

	MEDFIELD POLICE DEPARTMENT	POLICY NO. 3.05
PROTECTIVE CUSTODY		
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: NONE		DATE OF ISSUE: 06/18/2023
ISSUING AUTHORITY: Michelle Guerette Chief of Police		EFFECTIVE DATE: 06/18/2023 REVISION DATE: 11/07/2025

BACKGROUND:

The abuse of alcohol is a serious nationwide public health problem. The compulsive use of alcohol has an adverse effect not only on the alcoholics, but on their families, their employers, and the community as a whole.

Excessive drinking 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 alcohol abuse. The broken homes which often result are considered a major factor contributing to juvenile delinquency.

Historically, arrests for "drunkenness" have constituted a high proportion of police activity in every community. In the past, except for traffic violations, more arrests were made for drunkenness than for all other offenses combined. The punitive approach to this social problem has been costly, time-consuming and ineffective. This, of course, has not been the fault of the police, for they previously had no other recourse.

In an attempt to resolve this long-standing problem, Massachusetts law provides that public intoxication is not a crime. By statute, detoxification facilities and related programs are provided for the treatment and rehabilitation of persons suffering from

alcoholism.¹ Chapter 111B also 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.

POLICY:

The Medfield Police Department will comply with the requirements of Massachusetts General Law Chapter 111B when taking an incapacitated person into protective custody. A person who is incapacitated from drugs alone does not fall under the provisions of this law.

PROCEDURES:

If an officer comes upon, or responds to a call in regard to an incapacitated person, the officer shall be aware of the possibility of other ailments. An incoherent, unsteady or unconscious person, for example, might be suffering from an epileptic seizure, insulin shock, diabetic coma, stroke, heart attack, or brain injury. If the officer, relying on his own judgment and field experience, believes that one of these conditions may be present, he shall immediately make arrangements for medical treatment.

If an officer determines that the person is intoxicated, in the absence of an accompanying crime, the officer shall not arrest the intoxicated person. Officers shall extend the same considerations to an incapacitated person that they would offer to a person suffering from any other illness. If an officer encounters a person who is intoxicated due to the consumption of intoxicating liquor, or is unconscious, or in need of medical attention, then the officer shall provide medical attention and call for an ambulance.

If an officer encounters a person who is intoxicated by reason of the consumption of intoxicating liquor, and is likely to suffer or cause physical harm or damage to property, then the officer shall assist the person, with or without his consent, to his residence if there is a sober adult there to take charge of them, a treatment facility, the police headquarters, or to the care of another sober adult.

In order to determine whether or not a person is intoxicated, an officer may request that the person submits to reasonable tests of coordination, coherency of speech, and breath.

¹M.G.L. c. 111B

²M.G.L. c. 111B, s. 8

Search and Transportation

An individual who is placed into protective custody due to intoxication shall be transported according to the policy on **Transportation of Detainees**.

At Station

Upon arrival at the station, all persons detained for protective custody shall be processed and held according to the department's policies on **Processing Detainees** and **Holding Detainees**, with the exception of having their fingerprints taken. The following additional or modified procedures will be followed when processing a detainee in protective custody:

1. Any intoxicated person assisted to the police station, pursuant to Chapter 111b, Section 8 of the Massachusetts General Laws, shall have the right, to request a breathalyzer test, and have the right to make one phone call at their own expense.

Breathalyzer test results shall be utilized as follows:

0.10 OR GREATER: If the reading (which indicates the percentage of alcohol in a person's blood) 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.

LESS THAN 0.05: If the reading is 0.05 or less, the person shall be presumed not to be intoxicated and shall be released from custody forthwith.

BETWEEN 0.05 AND 0.10: If the reading is more than 0.05 and less than 0.10, no presumption based solely on the breathalyzer test shall be made. In this event, a reasonable test of coordination or speech coherency must be administered to determine if the person is intoxicated.

2. 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 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.³
3. If an intoxicated person is assisted to the police station, and is willing to enter a treatment facility, the Shift Commander or his 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 detainee may be transported to such facility at the discretion of the shift commander.
4. A person may be held in protective custody at the station for up to 12 hours or until they are no longer incapacitated.

³ M.G.L. ch.111B, s. 8

5. 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 breathalyzer test or to perform sobriety tests.

6. Persons to be released from protective custody prior to the expiration of the maximum statutory twelve-hour holding period, who will be released into their own care and custody, should have a breathalyzer test administered to determine that their level of intoxication is below the legal limit of .10. Those who are still above the legal limit of .10 or who decline to take a breathalyzer test (which is their right) should not be released to their own custody.

7. Any detainee held in protective custody may be released at any time to an interested adult, who is not intoxicated, and agrees to take custody of said detainee.

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 individual from protective custody.

Reports

An officer shall file a report indicating the nature of the incident which gave rise to police involvement, and the method of handling the problem. The report shall include the following:

1. The date, time, and place of custody;
2. Any injuries observed by the officer;
3. Any medical treatment given;
4. Whether the person held in custody exercised his right to take a breathalyzer test, and the results of the breathalyzer test if taken; and
5. Whether the person exercised his right to make a telephone call.

Such record shall not be treated, for any purposes, as a criminal record.

Alcohol Treatment

Officers should be aware that Massachusetts law authorizes police officers (and certain other persons) to file a petition in an appropriate district court requesting that a person who is an alcoholic (or drug dependent person) 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.⁴ Where appropriate, police officers should advise the family and friends of an alcoholic of the procedures available under this law.

⁴M.G.L. c. 123, s. 35

Note: Police officers are immune from civil suits for damages for restraining, transporting, applying for the admission, or admitting any person to a facility if the officer acts pursuant to the provisions of chapter 123 (See section 22 of Chapter 123).