrest or in protective custody by members of this department shall be booked using the department booking software.
 - b. The booking process creates a criminal history and custodial history of each person arrested. An RMS number for internal records and offense base tracking number (OBTN) are created for each arrest. [82.3.6]
 - c. The booking program gathers the following information:
 - 1) Biographical data on the arrestee, including name, address, social security number, telephone number, date and place of birth, age, marital status, and names of parents and spouse. Any refusal to answer any of these questions shall be noted on the form.
 - 2) Information about the crime, including the offense(s) with which the individual is charged and the arresting officer's name(s).
 - 3) Physical description of the arrestee, including sex, race, height, weight, color of hair and eyes, complexion, build, scars, marks, tattoos, and

physical condition, e.g., body deformities, trauma markings, bruises, lesions, and ease of movement.

- 4) Property inventory and disposition. [72.5.2]
- 5) CJIS query results.
- d. All bookings shall be printed and the records shall be kept in **CASE FILE**, a secure area with access limited to authorized persons. These forms shall serve as the permanent arrest/detention record of the individual arrested/detained. [72.1.3]

11. FINGERPRINTING

- a. All persons arrested by this department shall be fingerprinted each and every time that they are arrested, using live scan fingerprinting (if available) or ink and paper. The fingerprints shall be mailed/downloaded to the state to create or be added to the detainee's fingerprint-based criminal history.⁸ [1.2.5(b)]
- b. Fingerprints should not be submitted until all charges have been listed in the fingerprinting program (for live scan).
- c. In the event that the live scan fingerprinting equipment is not available or functioning, the arrestee shall be fingerprinted using ink, and the fingerprint card shall be forwarded to the State Police Identification Section for entry into A.F.I.S.
- d. The booking officer shall check the message log on the live scan system for fingerprint-based criminal history responses.

12. PHOTOGRAPHING: All persons arrested by this department shall be photographed each and every time they are arrested. Three photographs shall be taken, two close up of the face, one with the height chart, one without, and one head-to-toe (without height chart).

13. SUICIDE RISK EVALUATIONS

- a. All detainees shall be screened for suicidal tendencies using the suicide evaluation screening. This may help to establish the detainee's suicide risk.
- b. A detainee shall be placed on suicide watch if:
 - 1) The risk screening indicates a suicide risk;
 - 2) The detainee exhibits signs or symptoms of suicidal behavior;
 - 3) The detainee threatens to commit suicide;
 - 4) The detainee attempts to commit suicide;
 - 5) The detainee's name appears on the Q5, Suicide Risk File; or
 - 6) The detainee is brought to a hospital for a mental health evaluation, released, and returned to the police holding facility.

- c. The officer-in-charge shall consider the detainee's charges, mental state, behavior and other factors and determine if the detainee should be transported to the hospital for a mental health evaluation (Section 12). See the department policy on **Handling the Mentally Ill** .
- d. For further information, see the department policy on **Detaining Prisoners** .

D. Holding Cells

1. REMOVAL TO CELL: Prior to placing a detainee in a cell within a holding facility, the booking officer shall conduct a security search of the cell, including a search for weapons and contraband. [72.4.5]
 - a. If any weapons or contraband are found, the detainee should be placed in another cell and the Supervisor or OIC notified.
 - b. The officer finding the item shall submit a report regarding the item found.
 - c. The Supervisor or OIC shall place the item into evidence and conduct an investigation into the matter.
2. PLACING IN CELL: Whenever an officer closes a cell door to incarcerate a detainee, [s]he shall test the door to be sure it is securely locked. Any problems in securing a cell door shall be reported to the officer-in-charge, who may take the cell out of service and report the problem to the holding facility manager.

E. Medical Screening and Treatment Procedures

1. INTAKE SCREENING: The prisoner shall, upon arrival at the station and before transfer to another facility, be received and screened by the booking officer. This screening shall consist a brief inquiry into:
 - a. The current health of the detainee; [72.6.3(a)]
 - b. Any medications being taken; [72.6.3(b)]
 - c. Behavioral observations, including consciousness and mental status (also see **Suicide Risk Screening** in this policy); and [72.6.3(c)]
 - d. A notation of any obvious body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc. [72.6.3(d)]

Note: All observations shall be noted on the intake form.

2. TREATMENT
 - a. Medical treatment shall be arranged for any detainee in need of medical treatment. See department policy on **Detaining Prisoners** .
 - b. No employee shall be allowed to go beyond the scope of his/her training in administering to the emergency or special medical needs of any person held in the custody of this department. This scope is determined by the level of emergency medical training of the individual members of the department (i.e., CPR, First Responder, EMT, etc.).

F. Group Arrests and Overflow Situations [72.5.6]

1. DETAINEE INTAKE

- a. In the event of a group arrest, detainees arriving at the station will be placed in a holding cell, with multiple detainees in a single cell if necessary, or otherwise secured as directed by the officer-in-charge of that facility.
 - b. If, as the result of a group arrest, or at any other time, the officer-in-charge determines that the number of persons to be detained in the holding facility will exceed the number for which the facility was designed, [s]he may authorize the overcrowding on a temporary basis.
 - 1) Non-violent, low security risk detainees may be held as a group, if from the same incident or by sex and age.
 - 2) The temporary overcrowding of this area is permitted under these circumstances until such time as the overcrowding situation can reasonably be relieved, typically through the transfer or release of persons being held.
 - 3) In order to accomplish this, the officer-in-charge shall examine the list of detainees and attempt to expedite the bail or release of the less serious offenders.
 - 4) If release of a sufficient number of detainees to relieve the overcrowding of the holding facility is not possible, the officer-in-charge may request the use of a neighboring police department's holding facilities, with the use of this department's personnel to maintain security and control, if requested by the other department.
 - c. The officer-in-charge is authorized to call in such additional personnel as may be necessary to satisfy the staffing requirements of the overflow situation.
2. DETAINEE PROCESSING: Each detainee will be brought to a booking area to be booked and fully processed.

G. Handling Juveniles and Females

1. DETAINEE PROCESSING

- a. When a child between the ages of seven (7) and seventeen (17) is arrested with or without a warrant, the department policy and procedure **Handling Juveniles** shall be followed. Persons age seventeen (17) and older are considered adults for the purposes of criminal law.
 - b. Juveniles shall not be booked at the same time as adult arrestees.
 - c. Females shall not be booked at the same time as male arrestees.
2. DETAINEE HOLDING: See the department policy on **Holding Facility** .

H. Bail and Arraignment

1. COURT BUSINESS HOURS: If the court is in session when the booking process and all related arrest reports are completed, it shall be the responsibility of the officer-in-charge to ensure that the arrestee is transported to the court without delay.⁹ [72.7.1(a)]
2. COURT NOT IN SESSION: If the court is not in session when the booking process the arrestee shall be confined in the holding facility until bail can be arranged, or if bail cannot be arranged, until the next session of the court.¹⁰
3. BAIL
 - a. Arrestees shall be informed of the right to bail and afforded the opportunity for bail.¹¹
 - b. It shall be the responsibility of the officer-in-charge to ensure that an arrestee's opportunity to make bail is not impeded.
 - c. Bail shall be determined by the bail clerk.
 - d. Requesting Bail:
 - 1) Prior to contacting the bail clerk, officers should have the following information available:
 - a) Identity of the person for whom bail is to be determined. If the identity is in question, the bail clerk shall be so advised.
 - b) Residence of the person.
 - c) Age of the person.
 - d) Offenses charged.
 - e) Criminal history (BOP).
 - f) History of court defaults (BOP).
 - g) Issues relating to dangerousness, if appropriate.
 - h) Detainee funds and whether or not the detainee wishes to be bailed.
 - 2) The detainee shall be advised of his/her bail status. If the detainee has funds and wishes to be bailed, the bail clerk should be so advised.
 - 3) If the detainee does not have funds and wishes to be bailed, the detainee may attempt to call others for funds.
 - e. When the bail money is at the police station, the bail clerk shall be called and so advised.
 - 1) Police employees shall not take bail money from persons wishing to bail the detainee. They must wait with the funds for the arrival of the bail clerk.
 - 2) The bail clerk shall be provided with the booking paperwork, application for complaint, criminal citation, or served warrant.

- 3) The detainee's cell shall be inspected for contraband and fresh damage caused by the detainee. The detainee shall be escorted to the bail clerk from the holding cell by a police officer to be processed for bail.
 - 4) Detainees under arrest that are also in protective custody may be returned to custody after being bailed until such time as they may be released. See the department policy on **Protective Custody**.
4. PROBABLE CAUSE HEARING
 - a. Detainees who are not released on bail within twenty-four hours following an arrest on charges for which probable cause has not been determined by a judge or magistrate are entitled to a probable cause hearing.¹²
 - b. The arresting officer or shift Supervisor or OIC shall report the facts, orally or in writing, to a neutral magistrate (usually the Clerk of Courts).
 - c. The probable cause review must take place within twenty-four hours.
 - d. In the event that the review cannot take place due to extraordinary circumstances, the hearing should take place as soon as possible and the reason for the delay documented.
 5. VIOLENT OR UNCONTROLLABLE DETAINEES: See the department policy on **Detaining Prisoners** .

I. Release of a Detainee

1. RETURN OF PROPERTY
 - a. All items of property shall be compared to the items listed on the inventory report and all property shall be confirmed and returned to the detainee.
 - b. Any items which were held for evidence or as contraband shall be indicated on the inventory report.
2. CHANGE OF MEDICAL CONDITION: The medical screening information shall be rechecked, and any changes from the condition at entry shall be noted on the intake form. An inquiry shall be made as to the origin of any changes in condition, and the answers shall be documented on the intake form.
3. HOLDING CELL INSPECTION: The cell shall be searched for weapons, contraband and damages, and the detainee criminally charged for any damage caused by him or her. Any unusual conditions shall be reported to the Chief of Police or his/her designee.

¹ M.G.L. c. 276, §33.

² Com. v. Thomas, 429 Mass. 403, 708 N.E.2d 669 (1999); Swain v. Spinney, 117 F.3d (1st Cir. Mass 1997).

³ *Com. v. Thomas*, 429 Mass. 403, 708 N.E.2d 669 (1999); *Swain v. Spinney*, 117 F.3d (1st Cir. Mass 1997).

⁴ *Rodrigues v. Furtado*, 410 Mass. 878, 575 N.E.2d 1124 (1991).

⁵ *Rodrigues v. Furtado*, 950 F.2d 805 (1st Cir. Mass. 1991).

⁶ M.G.L. c. 276, §33A.

⁷ M.G.L. c. 248, §26.

⁸ M.G.L. c. 63, §A.

⁹ M.G.L. c. 276, §58.

¹⁰ M.G.L. c. 276, §58; *Com. v. Finelli*, 422 Mass. 860, 666 N.E.2d 144 (1996).

¹¹ M.G.L. c. 276, §42.

¹² *Jenkins v. Chief Justice of Dist. Court Dept.* 416 Mass. 221, 619 N.E.2d 324 (1993).

ALTERATIONS/UPDATES

May 8, 2017- Paragraph C, Paragraph 1- Suggestion for other officers to conduct booking, every effort for other officer to book for detainee that is acting adversely towards arresting officer.

TEMPORARY HOLDING FACILITIES

POLICY & PROCEDURE NO. 3.04	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	LAST REVIEWED DATE: 03/30/19

I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy applies to departments that may occasionally hold a detainee unattended in a room or area outside the cell block, such as an interview room, for the purpose of processing, questioning, or testing. This policy applies to all departments, even those that do not book or hold detainees at their facility, unless the department has a written directive stating that at no time will the department leave detainees unattended outside the confines of the holding facility for processing. Processing includes pre-booking activities involving detainees in custody (such as interviewing, etc.).

II. POLICY

It is the policy of this department that detainees may be held in a temporary holding area, without continuous control or supervision of department employees, for a period not exceeding two hours.

III. DEFINITIONS

- A. Temporary Holding Area: A room, space or area, for the processing, questioning or testing of detainees where they may not be subject to the continuous control or supervision of department personnel in the same room, space or area. The time period for which a detainee may be held under these circumstances may not exceed two hours. In rare circumstances, a detainee may be restrained to a fixed object, designed and intended only for such use, for no longer than two hours. Such areas usually include booking areas, interview rooms, processing rooms, breathalyzer rooms and other detainee waiting areas or rooms.

IV. PROCEDURES

A. Designation of Temporary Holding Areas

1. One or more rooms or areas shall be designated as temporary holding areas. [71.1.1]
2. The department has determined that the following may be used as a temporary holding area: **BOOKING ROOM**
3. Use of Temporary Holding Facilities
4. GENERALLY
 - a. Prior to taking a detainee into a temporary holding area, the officer taking custody of the detainee shall:
 - 1) Notify the dispatcher;
 - 2) Search the area for weapons, contraband or other unauthorized items; and
 - 3) Search the detainee.
 - b. The dispatcher shall document the reason, date, and time in and out of the facility, as well as any meals or personal service provided while the detainee is in a temporary holding area. [71.3.1(a)]
 - c. Males, females and juveniles shall not be detained in the same area. Juveniles shall be detained in accordance with the department policy on **Handling Juveniles** . [71.3.1(e)]
 - d. Detainees shall be allowed reasonable access to a restroom, drinking water, and other needs as appropriate. [71.4.1]

B. Safety and Security

1. SECURITY: All the procedures outlined below are intended to prevent the escape of detainees. [71.3.3(d)]
 - a. Officers shall secure their weapons in an approved storage device prior to entering a temporary holding area containing a detainee. [71.3.3(a)]
 - b. The officer taking custody of the detainee shall be responsible for inspecting the area for weapons, contraband, or objects that could be used as weapons before placing a detainee in a temporary holding area, and immediately after removal from the detention area. [71.3.1(b)]
 - c. The officer taking custody of the detainee shall be responsible for the supervision and monitoring of the detainee. Detainees should be physically observed and/or electronically monitored continuously, but in any event, there shall be a visual observation of each detainee at least every thirty minutes, with the checks properly recorded. [71.3.3(e)(f); 71.3.1(c)]

- d. The officer taking custody of the detainee is responsible for ensuring that detainees are properly restrained. At the discretion of the officer, the detainee may be secured to a fixed object. [71.3.1(d)]
 - e. Detainees may only be secured to an immovable object, such as a bar or ring, when it is designed or intended for the purpose of temporarily securing a detainee. [71.3.2; 71.3.1(d)]
 - f. Access to in-use temporary detention areas and detainees shall be limited to the arresting officer(s), Supervisor or OICs, and investigating officers. [71.3.3(c)]
 - g. Any officer entering the holding area may use a radio duress button, radio, telephone, oral alarm or any other available means of communication to obtain assistance. [71.3.3(b)]
2. FIRE/EMERGENCY
- a. Fire suppression equipment shall be located in easily accessible locations out of reach of a detainee.
 - b. An emergency evacuation, fire prevention, and fire suppression plan shall be posted at the entrance to each temporary holding area. [71.4.2]

C. Training: Personnel authorized to temporarily detain individuals in the facility are provided initial training on the use of the temporary detention room(s) or area(s) and re-training at least once every three years. [71.2.1]

D. Inspections / Review [71.4.3]

1. PERIODIC INSPECTION: All temporary detention areas shall be inspected monthly by the Chief or his designee. The inspection shall cover:
 - a. Search for weapons or contraband;
 - b. Removal of unauthorized items; and
 - c. Operability of door locks, communications equipment, audio and video equipment and fixed restraint points.
2. REVIEW: The Chief shall cause an administrative review of the areas and procedures to be conducted at least once every three years.

PROTECTIVE CUSTODY

POLICY & PROCEDURE NO. 3.05	ISSUE DATE: 10/05/15
	EFFECTIVE DATE: 11/04/15
HADLEY POLICE DEPARTMENT	REVISION DATE: _____

I. GENERAL CONSIDERATIONS AND GUIDELINES

The substance abuse is a serious, nationwide public health problem. Excessive use often results in serious breaches of the public peace, damage to property, assault and battery, and other more serious crimes. Family neglect and domestic violence situations requiring police attention often involve substance abuse. The broken homes which often result are considered a major factor contributing to juvenile delinquency.

Intoxication, under Massachusetts law, is not a crime. Substance abuse is a disease. By statute, detoxification facilities and related programs are provided for the treatment and rehabilitation of persons suffering from alcoholism.¹ Chapter 111B provides for the protective custody of persons incapacitated from consuming alcohol.² . A person who has been taken into protective custody is not considered to have been arrested or charged with a crime.

Nothing contained in Chapter 111B shall affect any laws, ordinances, by-laws, resolutions or regulations against driving after drinking alcohol, driving under the influence of alcohol, or other similar offenses that involve the operation of motor vehicles, machinery or other hazardous equipment.

II. POLICY

It is the policy of this department to comply with the requirements of Massachusetts General Law Chapter 111B when taking an incapacitated person into protective custody.

III. DEFINITIONS

- A. Alcoholism: A medically diagnosable disease characterized by chronic, habitual or periodic consumption of alcoholic beverages resulting in (1) the substantial

interference with an individual's social or economic functions in the community or (2) the loss of powers of self-control with respect to the use of such beverages.

- B. **Facility:** Any public or private place, or portion thereof, providing services especially for the detoxification of intoxicated persons or alcoholics.
- C. **Incapacitated:** The condition of an intoxicated person who, by reason of the consumption of intoxicating liquor, is (1) unconscious; (2) in need of medical attention; (3) likely to suffer or cause physical harm or damage property; or (4) disorderly.
- D. **Protective Custody - "PC":** The taking of a person who impaired by alcohol or drug consumption into custody in order to protect that person from suffering or causing physical damage or harm. This is not an arrest.

IV. PROCEDURES

A. Taking into Custody

1. GENERALLY

- a. An officer may take custody of a person who is intoxicated by the consumption of intoxicating liquor (see Section G of this policy for drug related incapacitation) and:
 - 1) Unconscious;
 - 2) In need of medical attention;
 - 3) Likely to suffer or cause physical damage or harm; and/or
 - 4) Disorderly.
- b. The officer may assist the person, with or without his/her consent to:
 - 1) His/her residence;
 - 2) A treatment facility; or
 - 3) The police station.

2. DETERMINING INTOXICATION

- a. Officers may use observations of the person's condition and behavior, the odor of fresh alcoholic beverages, and field sobriety tests of coordination or speech in determining intoxication.
- b. Officers should be aware of the possibility of other ailments.
- c. An incoherent, unsteady or unconscious person might be suffering from an epileptic seizure, insulin shock, diabetic coma, stroke, heart attack, or brain injury.

- 3. **PROTECTIVE CUSTODY FROM THE HOME:** A person may be taken into protective custody from his or her own home.³

4. **ARRESTS:** In addition to protective custody, persons may also be placed under arrest. In such cases, qualifications for bail as well as protective custody release apply.
5. **USE OF FORCE:** An officer may use such force as is reasonable and necessary to carry out the procedures herein, with the exception of tests for determining intoxication. Persons may not be forced to take a breath test or to perform sobriety tests.

B. Search and Transportation

1. UNCONCIOUS PERSONS

- a. Officers shall call for an ambulance assist for medical evaluation when an intoxicated person is unconscious.
- b. Unconscious persons should be transported to a medical facility.

2. PERSONS IN NEED OF MEDICAL ASSISTANCE: Such persons shall be evaluated by medical personnel prior to being transported to the police station, home, or an alcohol treatment facility.

3. PERSONS UNDER THE INFLUENCE OF DRUGS: Such persons must be transported to a medical facility via ambulance. To their home or to the police station are not options for drug impairment. Transfer of custody form required for PC's transported to the hospital.

4. LIKELY TO SUFFER OR CAUSE PHYSICAL HARM OR DAMAGE

- a. Non-violent or non-disorderly persons may be taken directly home or to a treatment facility at the discretion of the officer and with the authorization of a Supervisor or OIC.
- b. Persons believed to be highly intoxicated and juveniles may be returned home, provided they are delivered into the custody of a responsible adult.
- c. Prior to transport, such persons shall be thoroughly searched for weapons.
- d. Such persons may be transported with or without handcuffs at the discretion of the transporting officer.
- e. In all cases, the transporting officer shall provide Communications with starting and ending mileage and the destination, and take a direct route to the destination.

5. DISORDERLY PERSONS

- a. Disorderly, unruly or belligerent persons, unless in need of medical or mental health assistance, will normally be transported to the police station.
- b. Any person transported to the police station as a protective custody shall be searched and restrained in the same manner as an arrest. For further information, see the department policy on **Transportation of Detainees**.
- c. The transporting officer shall notify Communications that they will be transporting a person in protective custody to the police station.

C. Protective Custody Processing

1. **BOOKING** (for Alcohol only): Detainees in protective custody for alcohol shall be booked. For further information, see the department policy on **Detainee Processing**.
2. **RIGHTS**⁴
 - a. **TELEPHONE CALLS**
 - 1) **IN PROTECTIVE CUSTODY:** Any person presumed intoxicated and to be held in protective custody at a police station shall, immediately after such presumption, have the right and be informed of the right to make a telephone call at his/her own expense and on his/her own behalf.
 - 2) **DETOXIFICATION FACILITY:** Any person presumed intoxicated who is assisted by a police officer to a detoxification facility shall have the right to make one phone call at his/her own expense and on his/her own behalf and shall be informed forthwith upon arriving at the facility of said right.
 - b. **BREATH TEST**
 - 1) Any incapacitated person assisted to the police station shall have the right, after arriving at the station, to request and be administered a breath test and shall immediately be informed in writing of such right.
 - 2) Breathalyzer test results shall be utilized as follows:⁵
 - a) **0.10 OR GREATER:** If the breath test result is 0.10 or more, the person shall be presumed to be intoxicated and shall be placed in protective custody at the police station or transferred to a detoxification facility. (This is a different standard than the .08 for operating a motor vehicle or boat under the influence of alcohol.)
 - b) **0.05 OR LESS:** If the reading is 0.05 or less, the person shall be presumed not to be intoxicated and shall be released from custody forthwith.
 - c) **0.06 AND 0.09:** If the reading is 0.06 to 0.09, no presumption based solely on the breathalyzer test shall be made. In this event, a determination of intoxication must be based upon field sobriety tests of coordination or speech coherency. If not previously given, they must be administered.
 - c. **NOTICE OF RIGHTS:** Protective custody cases shall be administered the following rights. Such rights are printed on the detainee rights form.

THIS IS TO INFORM YOU THAT PURSUANT TO CHAPTER 111B, SECTION 8 OF THE MASSACHUSETTS GENERAL LAWS, YOU HAVE THE RIGHT TO REQUEST AND BE ADMINISTERED A BREATHALYZER TEST. IF YOU ARE TO BE HELD IN PROTECTIVE CUSTODY, YOU ALSO HAVE THE RIGHT TO MAKE ONE TELEPHONE CALL AT YOUR OWN EXPENSE ON YOUR OWN BEHALF.

3. JUVENILES: The parent or guardian of any person under the age of eighteen to be held in protective custody at a police station shall be notified forthwith upon his/her arrival at said station or as soon as possible thereafter. Upon the request of the parent or guardian, such person shall be released to the custody of the parent or guardian.⁶
4. NOTIFICATION OF DETOX FACILITY: If an incapacitated person is assisted to the police station, the Officer-in-Charge or his/her designee shall immediately notify the nearest treatment facility that an incapacitated person is being held under protective custody. If suitable treatment services are available, the Massachusetts Department of Public Health shall thereupon arrange for the transportation of the person to the facility.
5. LENGTH OF CUSTODY: If a treatment facility is not available, the person may be held in protective custody at the station until [s]he is no longer incapacitated, but not for more that twelve hours.

D. Detaining Persons in Protective Custody

1. DETAINING

- a. Persons in protective custody shall be detained as would an arrest. For further information, see the department policy on **Detaining Prisoners**.
- b. An unconscious person shall never be placed in a cell unattended. In such cases, immediate medical care shall be provided in accordance with departmental procedures.

2. RELEASING

- a. Persons may be released from protective custody for alcohol prior to the expiration of the maximum statutory twelve-hour holding period, provided that they are no longer intoxicated.
 - 1) Those who would be released into their own care and custody may, if in the opinion of the releasing officer still appear intoxicated, be offered a breath test.
 - a) Those who obtain a reading of 0.10 or higher, or who decline to take a breath test (which is their right), should not be released to their own custody.
 - b) Those who obtain a result between 0.06 and 0.09 may be subject to field sobriety testing.
 - c) NOTE: Individuals who are released on bail following an arrest may be placed in protective custody if they are still "incapacitated" as defined in c. 111B. The foregoing considerations regarding release will govern a decision to release such individuals from protective custody.
 - 2) Persons may be released to the custody of a responsible adult.
 - 3) Juveniles, upon the request of the parent or guardian, shall be released to the custody of the parent or guardian.⁷

- b. A person who has been in protective custody must not be held for more than twelve hours.

E. Reports

1. INCIDENT REPORT: An incident report of the protective custody shall be made and must include:
 - a. The date, time, and place of custody;
 - b. The name of the assisting officer and Officer-in-Charge;
 - c. Whether the person held in custody exercised his/her right to make a phone call; and
 - d. Whether the person held in custody exercised his/her right to take a breathalyzer test, and the results of the breathalyzer test if taken.
 - e. The report must indicate the nature of the incident that gave rise to any police involvement, the method of handling the problem, and any injuries observed on the incapacitated person, including their cause and medical treatment, if any.
2. NON-CRIMINAL
 - a. Such record shall not be treated, for any purposes, as an arrest or criminal record.
 - b. Criminal offenses committed during the incident that involved the protective custody may, however, be treated as criminal offenses.

F. Commitment of Alcoholics or Substance Abusers [74.2.1]

1. PETITION FOR COMMITMENT
 - a. M.G.L c. 123, §35 authorizes police officers and certain other persons to file a petition in an appropriate district or juvenile court requesting that a person who is an alcoholic or drug dependent be committed for a period not to exceed thirty days to an in-patient public or private facility approved by the Department of Public Health.⁸
 - b. Where appropriate, police officers should advise the family and friends of the procedures available under this law.
 - c. Persons who may petition for commitment are:
 - 1) Any police officer;
 - 2) Physician;
 - 3) Spouse;
 - 4) A blood relative;
 - 5) Guardian; and
 - 6) Court official.

2. WARRANT OF APPREHENSION

- a. The court may issue a warrant for the apprehension for the individual to appear before the court, provided there are reasonable grounds to believe that:
 - 1) Such person will not otherwise appear; and
 - 2) Any further delay in the proceedings would present an immediate danger to the physical well-being of the respondent.
- b. No arrest on the warrant of apprehension shall be made unless the person may be presented immediately before a judge of the district court.
 - 1) The court must be in session at the time of arrest or shortly thereafter.
 - 2) The arrest must not be made so late in the day that the court cannot process the person.
- c. Under proper conditions, a warrant of application shall be promptly served.

G. Chapter 111B, Section 8A [NEW SECTION]

Any person who is incapacitated for a reason other than the consumption of intoxicating liquor may be assisted by a police officer, with or without the person's consent, to an emergency care facility. For purposes of this section, to determine whether or not a person is incapacitated, the police officer may request the person to submit to reasonable tests of coordination, coherency of speech and breath. Only when such tests indicate that the person is incapacitated shall the person be placed into protective custody and immediately transferred to a facility for treatment. Whenever a police officer assists a person under the age of 18 in accordance with this section, the police officer shall notify the parent or guardian of that person forthwith.

No person assisted in accordance with this section shall be held in protective custody at a police station or against the person's will; provided, however, that a police officer may hold an incapacitated person in protective custody while attempting to locate a facility or when transporting an incapacitated person to that facility.

A police officer acting in accordance with this section may use such force as is reasonably necessary to carry out the officer's authorized responsibilities. If the police officer reasonably believes that the officer's safety or the safety of other persons present so requires, the officer may search the person being assisted and that person's immediate surroundings but only to the extent necessary to discover and seize any items or dangerous weapons which may, on that occasion, pose a danger to the person, the officer or other persons present. Any items taken shall be inventoried and returned to the person when the person is no longer incapacitated.

A person assisted in accordance with this section shall not be considered to have been arrested or to have been charged with any crime. An entry of custody shall be made indicating the date, time, place of custody, the name of the assisting officer and the name of the officer in charge. No such entry shall be treated as an arrest or criminal record for any purpose.

Any such person placed into protective custody for drugs following the administration of Naloxone/Narcan, or other effect reversing drugs, who present as alert and oriented MAY in fact refuse medical care and transport from EMS. In the event EMS receives a signed medical refusal from an alert and oriented patient following naloxone administration, the assigned officer will completed a transport of the subject to the closest hospital. In the event subject becomes symptomatic of an overdose, medical assistance will be called to intercept the transport.

¹M.G.L. c. 111B.

²M.G.L. c. 111B, §8.

³ Lally v. Carmichael, 56 Mass.App.Ct. 1103, 776 N.E.2d 1309.

⁴ M.G.L. c. 111B, §8.

⁵ M.G.L. c. 111B, §8.

⁶ M.G.L. c.111B, §8.

⁷ M.G.L. c.111B, §8.

⁸M.G.L. c. 123, §35.

Policy updated to include PC for drugs.