

## OATH OF OFFICE

All persons selected for appointment as police officers for the Montague Police Department shall take and subscribe to the following Oath of Office prior to commencing their duties:

I, \_\_\_\_\_, do solemnly swear that I will bear true faith and allegiance to, and will uphold and defend, the Constitution of the United States of America and the Constitution of the Commonwealth of Massachusetts, that I will oppose the overthrow of the Government of the United States of America or of this Commonwealth by force, violence or by any illegal or unconstitutional method, and that I will fairly and equitably execute and enforce the laws thereof, within the extent of my authority and jurisdiction, - So help me God.

I, \_\_\_\_\_, do solemnly swear that I will faithfully and impartially discharge and perform all of the duties incumbent on me as a police officer of the Montague Police Department, and I will obey and be bound by such rules and regulations as now are, or may be, from time to time, established for the government of the Montague Police Department, - So help me God.

I, \_\_\_\_\_, hereby accept the position of Police Officer in the Police Department of the Town of Montague.

# CODE OF ETHICS

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>1.03</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
|   | REVISION<br>DATE: 6/1/2020  |
|   |                             |

As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality, and justice.

I will keep my private life unsullied as an example to all, maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

# RECEIPT AND ACKNOWLEDGMENT

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>1.04</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
|   | REVISION<br>DATE: 6/1/2020  |

## RECEIPT

Officers of the Montague Police Department shall subscribe their names to the following agreement:

I hereby acknowledge receipt of a copy of the Rule and Regulations for the government of the Police Department of the Town of Montague.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Issued by:

\_\_\_\_\_

(Two copies- one to remain in Manual and the other to be filed in personnel folder).

# FORWARD

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>1.05</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
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The primary purpose of the police department is to provide a high level of safety, security and service for all members of the community. As a regulatory agency of local government, the police department has the direct responsibility for the preservation of the public peace; for the reduction of the opportunity to commit crime; and for the effective delivery of a wide variety of police services.

In our democratic society the legislature frames and constructs the law while the judiciary interprets the law and imposes the necessary penalties upon transgressors. It is the police, however, who have the sworn duty to directly apply and execute the law fairly and objectively for the benefit of the entire community. This task has become one of the most difficult and most demanding responsibilities in the public service.

It is, therefore, of the utmost importance that all police officers have a keen perception of their role and purpose and a clear understanding of what is expected of them in the performance of their essential duties. It is towards the achievement of these goals that this Manual of Rules and Regulations has been prepared and promulgated. It is the objective of this Manual to outline the basic purposes for which the police department is organized and to establish standards of conduct and behavior to which every member of the department is to be held personally accountable.

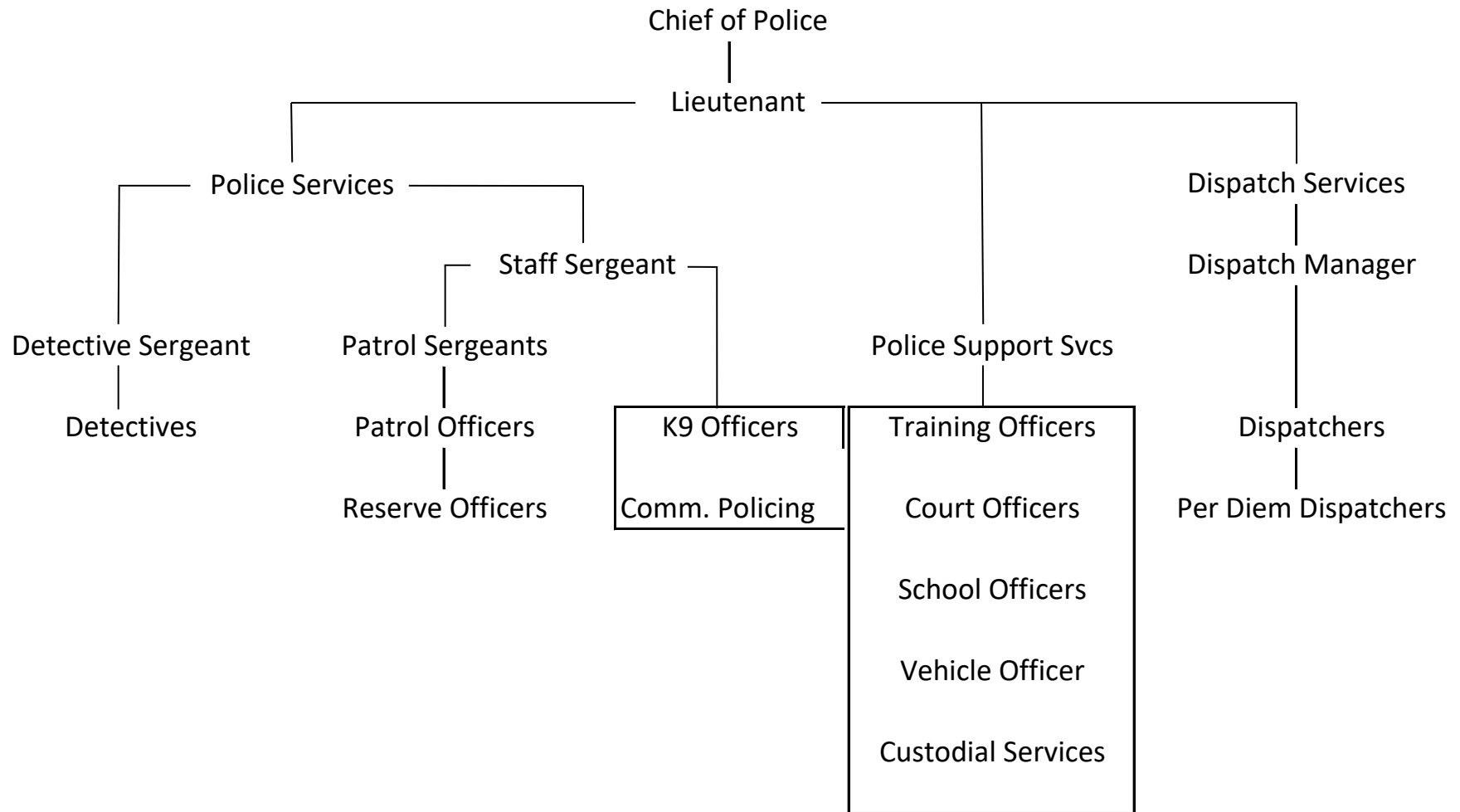
The contents of this Manual should be accepted and adhered to as a personal code of ethical conduct and endorsed by all department members as a foundation for professional law enforcement. It provides clearly defined, reasonable standards of acceptable behavior and has the legitimate purpose of furnishing the best possible police protection and service for the community.

It should be noted, however, that Rules and Regulations can provide desirable guidelines for police officers to follow; adequate training can equip them with the understanding and technical skills necessary to perform effectively; and diligent supervision can furnish them with capable direction and guidance; but, in the final analysis it is the personal efforts of the individual officer that will earn the confidence and respect of the public. Police officers who are knowledgeable, thoughtful, courteous



and resourceful in the performance of their duties will reflect credit upon themselves, upon the police department they represent and upon the community they serve.

## Montague Police Department Rank Structure



*Effective 7/14/16*

# ORDERS AND DIRECTIVE SYSTEM

|   |                                 |
|---|---------------------------------|
| POLICY & PROCEDURE NO.<br><br><b>1.07</b> | ISSUE<br><br>DATE: 3/1/1980     |
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An order is a command or instruction, written or oral, given or issued by a superior officer. All lawful orders written or oral, shall be carried out fully and in the manner prescribed.

1. General Orders - General Orders are permanent written orders issued by the Chief of Police outlining policy matters which affect the entire Department. A General Order is the most authoritative written order the Chief issues, and may be used to amend, supersede or cancel any previous order. General Orders remain in full effect until amended, superseded or cancelled by the Chief. Arrangements shall be made to include General Orders in the Police Manual.
2. Special Orders - Special Orders are temporary written orders issued by the Chief of Police outlining instructions covering particular situations. Special Orders are automatically cancelled when their objective is achieved.
3. Unlawful Orders - No superior officer shall knowingly issue any order which is a violation of any law, ordinance or departmental rule. Obedience to an unlawful order is never a defense for an unlawful action; therefore no officer or employee is required to obey any order which is contrary to Federal or State law or local ordinance. Responsibility for refusal to obey an unlawful order rests with the officer or employee to whom such order was given. He or she shall be strictly required to justify such action.
4. Unjust or Improper Orders - When lawful orders which appear to be unjust or improper are given, the officer to whom the order is given shall respectfully notify the superior officer issuing such order of its impropriety. If the order is not corrected, then the order is to be carried out. After carrying out the order, the officer to whom the order was given may file a written report to the Chief via the chain of command indicating the circumstances and the reasons for questioning the order, along with a request for clarification of departmental policy. An officer who performs an order found to be unjust or improper by the Chief, will not be held responsible for carrying out such an order.
5. Conflicting Orders - Should any order given by a superior officer conflict with any previous departmental order, the officer to whom such order is Given will call attention to the conflict. If the superior officer does not

change his order to avoid such conflict his order will be obeyed, but the officer obeying such order will not be held responsible for disobedience of the previous order" It should later be reported to the Chief in writing for clarification.

6. Personnel Orders - Orders pertaining to assignments, change of duty assignments, administrative matters related to conditions of employment and employee rights and benefits.

7. Memorandum Orders - Written communications issued by the Chief of Police or other authorized command officers for the following purposes:

- (a) To issue information or instructions which do not warrant a formal order;
- (b) to direct the action of subordinates in certain situations;
- (c) to explain or emphasize portions of previously issued orders; or
- (d) to inform officers of policies or actions of other agencies.

8. Complying with Instructions from Radio Dispatcher - All messages transmitted over the police radio system by any officer or employee shall be direct and concise and shall conform with all departmental radio procedures and the rules and regulations of the Federal Communications Commission.

No officer shall fail to obey or refuse to take cognizance of any communication transmitted by the Radio Dispatcher, unless directed to do so by the officer in charge.

9. Effectiveness of Orders - All general orders, special orders, directives, memoranda or other orders in writing that have been approved or authorized by the Chief shall have the force and effect of a departmental regulation, and shall be obeyed as such.

# DEFINITIONS

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|--|----------------|
| POLICY & PROCEDURE<br>NO.<br><br><b>2.01</b> | ISSUE          |
|  | DATE: 3/1/1980 |
|  | EFFECTIVE      |
|  | DATE: 3/1/1980 |
|  | REVISION       |
|  | DATE: 6/1/2020 |

Assignment

A specifically established or prescribed police duty, requiring the person so directed to perform a certain police task or tasks.

Chain of Command

The unbroken line of authority extending from the Chief through the officer in command at each level of department operations"

Chief of Police

The executive head of the Police Department. The Police

Department

Department as organized and staffed to achieve its purposes and objectives.

Detail

A police assignment, composed of one or more officers, for a specific purpose,

The obligation to perform police action or service.

A civilian employee of the department.

Employee

The membership of the department possessing police powers.

Force

Whenever the context of this Manual requires, the use of the masculine gender will include the feminine, and when applicable, the use of the singular will include the plural.

Grammatical Construction

The police building from which the Chief of Police administers and directs the department and its personnel.

Headquarters

Being incapable of the satisfactory performance of police duties, which may include a lack of initiative, diligence, sound judgement, ability to take decisive action or any other trait which demonstrates incapacity or ineptness in the performance of assigned tasks.

Incompetence

The Department Manual of Rules and Regulations, including any amendments and additions thereto, as promulgated by the Chief.

Manual

A sworn member of the police force having the power and authority of a police officer, regardless of rank or assigned duties

Officer

|                          |  |
|--------------------------|--|
| Officer-in-Charge        | The officer in command of any functional unit or subdivision of the department at any given time; or the officer in charge, and responsible for, any police action or operation.               |
| <u>Official Channels</u> | The department chain of command.   |
| Organization             | The organic structure of the department consisting of major functional units and subdivisions grouped according to similarity of purpose and operational responsibilities.                     |
| Patrol Officer           | A duly appointed and sworn police officer, male or female, who serves at the first or entrance level of the department structure.  |
| Rank                     | The relative position of each officer of the police force, classified by grade and title.  |
| Relieved from Duty       | The official act of temporarily removing an officer from street or field duty, with pay, for a specific purpose.   |
| Superior Officer         | An officer of the police force who has been promoted to administrative or supervisory responsibilities.  |
| Suspension               | The official act of temporarily removing an officer from all police duties, without pay, for a specified period of time, for violation of department rules, regulations, orders or directives. |
| Shift                    | A regularly established work period to which individual officers are assigned.   |
| Uniform of the Day       | The police uniform specifically designated by the Chief to be worn by all uniformed officers at particular times and occasions.  |

# PROFESSIONAL RESPONSIBILITIES

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.02</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
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The police are the most visible and most readily accessible representatives of local government. They respond to calls for assistance of a diversified nature and are expected to resolve a wide variety of community problems, as they occur.

To accomplish these purposes, the professional responsibilities of the police, within their area of jurisdiction, include the following functions:

1. The protection of life and the safeguarding of property;
2. The prevention and control of crime;
3. The investigation of crime, the apprehension of criminal offenders and the recovery of stolen property;
4. The preservation of the public peace and good order;
5. The enforcement of statutes, ordinances and by-laws within the police area of responsibility;
6. The immediate response to public emergencies;
7. The performance of such other police related services required by the community;
8. The advancement of a cooperative relationship with the general public;
9. The creation of a sense of safety and security for the entire community through vigilant preventive patrol; and
10. The accomplishment of all police objectives within the law and the constitutional guarantees of all citizens,

# CONFLICT OF INTEREST

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.03</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
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Since the position of a police officer is a public trust, it is imperative to avoid any situation involving a conflict of interest whether in fact or in appearance.

1. Officers of this department shall not affiliate with or become a member of any organization if such affiliation or membership would in any way impede or prevent their- effective duty performance.
2. Outside Employment- Prior to accepting any outside employment, officers and employees shall notify the Chief. Engaging in out side employment is subject to the following conditions: (a) such employment shall not impair the efficiency of the officer or the operation of the Department; (b) such employment shall not affect the officers' independence of judgment or action in the performance of police dut ies; (c) such employment shall not bring the officer or the Department into disrepute. All personnel engaging *in* outside employment should clearly understand that their primary obligation is to the Police Department and the community they serve. In the future, no officer or employee shall receive approval for employment outside of the Police Department in any other paid town position or for paid service *in* any other town department.
3. Political Activities- Participation in political activities while in uniform or on duty is prohibited. All actions which could even give the impression that officers are using their official positions to influence the electoral process are to be avoided. An officer or employee shall not be required to solicit or to be obliged to make contributions in money, services, or otherwise, for any polictical purpose.

Officers and employees who become candidates for salaried elective office shall take a leave of absence without pay. Such leave shall encompass both the ca mpaign and the tenure of office if elected. Nothing in this rule shall be construed to mean that department p e r s o n n e l are restricted in any way from exercising their constitutional rights as citizens in the poli tical or electoral process.

4. Gifts and Gratuities - Officers and employees shall not under any circumstances seek, solicit or accept any gift, gratuity, loan, reward or fee where there is any direct or indirect connection between the solicitation or acceptance



and their departmental membership or employment, except as may be specifically authorized by the Chief.

Officers and employees must be especially guarded in their official relationship with persons holding or seeking to hold licenses issued by local licensing authorities, who might expect or seek preferential police treatment. All department personnel must offer and are expected to make payment for their meals and beverages.

5. Testimonials and Presents - No officer or employee of the Department shall collect or receive any money or other thing of value from any source for the purpose of making a present to any active officer or employee of the department unless specific permission is granted by the Chief. No officer or employee of the Department shall seek or accept such present without the permission of the Chief.

It will be noted that under the provisions of General Laws, Chapter 268, Section 9A, no person shall sell tickets or solicit contributions for a testimonial dinner or similar function for any person in active employment in any law enforcement agency or regulatory body of the state or any city or town.

6. Unauthorized Transactions- Officers and employees are prohibited from entering into any transactions of material value at substantially lower than fair market value, or the value at which such goods or services are being offered to the general public, when such transaction takes place between themselves and any person involved in any matter or case which arose out of their employment with the Department, except as may be specifically authorized by the Chief. This rule shall not preclude officers and employees from taking advantage of standard police discounts available, without obligation, to all department personnel.

7. Disposition of Unauthorized Gifts, Gratuities, etc. - Any unauthorized gift, gratuity, fee or reward coming into the possession of any officer or employee shall be forwarded to the Chief, together with a written report of the circumstances connected therewith.

8. Use of Official Position - Officers shall not use their official position, department identification cards or badges: (a) for personal or financial gain; (b) for obtaining privileges not otherwise available to them except in the performance of duty, or (c) for avoiding consequences of illegal acts. Officers shall not lend to another person their identification cards or badges or permit them to be photographed or reproduced without the approval of the Chief. Officers shall not authorize the use of their names, photographs, or official titles which identify them as police officers, in connection with testimonials or advertisements for any person, commodity or commercial enterprise, without the approval of the Chief.

# RANKS AND ASSIGNMENTS

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| <b>POLICY &amp; PROCEDURE NO.</b><br><br><b>2.04</b> | <b>ISSUE</b><br><br>DATE: 3/1/1980     |
|  | <b>EFFECTIVE</b><br><br>DATE: 3/1/1980 |
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## CHIEF

### A. SUMMARY

The Chief of Police is the chief administrative officer of the Department and the final departmental authority in all matters of policy, operations, and discipline. He exercises all lawful powers of his office and issues such lawful orders as are necessary to assure the effective performance of the Department"

Through the Chief of Police, the Department is responsible for the enforcement of all laws coming within its legal jurisdiction. The Chief of Police is responsible for planning, directing, coordinating, controlling and staffing all activities of the Department. He is also responsible for its continued and efficient operation, for the enforcement of rules and regulations within the Department, for the completion and forwarding of such reports as may be required by proper authority and for the Department's relations with local citizens, the local government and other related agencies.

The Chief is responsible for training of all members of the Department. The Chief shall have general charge of the station house and all property of the Police Department.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Chief of Police to:

1. Ensure compliance with all laws which the Department or its officers have the authority to enforce.
2. Organize, direct and control all resources of the Department to preserve the peace, protect persons and property and enforce the law.
3. Develop a professional organizational structure for the Department.
- It. Establish a routine of daily duties to be performed by officers. Designate an officer to serve as Commanding Officer in his absence.

5. Assign, detail or transfer any member or employee of the Department to or from any unit or assignment whenever he shall deem such action to be in the best interest of the efficiency, discipline or morale of the Department.
6. Institute an adequate and progressive program of training for members and employees of the Department.
7. Ensure that all members have available to them copies of the Department's Police Manual.
8. Promulgate all general and special orders of the Department and issue on his own authority orders, written and oral, not inconsistent with his powers, duties and responsibilities.

9. Plan and execute police programs designed to prevent and repress crime, to apprehend and prosecute offenders and to recover property or Modify these programs to meet current trends.
10. Provide for investigation into all cases of alleged or apparent misconduct by departmental personnel
11. Enlist the suggestions of members and employees of the Department to ensure maximum relevance and acceptance of all departmental regulations.
12. Keep himself informed as to the affairs of the Department, ensuring that the duties and responsibilities of members and employees are being properly discharged.
13. Be responsible for the necessary delegation of authority to those under his command, commensurate with their duties and responsibilities.
14. Exercise general supervision and inspection of all licensed public places within the community.
15. Develop or adopt new techniques to improve effectiveness in the discharge of police obligations of the Department.
16. Adopt a policy covering the safekeeping of all evidence and any property recovered, found or confiscated. Designate a member of the Department as Evidence Officer.
17. Be responsible for the preparation and justification of the annual departmental budget and for the control of all departmental expenditures.
18. Maintain a personnel record system in which shall be kept all pertinent information on all departmental members and employees.

C. DUTIES AND RESPONSIBILITIES- REPORTING

1. Submit an annual report to the appointing authority outlining the activities of the Department
2. Submit a monthly report to the Commissioner of Corrections indicating the number of persons of each sex arrested, Classify such reports by type of offense M.G.L. c. 124 s. 9.
3. Notify the State Department of Public Utilities within twenty-four hours after an accidental death by electricity or gas.

CHIEF  
Three

4. Notify the State Department of Natural Resources of any person presumed to be lost in the woodlands in their community.
5. Report to the State Division of Fisheries and Game any injury or death resulting from the use of any firearm, bow and arrow or other weapon while hunting or target shooting. M.G.L. c. 131 s. 60.
6. Promptly report to the appropriate authority all within his knowledge, relating to injuries to persons or property alleged to have been caused by defects, obstructions or want of repair on any public street.
7. Notify the Registrar of Motor Vehicles, on the appropriate forms, the particulars of an accident involving a motor vehicle which happens within the limits of this community in which any person is killed or injured or where there is damage in excess of \$200 to any one vehicle or other property. Ascertain, if possible, the name(s) of the operator(s) and notify the Registrar of the same.
8. Be responsible for the preparation and justification of the annual departmental budget and for the control of all departmental expenditures.
9. Submit the appropriate data and forms for the purposes of compiling the Uniform Crime Report.
10. Maintain a personnel record system in which shall be kept all pertinent information on all Department members and employees.
11. Submit such other reports as required by law.

A Sergeant occupies the first level of supervision in the Department. His primary responsibility is exacting the proper performance of police duty from the officers assigned to duty within the area subject to his supervision.

The Sergeant is charged with ensuring compliance with the Department's regulations. He handles all infractions and reports all violations to his superior.

He shall thoroughly acquaint himself with the duties of patrol officers and shall assist and instruct the officers under his supervision in the proper discharge of their duties.

He shall be responsible for the proficiency, discipline, conduct, appearance and strict attention to duty of all officers under his supervision.

B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of a Sergeant to:

1. Supervise patrol officers assigned to his command.
2. Be fully familiar with the current departmental rules, policies, procedures and developments in the law that affect him and members under his supervision.
3. Review the performance of officers under his supervision on a regular basis to determine whether they are properly, effectively and consistently carrying out their police duties.
4. Ensure that when the police performance of an officer under his command is unsatisfactory, measures are taken through encouragement, explanation, referral to his superior officer or other means consistent with departmental policy to see that the officer's future conduct is up to standard.
5. Submit a written report to the Chief regarding any member of the Department when he commits a serious breach of the regulations of the Department and informal corrective measures prove inadequate. Include in such report the complete details of the misconduct and of those corrective measures attempted. Examples of types of misconduct which would ordinarily be considered "serious" include, but are not limited to the following:
  - a. Flagrant refusal to obey orders.
  - b. The commission of any criminal offense.
  - c. Verbal and/or physical abuse of a member of the public.

## SERGEANT

### SERGEANT

#### A. <sup>Two</sup> SUMMARY

- d. Excessive use of force with a prisoner or other person.
  - e. Absence without leave.
  - f. Excessive tardiness.
  - g. A conflict of interest.
  - h. Negligent failure by the departmental personnel to discover or act upon a felony or upon the existence of conditions dangerous to the health or safety of the public.
  - i. Repeated failure to respond to orders, instructions or other admonitions to correctly execute his duties.
6. Implement all orders received from the Chief of Police. To this end thoroughly explain to departmental personnel under his command the content of new orders that affect their responsibilities.
  7. Be accountable for the actions or omissions of officers under his supervision which are contrary to departmental regulations or policy.
  8. Respond to emergencies, incidents, or dispatches as required. Take command of the situation until relieved by an officer of superior rank.
  9. Ensure that all patrol officers receive warrants, summonses, subpoenas or other official papers, and serve or deliver or perform their duties regarding such papers promptly and accurately.
  10. Inspect the daily log before beginning his tour of duty and familiarize himself with all important matters that have occurred since his last inspection of said daily log. He shall make note of all complaints and make certain that the officers under his supervision are giving them proper attention.
  11. Perform such other duties as may be assigned by the Chief. C.

#### DUTIES AND RESPONSIBILITIES REPORTING AND NOTIFICATION

1. Comply with the departmental records and reporting system and instruct police officers in the proper method of reporting.
2. Report to the Chief of Police all serious or unusual occurrences that occur during his tour of duty.
3. Cause reports to be filed on preliminary investigations and periodic reports on the status of more in-depth investigations, calling to the attention of the Chief of Police any significant developments in all investigations.



DETECTIVE  
Two

The Detective will be responsible for the further investigation and prosecution of all felonies, thefts, frauds, burglaries, check cases, aggravated assaults and other such crimes that require extended investigation. He shall perform other duties as may be assigned by the Chief. The Detective is solely responsible to the Chief who has full authority and direct control over all Detectives. The degree of proficiency required in the performance of the specific sections of duties which follow shall be determined by the Chief.

B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of a Detective to:

1. Cooperate fully with other units within the Department and with departments and agencies in other jurisdictions. Make investigations for them and provide criminal records and other Information to them, where such action does not conflict with any investigation being conducted by this Department. In addition, be prepared to aid them in the apprehension of suspects or offenders, and generally, act as liaison officer between this Department and all similar bureaus or units in other police departments and law enforcement agencies.
2. Be fully familiar with the law and departmental procedures and policies surrounding the handling of suspects, crime scene control, the care of prisoners, and the presentation of evidence in the court.
3. Be familiar with known criminals, and their associates. Know their general behavior patterns, their hangouts, and their modus operandi. Be alert for sources of Information and cultivate them.
4. Investigate promptly and diligently all crimes assigned, utilizing all available resources. Upon receipt of the case, immediately Interview the complainant, victim, and witness. When any person is Interviewed or Interrogated, identify himself properly before asking any questions.
5. Keep the Chief Informed of the progress of his investigations and request additional Instructions when further progress appears impossible. Also, communicate to the Chief any information uncovered which relates to criminal activity beyond the scope of his immediate investigation.
6. Submit a written report of his activities regarding assigned cases to the Chief as requested. Furnish such other daily or monthly reports as required.
7. Follow up all cases until there is a final disposition or the case is declared inactive by the Chief.

## DETECTIVE

### A. SUMMARY

8. Contact the complainant or victim periodically to apprise him or her of the state of the investigation. Within the first two weeks following a crime, personally contact the complainant or victim, for these purposes unless special reasons not to do so exist.
  9. Keep an accurate, up-to-date account of expenses incurred when on out-of-town assignment. Submit this account to the Chief for his approval before presenting it for reimbursement.
  10. Make note on his report when an officer renders exceptional assistance in order that the officer rendering such assistance may receive due credit for his efforts.
  11. Prepare cases for court. Carefully prepare the presentation of facts and ensure that witnesses appear. Obtain the court disposition of all cases in which he was involved.
  12. Report during the tour of duty, at such intervals as the Chief may designate.
  13. See that any assigned motor vehicle is well maintained mechanically and that it is kept clean both inside and out. Immediately report all defects and damages sustained to the vehicle to the Desk Officer and complete all reports and forms required for such by current procedures. Use the call number assigned to the car to contact headquarters. Operate the radio in line with FCC regulations and current departmental procedures.
  14. Secure any vehicle which is left unattended and ensure that doors are locked, and windows shut.
  15. Communicate to the Officer-in-Charge all information received or known which may affect the safety of other members of the Department in the execution of their duties. For example, the identity of persons known to be carrying weapons.
  16. Meet periodically and in all other ways coordinate your police work with the other members of the Department.
  17. Be available by telephone or radio during the tour of duty when the situation permits.
  18. Safeguard all property recovered; tag and stamp all lost, stolen or found property that comes into your possession. Submit a written report to the Chief concerning such property.
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DETECTIVE  
Two  
DETECTIVE  
Three

C. LICENSING DUTIES

1. Visit licensed business establishments periodically such as used car dealers, boarding houses, antique shops, liquor stores, etc. Ensure that each license is in order and up to date and that nothing is present which violates its terms.
2. Visit on a periodic basis, establishments containing automatic amusement machines, juke boxes, pool tables.
3. Investigate complaints against licensed establishments and cooperate with and render assistance to the License Commissioners in all matters.

D. AUTO THEFT DUTIES

1. Conduct a periodic review of automobile theft reports. Note those which will require investigative work and undertake investigation of them.
2. Conduct a periodic review of auto towing reports to discover stolen vehicles.
3. Cooperate with other police departments and agencies in the investigation of auto larcenies and in the recovery of stolen cars.

L. BANK RESPONSIBILITIES

1. Receive complaints from banks and other establishments and persons in the area regarding fraudulent checks and all similar cases. These cases may involve uttering, forgery and uttering, fraud or theft. Apprehend and prosecute offenders for these and related offenses. Prepare complaints for prosecution in court.
2. Maintain records of all known check passers, check passing rings and worthless checks. Make out original cards on each individual complaint.
3. Check teletypes with other departments in the state and outside the state relating to check passers.

F. NARCOTICS DUTIES

1. Have absolute control over, and custody of all controlled substances coming into the possession of any officer or unit of the Department when so assigned, and serve as Evidence Officer in compliance with G.L. c. 94C s. 47A. See to it that all drugs and paraphernalia are securely locked and marked for identification.

2. Make application for and review all search warrants obtained by any officer or unit of the Department alleging violations of Chapter 94C. Whenever possible, be personally present at execution of the warrant, when so assigned.
  3. Act as liaison officer between the Department and other departments and governmental agencies involved with controlled substances.
  4. Keep records on all persons arrested for or charged with controlled substance act violations and see to it that photographs and fingerprints of all persons arrested who are charged with such violations are included in such records. (Note: These records are in addition to departmental arrest records.)
  5. Maintain a record of all controlled substance arrests. Indicate the amount and type of drug seized, the age, race, and the sex of the offender, the offense or offenses charged, and the disposition of the case.
  6. Be available when requested by any civic, church, or fraternal organization, with the permission of the Chief of Police, for the purpose of drug education and participation in other community drug programs. Cooperate fully with all recognized drug rehabilitation groups in town including the Probation Office in connection with the Drug Rehabilitation Law (G.L. c.123, s. 38.
  7. Prepare training programs on narcotics enforcement issues and participate in the training of departmental personnel when requested.
  - 8" Maintain an up-to-date drug information file for use at legislative or other hearings on drug problems.
  9. Investigate all complaints of controlled substance act violations. Apprehend, charge and prosecute offenders. Carry out protracted surveillance and undercover purchases when so ordered.
-

DETECTIVE  
Four

#### PATROL OFFICER

##### A. SUMMARY

A Patrol Officer shall be responsible for the efficient performance of required duties in conformance with the rules, regulations, and policies contained in this Manual.

Duties shall consist of, but are not necessarily limited to, several general police responsibilities necessary to the stability and safety of the community. A Patrol Officer shall be expected to:

1. Identify criminal offenders and criminal activity and, where appropriate, apprehend offenders and participate in subsequent court proceedings.
2. Reduce the opportunities for the commission of crime through preventive patrol and other measures.
3. Aid individuals who are in danger of physical harm.
4. Facilitate the movement of vehicular and pedestrian traffic.
5. Identify problems that are potentially serious law enforcement or governmental problems.
6. Create and maintain a feeling of security in the community.
7. Promote and preserve the peace.
8. Provide other services on an emergency basis.

##### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of a Patrol Officer to:

1. Exercise authority consistent with the obligations imposed by the oath of office and be accountable to superior officers. Promptly obey lawful orders.
2. Coordinate efforts with those of other members of the Department so that teamwork may ensure continuity of purpose and maximum achievement of police objectives.
3. Communicate to superiors and to fellow officers all information obtained which is pertinent to the achievement of police objectives.
4. Respond punctually to all assignments.

## PATROL OFFICER

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5. Acquire and record information concerning events that have taken place since the last tour of duty.
6. Record activity during tour of duty in the manner prescribed by proper authority.
7. Maintain weapons and equipment in a functional, presentable condition.
8. Assist citizens requesting assistance or information. Courteously explain any instance where jurisdiction does not lie with the Police Department and suggest other procedures to be followed.
9. Be accountable for the proper marking, securing, receipting, and proper transporting of all evidence and property coming into custody.
10. Answer questions asked by the general public, counsel juveniles and adults when necessary and refer them to persons or agencies where they can obtain further assistance.
11. Preserve the peace at public gatherings, neighborhood disputes and family quarrels
12. Serve or deliver warrants, summonses, subpoenas, and other official papers promptly and accurately when so directed by a superior officer.
13. Confer with court prosecutors and testify in court.
14. Accomplish other general duties as they are assigned or become necessary.
15. Perform such other duties as may be assigned by the Chief.

### **C SPECIFIC DUTIES AND RESPONSIBILITIES- PREVENTIVE PATROL**

L Patrol an assigned area for general purposes of crime prevention and law enforcement. Patrol includes:

- a. Being thoroughly familiar with the assigned route of patrol. Such familiarity includes knowledge of residents, merchants, businesses, roads, alleyways, paths, etc. Conditions that contribute to crime should be reported. The location of fire boxes, telephones and another emergency services should be noted.
- b. Apprehending persons violating the law or wanted by the police.

PATROL OFFICER  
Four

- c. Completing detailed reports on all crimes, vehicle accidents and other incidents requiring police attention. In cases where an arrest is made, an arrest report is submitted along with the required crime reports. When property is recovered, or additional information is discovered pertaining to a previously reported offense, the officer completes an investigation report.
  - d. Preserving any major crime scene until an Officer-in-Charge arrives when such crime scene is encountered or when dispatched to the scene as the first responding officer.
  - e. Public Assembly checks.
  - f. Building security checks.
  - g. Observing and interrogating of suspicious persons.
  - h. Issuing traffic citations.
  - i. Being alert for and reporting fires.
  - j. Reporting streetlights and traffic signals out-of-order, street hazards and any conditions that endanger public safety.
  - k. Checking of schools, parks and playgrounds.
1. Responding to any public emergency.
  2. Conduct a thorough investigation of all offenses and incidents within the area of assignment and scope of activity. Collect evidence and record data which will aid in identification, apprehension, and prosecution of offenders, as well as the recovery of property.
  3. Be alert to the development of conditions tending to cause crime or indicative of criminal activity. Take preventive action to correct such conditions and inform superiors as soon as the situation permits.
  4. Respond to situations brought to the officer's attention while during routine patrol or when assigned by radio. Render first aid, when qualified, to persons who are seriously ill or injured. Assist persons needing police services.
  5. Remain on assigned route throughout the tour of duty except when a police emergency necessitates a temporary absence, or when an Officer-in-Charge or the Dispatcher has issued authorization for a temporary absence.

## PATROL OFFICER

### Three

6. Patrol area giving attention to and frequently rechecking locations where the crime hazard is great. Insofar as possible, a Patrol Officer shall not patrol an area according to any fixed route or schedule but shall alternate frequently and backtrack in order to be at the location least expected.
7. Be alert for all nuisances, impediments, obstructions, defects or other conditions that might endanger or hinder the safety, health or convenience of the public within the patrol area.
8. If assigned to operate a motor vehicle:
  - a. See that it is well maintained mechanically and that it is kept clean both inside and out.
  - b. Inspect the vehicle at the beginning of the tour of duty for any defects or missing equipment. Immediately report all defects and damages sustained to the vehicle to the proper authority and complete all reports and forms required by current procedures.
  - c. Remove the keys from, and lock patrol car whenever it is left unattended for any reason.
  - d. Use only vehicles assigned by the Officer-in-Charge.
  - e. Use the call number assigned to the car to contact headquarters.
  - f. Operate the radio in line with FCC regulations and current departmental procedures.
9. Keep radio equipment in operation at all times and be thoroughly familiar with departmental policy concerning use of the radios.
10. Take measures to direct the flow of traffic in the area during periods of congestion.
11. Notify the Officer-in-Charge if more than a temporary absence from regular duties is required.
12. Make periodic reports to the station.

#### D. SPECIFIC DUTIES AND RESPONSIBILITIES- TRAFFIC PATROL

1. Direct and expedite the flow of traffic at assigned intersections keeping in mind the duty as a traffic officer in preventing accidents, protecting pedestrians and ensuring the free flow of traffic.



## PATROL OFFICER

Four

2. Enforce the parking ordinances and motor vehicle laws in the patrol areas.
3. Be alert for traffic safety conditions which may endanger or inconvenience the public and report such conditions to the Officer-in-Charge.
4. Wear the prescribed traffic safety clothing and equipment.

PATROL OFFICER  
Five

OFFICER IN CHARGE

A. SUMMARY

An Officer in Charge is normally an officer from the Department who has been designated by the Chief to command a shift. He is responsible for the immediate supervision and control of all officers under his command and is personally responsible for their efficiency and effectiveness as members of the Department.

B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Officer in Charge to:

1. Provide for the daily inspection by the Officer-in-Charge of members assigned to patrol. Correct any noncompliance with departmental standards of uniform or equipment.
2. Inform members assigned to patrol of all significant changes in departmental rules and regulations, policy and procedures.
3. Provide for the proper and complete upkeep of the Daily Log.
4. Coordinate the deployment and activities of all personnel under his command.
5. Be responsible for the dissemination of information and/or materials, and inspection of officers for only such equipment as has been authorized by the Chief of Police.
6. Ensure the proper use of radio procedures by all members under his command.
7. Ensure the efficient operation and maintenance of the Department's communications system.
8. Periodically evaluate the adequacy of the communications equipment to meet the Department's needs. Report any inadequacy using current departmental procedures and recommend the procurement of needed equipment.
9. Ensure that inspections of motor vehicles and equipment are carried out and that the results of such inspections are properly reported by current departmental procedures.
10. Ensure that uniformed patrol personnel not use unmarked cars without proper approval.
11. Provide for the security, cleanliness, and maintenance of the Station and its equipment, during his tour of duty.

12. Ensure that all prisoners coming into or remaining in the Station are treated fairly and in accordance with departmental rules and procedures.
13. Ensure that all persons coming into the Station are treated courteously.
14. Ensure proper processing of all complaints by citizens.
15. Oversee the prompt and accurate entry of all official police business submitted to the Desk that is to be included in the records kept at the Desk.
16. Ensure that the Desk files are maintained.
17. Maintain the order and security of the Station and the proper conduct of officers.
18. Take special measures to ensure that the departmental procedures are carried out regarding the handling of lost, stolen, or abandoned property, property held as evidence, or property taken from a prisoner.
19. Examine for completeness all reports or records submitted to the Desk.
20. Be responsible for the care and handling of prisoners in accordance with departmental policies and procedures and state law. Responsibilities include, but are not necessarily limited to, the following guidelines:
  - a. Examine each prisoner upon his arrival at the Station for injuries. If any are found, record the fact in writing and submit the report to the Chief of Police. (G.L. c. 272 s. 33) Determine whether any of the injuries were inflicted by a member of the Department. If they were, note such in the report.  
  
Investigate the circumstances of the incident for possible disciplinary action and require the officer who inflicted the injury to submit a detailed report describing the incident. Forward such report to the Chief.
  - b. If the prisoner requires medical attention, have him conveyed to a hospital.
  - c. When a prisoner is unconscious for any cause, immediately attempt to restore consciousness. Failing to do so within a reasonable time, have him conveyed to a hospital. Allow no unconscious person to be placed in a cell except with the approval of a physician.

OFFICER IN CHARGE

Two

OFFICER IN CHARGE

Three

d. Inform a prisoner charged with operating a motor vehicle while intoxicated, of his right to be examined immediately by a physician selected by him at his expense. Afford him a reasonable opportunity to exercise the right. Provide such person with a copy of G.L. c. 263 s. 5A or give him an opportunity to read a posted copy of it. (G.L. c. 263 s. 5A)

21. Oversee arrests of juveniles and immediately notify the parents and the Probation Office: if there is no parent, the guardian or person with whom the juvenile resides and the Probation Office. (G.L. c. 119 s. 67)

22. See that any person, including a juvenile, arrested for a felony, or misdemeanor is fingerprinted and photographed.

23. Be responsible for ensuring the prompt and effective service of all summonses, subpoenas, warrants and other official documents forwarded by proper authority.

24. Ensure that departmental procedures surrounding the handling of female prisoners are followed.

25. Oversee the booking process. If an arrested person has been taken directly to a hospital and is remaining there, see that proper booking procedures are carried out at the hospital.

26. Inform any prisoner upon his being booked of his right to use the telephone. (G.L. c. 276 s. 33A)

27. Oversee the bail procedures and release of prisoners on bail.

28. Designate work assignments in conjunction with the Chief of Police.

29. Inform the relieving officer of all police business that is pending or would otherwise be of interest or importance to him.

30. Perform such other duties as may be assigned by proper authority.

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## TRAINING OFFICER

### A. SUMMARY

Under the general supervision of the Chief, the Training Officer develops and prepares other officers and recruits to effectively handle the realities of police work by promoting the skills, the professional attitude and a high sense of duty necessary to the police profession.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Training Officer to:

1. Prepare personnel for police service through indoctrination in departmental policies, procedures and requirements of job performance.
2. Prepare in-service training programs for all officers in areas of crime detection, firearms, regulations and policies, leadership, human relations, crisis intervention, and the latest developments in all other aspects of law enforcement.
3. Provide officers the information needed in the performance of duty or in otherwise meeting their responsibilities by furnishing them with changes in the laws, new police methods, Supreme Court decisions and other topics which affect police operations.
4. Schedule training classes to be set up in prescribed units of instruction and prepare lesson plans on material to be covered in each class.
5. Solicit experts from the criminal justice system to conduct classes of instruction and ensure that they are given sufficient time for preparation and presentation of the material.
6. Utilize external resources to develop specialized skills that will increase the overall effectiveness of the Department.
7. Inform the Chief of the activities and progress of the Training Program.
8. Keep a written record of all training activities.
9. Perform other duties as assigned by the Chief.

## SAFETY OFFICER

### A. SUMMARY

The Safety Officer has the primary responsibility for cooperating with the schools in developing and improving safety education programs. He supervises the training of safety patrol units at each school and oversees the maintenance of safety patrol equipment.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Safety Officer to:

1. Conduct safety education programs for school personnel regarding child molesters, playground and water safety, traffic safety and general first aid. Supervise the training of safety patrol units.
2. Work with school personnel and make recommendations to the Chief of Police regarding school zones, crossings, signs, markings and the elimination of street hazards.
3. Lecture at high school driver education classes when requested.
4. Enforce laws in and around schools which may affect the health and safety of students and faculty.
5. Issue seasonal safety bulletins for news media.
6. Address P.T.A. and other civic and service organizations about school safety.
7. Act as liaison officer between all schools and the police department. Recommend a course of action to the Chief of Police which will minimize any chance of conflict between the Chief of Police and youth in the community.
8. Supervise School Crossing Guards.
9. Inspect school bus stops, routes and related facilities periodically, and make any required recommendations to proper authorities.
10. Develop a bicycle safety program, if necessary, in cooperation with school authorities.
11. Perform any other duties as may be assigned by the Chief.

## JUVENILE OFFICER

### A. SUMMARY

The Juvenile Officer shall be available to members of the Police Department as well as members of the general public for consultation on the handling of juvenile offenders, juvenile victims and juveniles with other problems.

### B. GENERAL DUTIES AND RESPONSIBILITIES

An officer assigned as a Juvenile Officer has the responsibility to:

1. Formulate a positive crime prevention program aimed at young persons in conjunction with local schools and social agencies.
2. Maintain a list of social agencies to which juveniles can be referred for such things as counselling, employment and medical services.
3. Investigate reported crimes which are likely to have involved juveniles either as perpetrators or victims.
4. Coordinate the processing of juveniles with the local court authorities, including the Clerk's office and the Probation office.
5. Be available to speak to community groups on juvenile problems. Assemble pamphlets and films on delinquency.
6. Answer calls to the station from parents and others seeking assistance with problem youngsters.
7. Handle juvenile court matters and inform officers of the status of cases they are involved in.
8. Confer with the Juvenile Probation officers oversee community service sentences of juveniles.
9. Counsel juveniles and parents and when necessary refer them to persons or agencies where they can obtain further assistance.
10. Perform any other duties assigned by the Chief of Police.

## D.A.R.E. Officer

### A. SUMMARY

The D.A.R.E. Officer is responsible for the implementation and operation of the D.A.R.E. (Drug Abuse Resistance Education) program in the Town's school system. He/She serves as the D.A.R.E. curriculum instructor in the schools and as the D.A.R.E. Program liaison between the Police Department, the School Department and its individual schools.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the D.A.R.E. Officer to:

1. Teach D.A.R.E. core curriculum, spend time with students during recess and in the cafeteria and participate in school activities such as assemblies and faculty meetings etc.
  2. Prepare teaching materials (e.g., lesson plans, student notebooks and handouts, visual aids) and guides for teachers' auxiliary classroom activities.
  3. Maintain relations with school principals and other key school personnel.
  4. Teach K - 6 curriculum.
  5. Prepare for and give presentations at faculty in service meetings, parent education evenings, PTA meetings and community organization meetings.
  6. Coordinate audiovisual equipment for classroom instruction, parent meetings and public speaking engagements.
  7. Schedule and coordinate culmination exercises and complete D.A.R.E. diplomas.
  8. Participate in extracurricular activities such as Halloween festivities, holiday programs and field trips.
  9. Keep records of daily and monthly activities.
  10. Attend in service training sessions.
  11. Perform other duties and functions as assigned by the Chief of Police.
-



## RAPE INVESTIGATION OFFICER

### A. SUMMARY

The Rape Investigation Officer is assigned to handle preliminary and follow-up investigation in all cases of actual or attempted rape or sexual assault. Due to the frequently violent nature of the offense and the highly emotional state of the victim, the Rape Investigation Officer must use extreme sensitivity in handling all aspects of the investigation. The human service function of a police officer must be strongly emphasized when handling these duties.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Rape Investigation Officer to:

1. Be responsible for both the crime scene and/or the victim.
2. Take immediate steps to ascertain, obtain or render treatment for injuries. Be aware of the probability of shock and/or emotional distress as well as physical injury and deal with the victim accordingly.
3. Attempt to obtain immediate information on and description of the assailant(s) for communication to the Dispatcher.
4. Request permission from the victim for a medical exam to be performed.
  - a. Ensure that such medical exam includes semen specimens and pubic hair combings and samplings.
  - b. Note the names of any other medical personnel present - (nurses, etc.) for possible future court appearance.
  - c. Obtain a signed medical statement from the attending physician.
5. Obtain the services of a police Matron when necessary.
6. Record visual injuries, condition of clothing and the crime scene in detail.
7. Arrange to have photographs taken when necessary and with the permission of the victim.
  - a. Use Polaroid pictures whenever possible.
  - b. Never include the victim's face with photographs of the body.
  - c. Have the victim initial all pictures so there will be no later confusion as to identity or source of the photograph.

RAPE INVESTIGATION OFFICER

Two

8. Arrange for an in-depth interview of the victim and prepare a report of same. Be aware of the importance of handling the interview properly and with sensitivity. Details, modus operandi and precise, objective reporting are essential in these cases.

9. Handle all departmental records, reports and conversations with or concerning the victim in a confidential manner in accordance with G.L. c. 41, ss. 97B, 97C, and 97D.

SPECIAL POLICE  
OFFICER

A. SUMMARY

Special Police shall be appointed from time to time as provided by law. They shall have the power and authority as determined by the appointing authority in accordance with the law. The Chief of Police may request the Town Selectmen to either add or diminish the number of Special Police as he deems necessary.

B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of a Special Police Officer to:

1. Be responsible for the efficient performance of his duties in conformity with the policies of the Department and obey the directions of the Chief of Police and other superior officers.
2. Familiarize himself with all instructions and regulations governing the duties, responsibilities, conduct and demeanor of a patrolman.
3. Maintain a well-groomed appearance and maintain his clothing and equipment in a proper state of cleanliness and repair.
4. Exercise care in the use of police premises, property and equipment.
5. May be suspended or dismissed from duty for any infraction of the rules of conduct applicable to a patrolman.
6. May be dismissed for inability to grasp police procedures and practices, or failure to satisfactorily meet requirements of the police service or attendance at police training sessions.
7. Perform other duties as required by the Chief of Police.

A. SUMMARY

The Secretary-Clerk functions much the same as her counterpart in the business world. General office duties include typing, filing and record keeping.

B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Secretary-Clerk to:

1. Provide for the efficient operation of the office.
  2. Prepare and maintain:
    - a. All files belonging to the Chief, except those of a confidential nature.
    - b. A record of all sick leaves. As part of this responsibility place in the file of the sick officer a report recording the fact of the leave.
    - c. A current record of the names addresses and telephone numbers of all members and employees, and the badge numbers of all officers.
    - d. A telephone directory of all companies and persons who have hired police officers for paid details.
    - e. A record of all keys to rooms in the building including an indication of where each key is kept. Number each key.
    - f. Business listings for the Desk. Periodically, distribute business listing cards to all police officers.
    - g. Record of all court actions on the court arrest cards.
  3. Prepare the Patrol Reports and any General Orders.
  4. Prepare and type correspondence as requested by the Chief.
  5. Be familiar with the duties of the Desk Officer and remain prepared to assist the Desk Officer when requested by the Officer-in-Charge.
  6. Maintain sufficient office supplies to ensure the office's efficient operation.
  7. Lock or otherwise make secure all files, office doors, and other places of safekeeping at the conclusion of the tour of duty.
  8. Perform Matron duties if assigned.
-

## SECRETARY-CLERK

### SECRETARY-CLERK

Two

#### C. RECORDS DUTIES

1. Oversee the orderly operation and security of the records room.
2. Be responsible for the service of warrants and subpoenas.
3. Issue firearm registrations and permits when so assigned.
4. Be responsible for the safekeeping of all lost, found, stolen or recovered property coming into the possession of the Department when so assigned.
5. Compile, maintain files on, index and coordinate the following:
  - a. departmental reports and records.
  - b. accident reports and statistics.
  - c. a record of incidents and action taken on them.
  - d. statistical data as required by law and departmental policy.
  - e. records of arrests and detentions.
  - f. records on the ultimate disposition of cases.
6. Maintain security of all records and not divulge information of a confidential nature or which relates to departmental business.
7. Prohibit the removal of any record, police report or written communication without the specific authority of the Chief.
8. Obtain a receipt when records are removed, or material is picked up from the records area.
9. Prepare and maintain a record of all departmental payroll information and submit a copy of such records weekly to the Town Accountant.
10. Prepare and maintain a record of all money received by the Department on account of paid details and submit such money and a copy of such record weekly to the Town Treasurer.
11. Perform such other duties as the Chief may require.

## CRIM E PREVE NTION OF FICER

### A. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Radar Officer to:

1. To set up his equipment in designated areas given to him by the Officer-in-Charge and spend the amount of time allotted for each area.
2. These areas are determined by request from citizens and by demand in accident prone areas.
3. It is his duty to cite all violators he records and take appropriate action as to warning and complaint.
4. At the end of his tour of duty, it is his duty to submit all citations, whether complaint or warning, to the Desk Officer.
5. Be certain the specific car assigned to Radar is operational and any defects or malfunctions should be reported to the appropriate sources.
6. Be certain before his tour of duty begins that Radar equipment is in perfect working order and report any discrepancies or malfunctions to the Officer-in-Charge.
7. He shall have a working knowledge of all current speeds and posted and unposted areas in the Town of Montague.
8. He shall always be courteous and conduct himself in an efficient manner. He should refrain from argument with parties concerned and maintain a professional attitude.

## EVIDENCE OFFICER

### A. SUMMARY

The crime prevention officer serves as a liaison between the Department and the total community. Through his contacts and communications with the various community groups and social agencies he identifies areas of potential friction and conflict for remedial action; promotes and encourages responsible interaction and cooperation; And administers programs and activities designed to improve the relationship between the police and the community.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Crime Prevention Officer to:

1. Direct and supervise programs in the field of crime prevention.
2. Coordinate the activities of the Police Department in the field of Crime Prevention.
3. Develop crime prevention programs and institute measures to test their effectiveness as well as their acceptance by the public.
4. Be available to address individuals and groups on the current crime prevention operations and programs instituted or carried out by the Department.
5. Educate all personnel in the Police Department of the merits of Crime Prevention.
6. Analyze departmental records and reports in order to determine specific crime trends.
7. Coordinate programs with civic, business and private groups, community organizations, and individuals toward a common goal of preventative action by target hardening using better security, hardware, lighting, planning, etc.
8. Provide a broad base for citizen participation and self-involvement in crime and loss prevention.
9. Work with community officials and planning commissions with the hopeful goal of updating existing building codes, lighting systems, ordinances, and proposing new ordinances and codes which would aid in Crime Prevention.
10. Design pamphlets and other informational material for distribution within the community that will educate the citizens in the techniques of Crime Prevention.
11. Perform such other duties as the Chief may assign.

## CRIME PREVENTION OFFICER

### A. SUMMARY

The evidence officer performs departmental functions relating to the processing, filing, storage and security of controlled substance and related evidence. The evidence officer acts as custodian of all controlled substances handled by the Department.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the Evidence Officer to:

1. Act as custodian of all controlled substances seized in the course of any arrest or investigation in compliance with G.L. c. 94C s. 47A.
2. Preserve for court all physical evidence relating to controlled substance found at the scene of a crime.
3. Process all physical evidence regarding controlled substance which is collected by or brought to the Department.
4. Preserve the security and custody of evidence under your control by giving or receiving a standardized receipt whenever evidence is received or transferred. Transfer evidence only to persons authorized to receive it and only according to departmental policy regarding handling of evidence.
5. Receive, mark for identification, prepare, package, record and forward to the laboratories, all evidence that requires further scientific processing.
6. Keep himself informed of all improvements in scientific investigative techniques about police identification and laboratory processes.



## EVIDENCE OFFICER

### SUMMARY

School crossing guards are responsible for directing traffic at assigned crossings to protect schoolchildren and to provide for the orderly movement of traffic.

### B. GENERAL DUTIES AND RESPONSIBILITIES

It is the duty and responsibility of the School Crossing Guards to:

1. Report directly to assigned crossing stations, be on time, and remain there until the conclusion of the assignment.
2. Ensure That children use the proper crossing locations in that no children are in the street while traffic is moving.
3. Be alert for present or potential traffic hazards in the area surrounding the assigned crossings. Submit to the safety officer a written report of any such hazards with a recommendation for remedial steps to be taken.

# REQUIRED CONDUCT

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.05</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
|   | REVISION<br>DATE: 6/1/2020  |
|   |                             |

In addition to the specific duties of each individual rank and assignment, the following provisions are applicable to all officers and employees of the Department insofar as they are pertinent to their particular functions and responsibilities:

1. Arrests - Whenever possible, arrests shall be made under the authority of a valid warrant. When necessary, arrests without warrant shall be made in accordance with law and all prescribed departmental procedures. All constitutional and statutory rights shall be provided to all arrested persons at time of arrest and immediately thereafter.
2. Furnishing Assistance - Officers shall furnish police assistance to all persons making such request, consistent with their police duties and assignments. They shall assist and cooperate with all other law enforcement agencies, provide them with any authorized information they are entitled to receive, and submit a report on all such action taken.
3. Awareness of Activities - Upon returning to duty from any period of absence, all officers shall inform themselves about all new orders, regulations, memoranda and all other important matters governing their assignments. Every officer of the force shall familiarize himself with all the laws, statutes, ordinances and regulations necessary for the proficient execution of his duty as a police officer.
4. Civil Disputes- All officers shall take a neutral position in any dispute of a civil nature, acting only to prevent or control any breach of the peace that may arise.
5. Civil Suits for Personal Injuries- Any claims for damage to clothing or other personal property belonging to an officer caused by the performance of duty shall be made in accordance with current departmental directives. Officers shall not seek in any way, nor accept from any persons, money or compensation for damages sustained or expenses incurred by them in the line of duty without first notifying the Chief of Police in writing. Officers who have received municipal salaries for illness or for personal injuries sustained off duty, shall notify the Chief of Police in writing of any intent to seek, sue, solicit, or accept compensation as damages for such illness or injury.

Notice shall be filed before the action is taken which shall include the facts of the claim and the name of the defendant. The Chief shall be kept informed of the

status of the case and the final court determination,

This provision shall not apply to private insurance policies held by officers for which premiums are not paid in part or in whole by the municipality

6. Departmental Communications - All officers shall transmit all official communications promptly, accurately and completely to other officers of the department as required, and shall immediately inform the Officer in Charge of any matter of police importance coming to their attention during their tour of duty, or otherwise. They shall call to the attention of their relieving officers any information regarding unresolved problems or problems that may arise during the next tour of duty.

7. Courtesy - All officers shall be courteous and considerate to the public, to their superior officers and to their fellow officers of the Department. They shall be tactful in the performance of their duties and are expected to exercise the utmost patience and discretion even under the most trying circumstances.

8. Defects in Streets or Roadways - Every officer shall observe and forthwith report in writing to the Officer in Charge and defect, obstruction, or nuisance in the streets, sidewalks, or other public areas which may cause a hazard to the general public or create a civil liability upon the community. Appropriate notification shall be made to the radio dispatcher for more immediate remedial action when necessary.

9. Attention to Duty - All officers shall at all times be alert and vigilant in the performance of their duties and respond prudently but decisively when police action is required. Recreational reading will not be permitted while on duty.

10. Devotion to Duty - All officers, while on duty, shall devote their full time and attention to the service of the Department into the citizens of the community. They shall remain awake and alert at all times while on duty.

11. Duty Outside of the Community - Officers of the Department shall not be detailed to perform duty outside of the community limits in another city or town, except to assist the police authorities of that city or town to suppress disorder or to preserve the peace, under the direction of the commanding officer of the Police Department involved. Any such request for assistance from other cities and towns comma and the approval for such assistance, must be acted upon in accordance with M.G.L Chapter 41, Section 99. The officers of this Department, so detailed, she'll have the authority of a police officer in that city or town and shall have the same immunity in privileges as when acting within their own community.

12. Reporting for Duty - All officers shall report for duty promptly at the time and place required by their assignment or as otherwise directed by the chief. They shall be properly uniformed and suitably equipped, ready to immediately assume their duties. While on duty they shall avoid any activities not directly related to their police responsibilities and shall not absent themselves from duty without leave.

Officers unable to report for duty because of sickness or injury shall notify, or cause to be notified comma the officer in charge at least one hour prior to their next tour of duty, except in cases of emergency.

13. Duty Status - Although officers of the force are assigned specific hours of regular duty, they shall be considered quote on duty unquote at all times for the preservation of the public peace and the protection of life and property, and shall be prepared to take all reasonable police action to accomplish this purpose . All serious matters of public concern shall receive appropriate attention, even though an officer is not on duty at the time.

14. Care and Security of Firearms - All officers shall maintain their service firearms in good working order at all times and report any damage, loss, or unserviceable condition immediately to the chief. All officers shall be personally responsible for security and safekeeping of their service firearms at all times and shall not alter or repair any part of their service firearms without the approval of the chief.

15. Use of Firearms - Police officers are authorized to use firearms in life threatening situations, when there is no other reasonable alternative available, but shall comply strictly with prescribed departmental procedures for the use of such force. The use of firearms is the highest degree of force that an officer may apply and is the most crucial official decision ever made. An officer shall never brandish a firearm, or display it unnecessarily at anytime

16. Home Address and Telephone - All officers and employees shall have a telephone in their place of residence, or where they can be reached comma and shall report any change of telephone number or home address within 24 hours of such change period the home telephone numbers or home addresses of officers shall not be given out to anyone outside of the Department, without the authorization of a superior officer. In the event of an emergency request comma the telephone number will be called with a notification to call the person making the emergency request.

17. Identification - All officers shall properly identify themselves to any person requesting this information, while they are on duty, except when the withholding of this information is necessary for the performance of police duty, when it might jeopardize the physical safety of a Department member, or when authorized not to do so by proper authority. Under general laws, chapter 41, section 98 D, every full-time police officer is required to carry an official identification card to be shown to the public upon lawful request.

18. Knowledge of the Community - Every officer shall familiarize himself with the geography of the community, including roots of public transportation comma the location of streets, highways, bridges, public buildings in places, hospitals, courts, transportation offices in stations, prominent or important office buildings, large industrial plants or commercial establishments comma and such other information as may be disseminated by his superior officers from time to time.

19. Leaving the Community - Whenever it is necessary in the performance of duty for an officer to leave the limits of the community and to enter another city or town, he shall inform the officer in charge or the dispatcher prior to leaving and again upon return. If an emergency presents following this procedure, you must contact the officer in charge as soon as possible. In all such cases, a subsequent report will be submitted, in writing, for the attention of the chief, to include the circumstances, the reasons for leaving the community and the period of absence.

20. Line of Duty Disability - Any injury, illness or disability incurred in the line of duty, shall be reported in writing by the officer concern to the officer in charge comma and this report will be properly investigated. Final disposition as to line of duty injuries, illnesses or disabilities shall be made by the chief after consultation with a physician. In each case of illness, injury or disability incurred in the line of duty, no officer shall be returned to duty until his ability to be placed on full duty status is certified by proper medical authority.

21. Mutual Protection - All officers shall come to the immediate aid, assistance or protection of fellow officers who, in the performance of their duties, require such aid and assistance.

22. Paid Details - G.L. c. 44, s. 53C Requires that all payments for paid details must be channeled through the treasurer's office. Officers assigned to pay details are also bound by the provisions of this manual.

23. Personal Appearance - All officers shall be neat and clean in appearance while on duty, whether in or out of uniform, and they shall maintain police quarters, lockers, desks in vehicles used by them in a neat, clean, orderly condition.

24. Personal Relationships - All officers shall be considerate and polite at all times to all department personnel and Maintain good relations with their superiors and their fellow officers in a spirit of mutual concern for their common objectives.

25. Physical or Psychological Examination - An officer shall submit to a physical, medical or psychological examination, at the expense of the Department, when so ordered by the chief.

26. Physical Fitness - All officers shall maintain good physical condition in mental alertness in accordance with the standards determined by the chief. All officers are expected to keep themselves as physically fit as their age permits and the nature of their duties require.

27. Care and Transportation of Prisoners - All arrested persons shall be transported safely and directly to the appropriate place of custody. Officer shall ensure that prisoners do not injure themselves or others and that they do not attempt to escape or dispose of evidence.

28. Care and Custody of Property - All personal property, including money, which comes into an officer's custody while on duty, whether lost, stolen, confiscated, abandoned, turned in to the Department or taken from a prisoner, shall be suitably tagged, recorded and turned over to the proper department authority, or placed in the designated place of storage, for safekeeping, in accordance with current departmental procedures.

29. Public Appearances - All requests for public appearances or speaking engagements by officers, on the subject of department operations or policies, shall be submitted to the Chief for approval. Officers who are approached directly for this purpose shall suggest that such requests be forwarded directly to the Chief.

30. Submitting Reports - All officers shall promptly and accurately complete and submit all reports and forms as required by departmental procedures..

31. Report Use of Weapons - An officer who finds it necessary to use his baton, any chemical agent or his firearm in the performance of duty shall immediately notify the officer in charge in the said officer in charge shall conduct an immediate investigation is to the possibility of injury to any person or property and the propriety of the members use of his weapon. Officer shall make a written report to the chief of any deliberate or accidental discharge of firearms (excluding authorized target practice).

32. Searches and Seizures - All required searches and seizures shall be conducted in accordance with law and all prescribed departmental procedures. All officers serving search warrants shall be responsible for their lawful execution.

33. Trials and Hearings - All officers concerned with cases before the courts, grand jury or hearing boards shall be punctual in attendance. All officers shall have the cases in which they are concerned properly prepared; There witnesses shall be present in their evidence suitably arranged for presentation to the court, grand jury or hearing board. They shall afford the utmost respect towards the court, officers of hearing boards and members of the jury. When presenting evidence or testimony they shall speak calmly and explicitly clear, distinct inaudible tones was to be easily understood. They should give evidence with accuracy, confining themselves to the case before the court and shall neither suppress nor overstate this latest circumstance within intention of favoring any person or projecting ill will to either the complaint or the defendant period when cross examined by a defense attorney, they shall answer with the same civility and readiness as when giving testimony in support of the prosecution.

34. Truthfulness - An officer shall truthfully state the facts and all reports as well as when he appears before any judicial, departmental or other official investigation, hearing, trial or preceding period he shall cooperate fully in all phases of such investigations, hearings , trials in proceedings.

# PROHIBITED CONDUCT

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.06</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
|   | REVISION<br>DATE: 6/1/2020  |

The following acts, actions or activities by department personnel are prohibited or restricted.

1. Conduct Unbecoming an Officer - The commission of any specific act or acts of immoral, improper, disorderly or intemperate personal conduct which reflects discredit upon the officer himself, upon his fellow officers or upon the Police Department.
2. Criminal Conduct - The commission of any felony or misdemeanor, or the violation of the criminal laws or statutes of the United States or of any local jurisdiction.
3. Department Property, Abuse of - Intentionally or negligently abusing, misusing, damaging or losing Police Department property or equipment.
4. Department Telephones, Use of - Department telephones are not to be used for the transmission of private messages.
5. Department Vehicles, Use of - Officers shall not use any department vehicle without the permission of the Officer-in-Charge or drive any department vehicle to which they have not been assigned, except in an emergency. Department vehicles shall not be used for personal business or pleasure.
6. Discourtesy - Being rude, impolite, contemptuous or insolent to a superior officer, to a fellow officer or to a member of the public.
7. False Information on Records - An officer or employee shall not make or submit any false or inaccurate reports or knowingly enter or cause to be entered into any departmental books, records or reports, any inaccurate, false or improper information.
8. Feigning Illness or Injury - An officer shall not feign illness or injury, falsely report himself ill or injured, or otherwise deceive or attempt to deceive any superior officer as to the condition of his health.
9. Improper Associations - Officers and employees shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are persons under criminal investigation or indictment, or who have a reputation in the community or the Department for present involvement in felonious or

criminal behavior, except as necessary to the performance of official duties, with the knowledge and approval of the Chief or where unavoidable because of family relationships of the officers.

10. Incompetence - An officer shall maintain sufficient competency to perform his duty and to assume the responsibilities of his position.

Incompetency may be demonstrated, but is not limited to, the following:

- a. a lack of knowledge of the application of laws required to be enforced;
- b. an unwillingness or inability to perform assigned tasks; or the failure to conform to work standards established for the officer's rank, grade, or position;
- d. repeated poor evaluations or repeated infractions of the rules and regulations.

11. Incurring Department Liability - An officer or employee shall not incur a liability chargeable to the Police Department except in accordance with established departmental procedures

12. Insubordination - Failure or deliberate refusal to obey a lawful order given or issued by a superior officer.

13. Intoxicating Beverages or Drugs, Use of - An officer or employee; (a) shall not, while on duty; consume any intoxicating beverage, except for a proper police purpose with the specific approval of the Chief or a superior officer; (b) shall not, while on duty, use any narcotic, controlled substance or other toxic drug except at the direction of a physician for a specific health purpose (in any case where it is necessary to take any such drug on the advice of a physician, such officer or employee shall notify the Officer-in-Charge upon reporting for duty and be guided by his decision as to their fitness for duty); (c) shall not report for duty while under the influence of intoxicating liquor or under the influence of any narcotic drug or controlled substance unlawfully administered; (d) shall not report for duty with the odor of intoxicants on their breath; (e) shall not, while off duty, render themselves unfit to report for duty through the use of intoxicating beverages or through the use of any narcotic drug or controlled substance unlawfully administered; (f) shall not, while off duty and while wearing any identifiable part of his uniform, drink any Intoxicating beverage in public view or in any place accessible to the public; (g) shall not bring, place or keep, or permit to be brought, placed or kept, in any police building or vehicle, any intoxicating beverage or any narcotic drug or controlled substance, except in the proper performance of police duty as required by departmental practices and procedures.

14. Department Letterhead - Officers and employees shall not use the departmental letterhead for private correspondence or for sending official correspondence out of the Department without the permission of the Chief of Police.

15. Mailing Address - Officers and employees shall not use the Department as a mailing address for private purposes, without permission of the Chief. At no time will the Department be used as a mailing address for the purpose of a motor vehicle license or registration.

16. Neglect of Duty - Being absent from assigned duty without leave; leaving post or assignment without being properly relieved; or failing to take suitable and appropriate police action when any crime, public disorder or other incident requires police attention or service.

17. Department Notices - Altering, defacing or removing without permission any posted notice on the department bulletin board. No notice shall be posted on the department bulletin board or other department property without the

permission of the Chief.

18. Official Information, Dissemination Of - Officers and employees shall treat the official business of the Police Department as confidential and shall conform to the following guidelines

- a. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established departmental procedures.
- b. Access to departmental files, records and reports shall be limited to those officers and employees authorized by the Chief.
- c. Official records or reports shall not be copied, or removed from a police building, except in accordance with established departmental procedures.
- d. The identity of any person giving confidential information to the Department or to any officer thereof in the performance of his duties, shall not be divulged except with the prior approval of the Chief.
- e. No information shall be released, given or issued to the news media or to any members of the press concerning department operations or the evidentiary aspects of any criminal investigation, without the prior approval of the Chief.

19. Personal Business - Officers while on duty or while in uniform, shall not conduct any personal business, purchase any alcoholic beverages or purchase and carry any conspicuous amounts of merchandise, unless required in the performance of duty.

20. Possessing Keys to Private Premises - Having keys to private buildings or dwellings without the knowledge or the permission of the Chief.

21. Recommending Private Services - An officer or employee shall not officially or unofficially recommend or suggest to the public, the employment or purchase of any particular professional or commercial service or product, such as lawyers, bondsmen, undertakers, towing services or burglar alarm companies.

22. Use of Private Vehicles - While an officer is on regular department duty, he shall not cover his duty assignment in or with a private vehicle unless authorized to do so by the Chief.



23. Public Statements - No officer or employee shall make, publish, or issue any derogatory, discreditable, or disparaging public statements concerning the department or its officers, which might tend to undermine the efficiency of department operations and/or the morale of its membership.

24. Smoking While on Duty - Conspicuous smoking in public view while on duty, in uniform, is prohibited.

25. Testimony in Civil Cases - An officer shall not testify in any civil case in court unless legally summonsed to do so or unless he shall have received permission or order from the Chief. When summonsed to testify, he shall notify the Chief in advance.

26. Testimony for Defendant in Criminal Cases - An officer shall not testify for the defendant in a criminal case in any court unless legally summonsed to do so and in such cases he shall, before testifying, inform the Chief of the nature of the testimony he intends to give.

27. Towing Service - No officer shall solicit or assist in any way for a towing service. All requests for towing shall be referred to the station. It shall be the responsibility of the dispatcher to follow the directions of the Chief.

28. Undue Influence - An officer or employee shall not seek or obtain the influence or intervention of any person outside the Department for purposes of personal preferment, advantage, transfer, or advancement.

29. Unnecessary Force - The use of more physical force than that which is necessary to accomplish a proper police purpose. Officers shall use force only when required in accordance with law and departmental procedures.

30. Warrants for Assault Upon a Police Officer - An officer shall not make application for a warrant charging that he was assaulted while in the performance of police duty without first reporting the facts of the case to the Chief and seeking permission, in writing, to make such an application.

31. Wearing the Uniform - An officer shall not wear any identifiable part of his uniform outside the limits of the community except while in the performance of official duty or with the permission of the Chief of Police.

32. Withholding Evidence - An officer or employee shall not fabricate, withhold, or destroy any evidence of any kind.

# UNIFORMS, CLOTHING AND INDIVIDUAL EQUIPMENT

|                                       |                               |
|---------------------------------------|-------------------------------|
| POLICY & PROCEDURE NO.<br><b>2.07</b> | ISSUE<br>DATE: 10/24/2013     |
|                                       | EFFECTIVE<br>DATE: 10/24/2013 |
|                                       | REVISION<br>DATE: 6/1/2020    |
|                                       |                               |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

As service providers, employees should present a professional appearance to the public at all times and reflect a positive image as members of the department. A person who is neatly dressed and well-groomed instills confidence in others about his/her abilities. A professional uniform appearance also enhances morale, fosters teamwork, and develops *esprit de corps*.

## II. POLICY

It is the policy of the department that:

1. Standards of uniform attire shall be maintained by this agency;
2. All employees shall present a neat, well-groomed, professional appearance while in uniform;
3. Non-uniformed employees shall present a neat, well-groomed, professional appearance while on duty and,
4. Exceptions may be made by a competent authority if necessitated by the police mission.

## III. DEFINITIONS

**A. Civilian Attire:** Non-uniform clothing.

- B. Business attire:** Dress clothes such as business suit, suit coat, dress pants, shirt and tie for men, or a business dress or pants suit for women.
- C. Business Casual:** Neat casual clothing such as khakis, dress shirt, polo shirt, etc. Jeans are not considered business casual.
- D. Uniform Accessories:** Articles approved by the Chief of Police which may be worn with the official uniform.
- E. Uniform of the Day:** Uniform as directed by this policy or a competent authority.
- F. Uniform Insignia:** Patches, name tags, rank insignia, and other items worn on the uniform.

## **IV. PROCEDURES**

### **A. Employee Attire**

1. Generally: Employees should present a professional appearance to the public at all times. However, exceptions may be authorized for medical necessity or to further the police mission.
2. COURT:
  - a. Business attire is always appropriate for court appearances and mandatory for Jury Trials, Grand Jury, and Superior Court.
  - b. The uniform of the day and Business Attire is also appropriate for District Court, Clerk Magistrate appearances, or hearings at the Registry of Motor Vehicles.
3. Special Assignments: Attire for special assignments may be directed by the OIC.
4. TRAINING:
  - a. In-service training: Uniform of the day, Business Attire or Business Casual unless stated otherwise by the training authority.
  - b. Classroom type training: Uniform or business casual unless otherwise specified.
  - c. Firearms training: Jeans or tactical pants, outdoor type clothing and footwear, weather appropriate. Body armor is always required at the range. The Firearm Instructor may order specific items be worn.
5. SERVICE WEAR
  - a. Police Officers
    - 1) Administration: **Chief, Court and Juvenile Detective** - Uniform of the day, Business Casual or Business Attire.

- 2) Patrol: Employees shall wear the police patrol uniform with duty belt while performing patrol duties. Specialty assignments are authorized to wear alternate uniforms while performing those duties.
- 3) Extra-duty Details: The police duty uniform or detail shirts approved by the Police Chief shall be worn for most details.  
While working traffic details, officers may wear a firearm in a pancake or molded polymer holster rather than the complete duty belt.
- 4) Services: Uniform of the day, Dress uniform or Business attire.
- 5) Variations to normal attire may be authorized by a supervisor.
- b. Dispatchers: Business casual, department issued shirts, or clothing approved by the Dispatch Manager while performing dispatching duties.
- c. Clerical: Business casual unless otherwise authorized.
- d. Animal Control Officer: Employees will generally be uniformed while performing normal duties.
- e. K-9 Officer: Class C Uniform – See below

## ***B. Department Uniforms***

### **1. WEARING OF UNIFORMS GENERALLY**

- a. All uniform items issued or paid for by the department are property of the department.
- b. Only members of this department are authorized to wear a department uniform. Uniforms may be worn only for an official police purpose.
- c. Only issued or authorized uniform items may be worn as part of this department's uniform.
- d. Civilian clothing shall not be worn with any distinguishable part of the uniform, including uniform pants, unless the employee is commuting to or from duty.
- e. Officers shall keep their uniforms neat, clean and well-pressed at all times.
- f. Care should be taken not to wear threadbare or faded items.
- g. The uniform cap shall be worn out of doors/vehicles unless otherwise directed by a supervisor or Police Chief.

- h. Officers shall not wear any identifiable part of the uniform outside the limits of the community except while in the performance of official duty, while commuting to and from duty, or with the permission of the Chief of Police.

## 2. AUTHORIZED UNIFORMS ITEMS GENERALLY

- a. Footwear: The following footwear is authorized to be worn with the department uniform unless otherwise specified:
  - 1) Black, low quarter, leather uniform shoes.
  - 2) Black leather athletic/walking shoes.
  - 3) Black leather or ballistic nylon/leather combination uniform boots.
- b. Except for bicycle patrols, uniformed employees wearing footwear where the socks are exposed shall wear black or navy blue socks.
- c. Undershirts shall not be exposed at the sleeve. Undershirts exposed while wearing the department uniform must be white, dark blue or black in color.
- d. Insignia
  - 1) No buttons, insignia, attachments or coverings of any kind will be worn on a department uniform unless it is authorized by the Chief of Police.
  - 2) A black mourning band may be worn around the department badge when a law enforcement officer is killed in the line of duty in the Commonwealth, or when authorized by the Chief of Police. The band may be worn from the time of official death notification through the day of the funeral.

## 3. POLICE OFFICERS

- a. Class A, Dress Uniform
  - 1) The dress uniform will consist of a uniform dress blouse, pants, long sleeve uniform shirt and tie.
  - 2) Footwear shall be black, patent leather, low quarter shoes or paratrooper boots with black socks.
  - 3) Duty belt, holster, magazine holders and cross strap shall be of black, patent leather.
  - 4) Insignia:
    - a) The department patch shall sewn on to left sleeve of the dress blouse, one half (1/2) inch from the shoulder seam, centered on the shoulder.

- b) A coat badge shall be worn on the left breast of the dress blouse, as provided by the garment manufacturer.
  - c) A name tag shall be worn over the right breast pocket.
  - d) Military service ribbons may be worn one half (1/2) inch above the name tag.
  - e) A uniform tie bar shall be worn, even with the lower edge of the shirt pocket flap.
  - f) Service Stripes
    - i. Service stripes may be worn on the left sleeve of the dress blouse. The stripe(s) shall be situated one half (1/2) inch above the upper cuff seam with the rear of the stripe abutting the sleeve crease. A single stripe shall signify **five years** of service as a full time sworn officer.
  - g) The dress hat shall be worn with the hat badge affixed to the front of the hat, as provided by the manufacturer.
- b. Class B, Patrol Uniform
- 1) Summer uniform consists of uniform short sleeve shirt, pants, mesh uniform hat and footwear. The new shirt style outer vest carrier may be worn with this uniform.
  - 2) Winter uniform consists of uniform long sleeve shirt and tie or turtleneck shirt, pants, cloth uniform hat and footwear. The new shirt style outer vest carrier may be worn with this uniform.
  - 3) Outer wear: Uniform jackets, coats, uniform sweater, insulated cold weather hat, department watch hat, rain gear and black gloves. High visibility traffic vest or cross straps, and gloves may be worn while directing traffic.
  - 4) Insignia
    - a) Department Patch: The department patch will be worn on left sleeve, centered on the sleeve crease, one half (1/2) inch from the shoulder seam.
    - b) Patrolman badges, name tag and other insignia shall be of polished chrome finish. Superior officer badges, name tags and other insignia shall be of polished brass or gold finish.
    - c) Name Tag: The name tag shall be worn on the right side. Name tags shall be worn on uniform shirts **[and outerwear where a place is provided]**. Name tags shall not be worn on rain gear.

- d) Badge: The department shirt badge shall be worn left side above the shirt pocket, as provided by the clothing manufacturer. A coat badge shall be worn on outerwear in the location provided by the clothing manufacturer. If no location is provided by the manufacturer, a badge need not be worn on that outer garment.
- e) Rank insignia shall be worn on all shirts and outerwear with the exception of rain gear.
- f) Sergeant Chevrons shall be worn on both sleeves in a position one half (1/2) inch below the department patch, centered on the sleeve crease.
- g) Rank insignia for other superior officer ranks may be worn sewn onto or pinned to both of the shirt or outerwear epaulets.
- h) Service Stripes
  - i. Service stripes may be worn on the left sleeve of the long sleeve shirt and outerwear, other than rain gear and uniformed sweater. A single stripe shall signify **five years** of service as a full time sworn officer. The stripe(s) shall be situated one half (1/2) inch above the upper cuff seam with the rear of the stripe abutting the sleeve crease.

c. Class C, Utility Uniform

- 1) The uniform consists of a black or Dark Blue long sleeve uniform shirt (winter), short sleeve uniform shift (summer), or other shirt approved by the Police Chief, BDU pants, utility hat and footwear.
- 2) The new vest carrier (looks like a uniform shirt) and Class B uniform outer wear may be worn with this uniform.
- 3) The Class B duty belt or a ballistic nylon duty belt is authorized to be worn with the Class C uniform.
- 4) Insignia:
  - a) Department Patch: The department patch will be worn on **LEFT** sleeve, centered on the sleeve crease, one half (1/2) inch from the shoulder seam.
  - b) Badge: A cloth badge shall be affixed over the left breast, above the pocket.
  - c) Name Tag: The employee's name shall embroidered and affixed over the right pocket.

d. Bicycle Patrol

- 1) This uniform consists of a uniform or police department golf type shirt which may be worn with short or long pants, and a protective helmet. Footwear is black athletic shoes with white socks for short pants, black or navy blue socks for long pants. The Class B duty belt or a ballistic nylon duty belt may be worn.

- a) A police department marked jacket may be worn as outerwear.

#### 4. DISPATCHERS

- a. Business casual or a department issued shirt will be worn while performing dispatching duties. Jeans are discouraged to be worn between the hours of 7:00am and 11:00pm due to the high volume of civilian interactions however the Dispatch manager will make the ultimate decision.

#### 5. ANIMAL CONTROL OFFICER

- a. Summer uniform consists of short sleeve shirt, pants and footwear.
- b. Winter uniform consists of a long sleeve shirt and tie or turtleneck shirt, pants and footwear.
- c. Outer wear: Jackets, coats, uniform sweater, insulated cold weather hat, department watch hat, rain gear and gloves.
- d. Insignia:
  - 1) Badges, name tag, and other insignia shall be of polished chrome finish.
  - 2) Department Patch: The department patch will be worn on **LEFT** sleeve centered on the sleeve crease, one half (1/2) inch from the shoulder seam.
  - 3) Name Tag: The name tag shall be worn on the right side. Name tags shall be worn on uniform shirts **[and outerwear where a place is provided]**. Name tags shall not be worn on rain gear.
  - 4) Badge: The department shirt badge shall be worn left side above the shirt pocket, as provided by the clothing manufacturer. A coat badge shall be worn on outerwear in the location provided by the clothing manufacturer. If no location is provided by the manufacturer, a badge need not be worn on that outer garment.



### ***C. Individual Equipment***

1. BADGES
  - a. Badges shall be issued by and remain the property of this department and must be returned as directed by a competent authority.
  - b. Animal Control Officer: Shall be issued one each, shirt, jacket, and wallet badge.
2. Body Armor: will be issued by the police department and shall be worn at all times by all officers while outside of the police department on patrol or responding to calls for service. See the Body Armor policy for more information and exceptions.
3. Duty Belt: At a minimum, the basic duty belt shall consist of a “Sam Brown” belt, holster, magazine holder, handcuff case, radio case and keepers. Additional weapons and holders may be issued or authorized. Additionally, the following accessories are authorized. Accessories must be of similar material to the belt (nylon, leather, etc.).
  - a. Folding knife and case
  - b. Leatherman or similar tool
  - c. Pagers
  - d. Cell phones
  - e. Key retainers
  - f. Baton ring
  - g. Flashlight and holder
  - h. Tazer and holder
4. Identification: Department identification cards shall be issued by and remain the property of this agency and must be returned by the employee as directed by a competent authority. Identification cards shall be issued to all police officers.

### ***D. Uniform and Clothing Issue***

1. Change of Uniform: In the event that an authorized uniform item is changed, existing uniform items shall remain in service as directed by the Chief of Police. The Chief may direct that the item be:
  - a. Replaced immediately at the cost of the department;
  - b. Replaced when no longer serviceable; or
  - c. Replaced at the discretion of the employee, paid for from the employees clothing allowance.

## 2. PROMOTIONS

- a. Upon an employee's promotion to the rank of sergeant, the employee's uniforms shall be updated immediately with sergeants' chevrons at the expense of the department.
- b. Upon an employee's promotion to a rank above sergeant, the employee's uniforms shall be updated immediately with the appropriate rank at the expense of the department.

### ***E. Obtaining Clothing and Equipment***

#### 1. INITIAL ISSUE:

- a. Clothing: New employees shall be provided with a uniform and equipment purchase authorization. New employees may obtain the specified uniform and equipment items from an approved vendor.
- b. Individual Equipment: Employees shall obtain department issued uniform and equipment items and record all purchased items with the Police Chief's Administrative Assistant.

#### 2. MAINTENANCE ISSUE: Employees may obtain replacement uniform items:

- a. By charging replacement items at an approved vendor against the employee's clothing allowance

***F. Lost, Stolen, and Damage Reporting:*** Loss or damage of uniform items, badges, insignia, or individual equipment issued by this department, **shall be reported in writing immediately to the Police Chief.**

### ***G. Returning Issued Clothing and Equipment***

1. Issued Police Department property shall be returned upon separation from Police Department employment, when no longer needed or serviceable, or when instructed by a competent authority.
2. Upon return, **the Police Chief and/or Staff Sergeant** shall provide the employee with a receipt for the returned equipment.
3. Returned items shall be inspected for serviceability. Serviceable items may be re-issued. Some items which may be re-issued are:
  - a. Portable Radios
  - b. Firearms and magazines
  - c. Flashlights
  - d. Impact Weapons
  - e. Badges
  - f. Outer wear

- g. Citation Book Holders
  - h. Forms Boxes
  - i. Other items as determined by the Chief of Police.
4. Uniform items discarded by employees shall be
- a. destroyed so as to render them no longer serviceable and to keep them from being used by unauthorized personnel to impersonate a department employee.
- Or**
- b. returned for disposal.

### ***H. Separation from Service and Retirement***

1. Officers who separate from the department without retiring or retire for medical reasons are required to return all uniform clothing, firearms, weapons, magazines, individual equipment, body armor, badges and identification. Footwear and gloves may be retained by the separating member.
2. Officers who retire after satisfactorily completing their service and wish to remain a part time police officer may retain all uniforms, outerwear, hats, footwear and duty belt at the discretion of the Chief of Police, until such time as they no longer actively work as a part time officer.
3. Retired members shall be issued a retirement identification card and badge.

# UNIFORMS AND APPEARANCE

|   |  |
|---|--|
| <p style="text-align: center;">POLICY &amp; PROCEDURE NO.</p> <p style="text-align: center;"><b>2.071</b></p> | <p>ISSUE</p> <p>DATE: 3/1/1980</p>     |
|   | <p>EFFECTIVE</p> <p>DATE: 3/1/1980</p> |
|   | <p>REVISION</p> <p>DATE: 6/1/2020</p>  |

Officers shall wear such uniforms and insignia of rank as the Chief may, from time to time, prescribe. They should present a good personal appearance to the public at all times and reflect a positive image as officers of the Police Department. The police uniform identifies the officer and makes him readily accessible to the citizen. It is, therefore, vital that the officers of the Department maintain a neat and clean appearance, and that the uniform serve as an appropriate introduction to the members of the community.

I. Hair Styles for Male Officers - Hair will be neat, clean, trimmed and present a well groomed appearance. Hair shall not cover the ears and will be trimmed in back and on the sides so that it does not extend over the collar. Hair in front will be groomed so that it does not fall below the band of properly worn headgear. In no case will the bulk or length interfere with the proper wearing of any authorized headgear.

- a. Sideburns - If an officer chooses to wear sideburns, they will be neatly trimmed and tapered. Sideburns may extend to a level consistent with the lower most limit of the earlobe, will be of even width (not flared) and will end with a clean-shaven horizontal line.
- b. Mustache - Mustaches shall be neatly trimmed at all times and shall not extend beyond the upper lip in any direction and shall not extend below the lip line.
- c. Beards - The face will be clean shaven other than for the acceptable mustache or sideburns. Beards and goatees are prohibited as are any other hair growth below the lower lip. (Exceptions to this rule may be granted by the Chief of Police for special reasons or purposes).
- d. Wigs - Wigs or hair pieces may be worn on duty for cosmetic reasons to cover natural baldness or physical disfigurement. When worn they shall be of good quality, consistent in styling with these Rules and Regulations, and shall not interfere with the wearing of any required headgear.

2. Hair Styles for Female Officers- All sworn female officers shall conform with the following criteria:

Hair will be clean, neatly arranged and styled consistent with the type of duty performed. Hair will not be worn in any style longer than shoulder length and must not be worn in a style that prevents the proper wearing of a uniform hat or cap. Hair ornaments such as ribbons will not be worn, Pins, combs or barrettes similar in color to the individual's hair color maybe worn. Wigs or hairpieces are permitted if they conform to the standards for natural hair.

3. Wearing the Uniform - Uniforms shall be kept neat, clean, and well pressed at all times. Care should be taken not to wear threadbare or faded items. The uniform cap shall be worn out of doors unless otherwise directed by competent authority. While in uniform officers shall display their badge on the outermost garment over their left breast. The Chief shall periodically issue special orders pertaining to daily or seasonal wearing of uniforms.

4. Civilian Clothing- Male officers and employees permitted to wear civilian clothing during a tour of duty, shall wear either a business suit or sports coat and slacks. A dress-style shirt with tie shall be worn. The Chief or Commanding Officers may prescribe other types of clothing when necessary to meet particular police objectives. Unless otherwise directed, female officers and employees permitted to wear civilian clothing shall conform to standards normally required of office personnel in private business firms. Civilian clothing will not be worn with any distinguishable part of the police uniform.

# MOURNING BAND WEAR

|  |                                  |
|--|----------------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.072</b> | ISSUE<br><br>DATE: 5/25/2016     |
|  | EFFECTIVE<br><br>DATE: 5/25/2016 |
|  | REVISION<br><br>DATE: 6/1/2020   |
|  |                                  |

It is the Policy of the Montague Police Department that all “On Duty” Police Officers will wear an approved Mourning Band around the most visible Police Badge on their uniform in accordance with the rules set forth below:

- 1) **Upon the Line of Duty Death of a Police Officer that is a member of this agency** - the mourning band shall be worn from the time of death until midnight on the 30th day following the death.
- 2) **Upon the Death of a Police Officer who is a member of this agency and not in the line of duty** - the mourning band shall be worn from the time of death until midnight on the 30th day following the death.
- 3) **Within Franklin County** (Neighboring agencies) - the mourning band shall be worn from the time of death until midnight on the day of the funeral.
- 4) **Any Other Massachusetts Police Officer** - the mourning band shall be worn from the time of death until the conclusion of the funeral.
- 5) **On Law Enforcement Officer Memorial Day in May each year** – shall be worn from 12:01am to 11:59pm on the Law Enforcement Memorial Day each year.

## Approved Mourning Bands include:

- 1) A Black colored Band
- 2) A Black colored Band with a Blue Stripe down the Middle.
- 3) Measuring approximately ½ - ¾ inches wide

# DEPARTMENTAL PROPERTY AND EQUIPMENT

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.08</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
|   | REVISION<br>DATE: 6/1/2020  |
|   |                             |

Equipment issued to officers of the Department shall remain the property of the Department. Officers and employees shall maintain department property and equipment assigned to them in good condition. Damaged or lost property may subject the responsible individual to reimbursement charges and/or appropriate disciplinary action.

1. Damaged, Defective or Inoperative Property and Equipment - Officers and employees shall immediately report in writing to the Chief any loss or damage to department property or equipment assigned to them. The Chief shall also be notified of any defects or hazardous conditions existing in any department property or equipment.
2. Care of Department Buildings- Officers and employees shall not mar, mark or deface any surface in any department building. No material shall be affixed in any way to any wall in department buildings without specific authorization from the Chief.
3. Authorized Equipment- While on duty, an officer shall carry only such equipment as is issued by the Department or authorized by the Chief.
4. Surrender of Department Property - Officers and employees are required to surrender all department property in their possession upon separation from the service, or when otherwise ordered.
5. Upkeep of Police Manual - All officers and employees who are issued this Manual are responsible for its maintenance and knowledge of its contents and they are required to make appropriate changes or inserts as issued by the Chief. The Manual shall be considered department property and shall be surrendered to the Police Department upon separation from service.
6. Department Vehicles- A valid Massachusetts driver's license is required of all officers. Officers shall not use department vehicles without permission of the Officer-in-Charge. Department vehicles shall only be used for official police business,



7. Transporting Citizens- Only authorized police personnel may drive or be transported in departmental vehicles. Citizens shall be transported in department vehicles only when necessary to accomplish a police purpose. Such transportation shall be in conformance with department policy or at the direction of the Chief.

8. Safe Driving of Police Vehicles- The driver of any police vehicle shall operate said vehicle in a reasonable and safe manner, exercising due caution and judgment. He shall operate the police vehicle in compliance with the motor vehicle laws and traffic regulations. When in actual pursuit or in responding to an emergency, he shall strictly adhere to the driving procedures established for the operation of emergency vehicles, and shall act in compliance with G.L. c. 89, s. 7B.

9. Reporting Accidents- Accidents involving department vehicles, property, personnel, and/or equipment must be reported to the Chief, in writing, in accordance with department procedures.

All motor vehicle accidents involving police department vehicles shall be investigated immediately in accordance with procedures established by the Chief.

10. Responsibility for Vehicle - An officer who is assigned to duty as an operator of a department vehicle shall be responsible for checking the serviceability of the vehicle assigned to his use. Except when the vehicle is in emergency use, the officer or employee shall inspect the vehicle when it is turned over to him and shall submit a written report to the Officer-in-Charge of any defect, damage or unserviceability of said vehicle. The officer at the same time shall also inspect the interior of the vehicle for the presence of any unauthorized articles.

II. Unattended Police Vehicle- The operator of a department motor vehicle shall lock the ignition and remove the key when leaving the vehicle unattended and, except in an emergency he shall also lock the doors of such vehicle when it is unattended.

12. Report of Loss or Damage- In the event that department property is lost, or found bearing evidence of damage which has not been reported, the last person using the property may be charged with failure to report same and may be held responsible for damages.

# ACCOUNTABILITY AND DISCIPLINE

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.11</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
|   | REVISION<br>DATE: 6/1/2020  |
|   |                             |

An effective and responsive system of personnel accountability and discipline has for its purpose the maintaining of efficient department performance and the preserving of overall department morale. A clearly defined disciplinary policy enables all officers and employees to know what is expected of them and to understand that appropriate discipline will be administered when required. Essential fairness and justice are the foundation of the disciplinary process and it is the personal responsibility of the Chief to ensure that this standard is equitably maintained.

1. Under the provisions of M.G.L. Chapter 31, officers and employees may be disciplined for just cause. This would include any misconduct or unsatisfactory behavior which impairs personnel or departmental efficiency or effectiveness.
2. Disciplinary actions which may be imposed after statutory procedural requirements are observed, are as follows:
  - a. Punishment duty (M.G.L. c.31 sec. 62)
  - b. Suspension not exceeding five days (M.G.L. c. 31 sec. 4-l)
  - c. Suspension exceeding five days (M.G.L. c. 31 sec. 4-l)
  - d. Lowering in rank and compensation (M.G.L. c. 31 sec. 4-l)
  - e. Transfer without consent (M.G.L. c. 31 sec. 4-l) (Does not include transfers or assignment changes within the Department).
  - f. Discharge (M.G.L. c. 31 sec. 4-l)

Statutory provisions provide for review before the Civil Service Commission (M.G.L. c. 31 sec. 4-3) and thereafter before the state courts (M.G.L. c. 31 sec. 44).

Probationary officers having less than one year's service charged with violations of these Rules and Regulations are subject to discharge without right to a hearing or appeal under the provisions of M.G.L. c. 31 s. 34-.

A complete record will be made of the facts and circumstances of any disciplinary action taken and will be retained in the personnel record file of the officer or employee involved.

3. Department standards of conduct and performance will be enforced in a uniform and consistent manner and the disciplinary measures taken will be based upon the seriousness of the charges.

4. When appropriate, the following disciplinary measures may first be considered:

- a. Oral Reprimand - The Chief or a superior officer may reprimand or admonish for minor infractions of department regulations or procedures. At the Chief's discretion a record of the same may be entered in an individual's personnel file. Each notation entered in an oral reprimand action shall be deleted from the file at the end of twelve calendar months. However, if new disciplinary action is taken against the officer during the twelve month period, the notation of the oral reprimand becomes a permanent part of the individual's personnel file.
- b. Written Reprimand- The Chief of Police may issue a written reprimand for infractions of department regulations or procedures. All letters of reprimand will become a permanent part of the individual's record and be included in the personnel file of the Department.

5. Officers will not be subjected to unjust, capricious or frivolous complaints and they will be exonerated when investigation determines that they were carrying out their duties in accordance with law or in compliance with department practices and procedures.

# COMMENDATIONS

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.12</b> | ISSUE<br>DATE: 3/1/1980     |
|   | EFFECTIVE<br>DATE: 3/1/1980 |
|   | REVISION<br>DATE: 6/1/2020  |
|   |                             |

As essential as it is for a police department to have an effective internal disciplinary process, it is equally important to have a positive program of awarding commendations for outstanding duty performance. This is the means by which deserving officers can receive official recognition for their accomplishments.

1. Any meritorious act or action performed by an officer which is considered to be above and beyond the performance of routine duty, shall be reported in writing to the Chief by the superior officer concerned, with his recommendation on for commendation.
2. The following categories of acts or actions will be considered for commendation:
  - a. The personal display of extraordinary courage and valor in the performance of police duty;
  - b. The exemplary performance of meritorious police service to the community;
  - c. The performance of outstanding and exceptional service to the Police Department.
3. The basic award of the Department is a Letter of Commendation, written on a standard Police Department letterhead, signed by the Chief and outlining the reasons for the award.
4. A Certificate of Commendation is awarded for superlative and distinguished performance of police duty and is signed by the Chief of Police, and by the Appointing Authority, on behalf of the citizens of the community. A Letter of Commendation accompanies this certificate setting forth the circumstances and the basis for the award.
5. All official commendations will be posted on the Department Bulletin Board and a copy placed in the commended officer's personnel file.
6. A Special Citation, when appropriate, signed by the Chief, may be awarded to a citizen who has performed a commendable and laudable act or action which has been of aid and assistance to the Police Department or to an officer in the performance of police duty.

## SEXUAL HARASSMENT POLICY OF THE TOWN OF MONTAGUE

### I. Introduction

It is the goal of the Town of Montague to promote a workplace which is professional and which treats those who work here with dignity and respect. Sexual harassment is unlawful and will not be tolerated by this Town. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will also not be tolerated.

Because the Town of Montague takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is demonstrated to our satisfaction that such harassment occurred, we will act promptly to eliminate the harassment and impose such corrective action as is necessary, including disciplinary action where appropriate.

### II. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is as follows:

"sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests, or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.

These definitions are broad and include any sexually oriented conduct, whether it is intended or not, by supervisors, employees, elected and appointed officials and in some instances, third parties, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers. Prohibited conduct also extends to any function or activity which is officially sponsored by the Town of Montague. While it is not possible for the Town of Montague to list all those circumstances which we would consider to be sexual harassment, the following are some examples:

- Unwelcome sexual advances - whether they involve physical touching or not;
- Requests for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment;
- Assault or coerced sexual acts.

The following conduct may also constitute sexual harassment in certain circumstances:

- Use of sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comments on an individual's body, comments about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one's sexual experiences;
- Discussion of one's sexual activities; and
- Comments regarding gender stereotypes which demean, embarrass, or humiliate employees.

### III. Private Counseling Option

If you believe you are the victim of sexual harassment, in addition to the right to file a complaint, you may also seek advice from the Employee Assistance Program or the Town's Employee Assistance Team. Both the EAP and the Employee Assistance Team are available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process. If you desire, they can work with you to find a way of resolving your concerns in an informal manner acceptable to you and in a manner which offers you privacy and confidentiality. If this option does not resolve the complaint, you may proceed through our complaint procedure set forth in Section IV, below.

### IV. Complaints of Sexual Harassment

If any of our employees believes that he/she has been subjected to sexual harassment, it is our policy to provide the employee with the right to file a complaint with the Town. This may be done in writing or orally to a member of the town's Employee Assistance Team (EAT). When the EAT, or a member thereof representing the EAT, receives the complaint, an investigation of the allegation in a fair and expeditious manner will occur. The EAT's investigation will include a private interview with the person filing the complaint and with witnesses. He/she will also interview the person alleged to have committed sexual harassment. If an oral complaint has not been resolved by an EAT member to the satisfaction of an aggrieved party, that individual may submit a written complaint to the entire EAT. The EAT may request written statements in addition to the private interviews. If the EAT is unable to resolve the complaint, investigative findings will be reported to the Selectboard for disposition.

If the investigation reveals that sexual harassment did occur, the Town will act promptly to eliminate the offending conduct, and where it is appropriate, impose disciplinary action which could include termination from employment. In addition, when the investigation is completed through formal or informal procedures, the EAT will inform the person filing the complaint and the alleged harasser in writing of the results of that investigation, including allegations that have not been sustained.

### V. Employee Assistance Team

The Employee Assistance Team (EAT) shall be comprised of three employees of the Town. The Team shall be comprised of one representative (elected) or (chosen) from the labor sector of the collective bargaining units, one member (elected) or (chosen) from department heads/management whether union, non-union or elected, and one representative who shall be chosen at-large by the other two representatives. Members of the team shall serve for 3 year staggered terms. The initial terms shall be: labor representative (3 years), management representative (2 years) and at-large representative (one year). Subsequent terms shall be appointed for three years each. Each gender shall be represented on the Employee Assistance Team.

### VI. Disciplinary Action

If sexual harassment has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, transfers, and other formal sanctions allowed by contract or personnel policy, including termination.

VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the following government agencies:

**The United States Equal Employment Opportunity Commission**

One Congress Street, 10th Floor, Room 1001

Boston, MA 02114

(617) 565-3200

**The Massachusetts Commission Against Discrimination**

Boston Office:

One Ashburton Place-Room 601

Boston, MA 02108

(617) 727-3990

Springfield Office:

424 Dwight Street, Room 220

Springfield, MA 01103

(413) 739-2145

VII. Review of Sexual Harassment Policy

It shall be the responsibility of the Board of Selectmen to review the Sexual Harassment Policy every three years, at minimum. The Board of Selectmen shall consult with the Employee Assistance Team prior to amending or altering the Policy.

Adopted by the Board of Selectmen, Town of Montague, on December 16, 1996

Leon G. Monahan Jr.  
Clarkson L. Edwards  
Bradford C. Coward





# Montague Police Department

## DCJIS/CJIS Policy

|   |                             |
|---|-----------------------------|
| POLICY & PROCEDURE NO.<br><br><b>2.15</b> | ISSUE<br>DATE: 3/9/2020     |
|   | EFFECTIVE<br>DATE: 3/9/2020 |
|   | REVISION<br>DATE: 6/1/2020  |
|   |                             |

### I. GENERAL CONSIDERATIONS AND GUIDELINES

The purpose of this policy is to establish guidelines for the proper operation of fixed, mobile, and portable criminal justice information system (CJIS) workstations, and to ensure the lawful handling and disposal of Criminal Offender Record Information (CORI) information generated from or maintained within the CJIS network

### II. POLICY

It is the policy of the department that:

#### CJIS SYSTEM ACCESS:

- A. The Department shall keep/maintain direct terminal access to the Criminal Justice Information System (CJIS).
- B. The use of a CJIS workstation is for criminal justice purposes only. These include the commission of official criminal justice duties (i.e. investigations, bookings, warrant entry etc.), qualifying an individual for employment within a criminal justice agency, and qualifying an individual to determine his/her eligibility to possess a firearms license. It cannot be used for non-criminal purposes including transactions conducted for public and private educational establishments, municipal agencies, town government officials, etc. is strictly prohibited

## *DCJIS/CJIS*

- and is punishable by a fine, suspension of services and/or incarceration.
- C. Each operator shall immediately report any damage to a CJIS workstation to one's supervisor. It is this agency's responsibility to report an inoperable CJIS workstation to one's supervisor.
  - D. No CJIS equipment including CJIS workstations, mobile data workstations or personal digital assistant/palm pilots shall be modified or altered in any way from its set up configuration, unless it is done by the DCJIS or the device's contract vendor, and then only with notification to, and concurrence of, the DCJIS.
  - E. Only authorized personnel will be allowed remote access to department workstations and only authorized connections with proper access logging will be use.
  - F. Any and all CJIS information passing through a network segment will be protected pursuant to FBI CJIS Security Policy.

### CJIS SYSTEM ACCESS:

- A. All operators of CJIS workstations shall be trained, tested, and certified under procedures set forth by the DCJIS before using a workstation and shall be re-certified biannually thereafter.
- B. Each CJIS workstation operator shall use one's assigned password when accessing the CJIS network and shall not give this password to anyone under any circumstances. No one shall use the network under another individual's password.
- C. All operators shall log on to the network at the beginning of one's work day and shall log off at the end of one's work day to ensure that transactions are logged under the appropriate user name. This will prevent one operator from being held responsible for another operator's CJIS transactions. Appropriate care will be taken to not allow any unauthorized access to CJIS.
- D. Agencies entering records into CJIS must monitor their CJIS workstation(s) and printer(s) twenty-four (24) hours a day, seven (7) days a week, fifty-two (52) weeks a year, to perform hit confirmations.
- E. A. Authorized personnel shall protect and control electronic and physical access to CJI while at rest and in transit.
- F. The Department has implemented appropriate safeguards for

## *DCJIS/CJIS*

protecting CJI to limit potential mishandling or loss while being stored, accessed, or transported. Any inadvertent or inappropriate CJI disclosure and/or use must be reported to the on-duty supervisor.

- G. All personnel must follow the established procedures for securely handling, transporting, and storing media.
- H. When no longer usable, hard drives, diskettes, tape cartridges, CDs, ribbons, hard copies, print-outs, and other similar items used to process, store, and/or transmit CJI and classified and sensitive data shall be properly disposed of in accordance with the measures described herein

### FINGERPRINT REQUIREMENTS:

- A. The CJIS User Agreement and the FBI CJIS Security Policy require each CJIS agency to conduct fingerprint-based criminal record checks on all personnel prior to hire and at least once every two years thereafter. In addition, agencies must conduct fingerprint-based criminal record checks on all other individuals who have unescorted access to secure (non-public) areas of the agency prior to allowing access. These individuals include city/town IT personnel, contractors, vendors, custodians, and volunteers.
- B. These background check requests are submitted either as criminal justice employment checks (for all employees of the department) or as criminal justice checks (all non-employees) and can be done on your live-scan fingerprinting device. There is no fee for these checks.
- C. Important: with regard to fingerprint-based background checks conducted on non-department personnel, no information received in response to a fingerprint-based check may be disseminated to the individual's actual employer.
- D. If a felony conviction of any kind exists, an employee is not to be allowed access to the CJIS or to any information derived from the CJIS, and the Department is required to notify the DCJIS, in writing, as soon as practical. In the case of a non-employee, the agency must deny unescorted access to the individual.
- E. If a misdemeanor conviction exists, the Department must notify the DCJIS and must request a waiver before the employee is allowed to access the CJIS or CJI, or before the non-employee is provided unescorted access to secure areas.

- F. A part of their respective auditing programs, both the DCJIS and the FBI will check to ensure that the appropriate fingerprint-based background checks have been completed by the agency being audited. An agency which has not conducted these fingerprint-based checks as required will be found out-of-compliance in this area.
- G. Should there be any questions about these fingerprinting requirements, contact the CJIS Support Services Unit by phone at 617.660.4710 or via email at [cjis.support@state.ma.us](mailto:cjis.support@state.ma.us).

### III. SCOPE

- A. This policy applies to all employees, contractors, temporary staff, and other workers with access to CJIS and FBI systems and/or data, sensitive and classified data, and media. This policy applies to all equipment that processes, stores, and/or transmits CJI and classified and sensitive data that is owned or leased by the DCJIS.
- B. The scope of this policy applies to any electronic or physical media containing CJI while being stored, accessed, or physically moved from the Department. This policy also applies to any authorized person who accesses, stores, and/or transports electronic or physical media containing CJI. Transporting CJI outside of the Department must be monitored and controlled.

### IV. DEFINITIONS

**Electronic media**- includes memory devices in laptops and computers (hard drives) and any removable, transportable digital memory media, such as magnetic tape or disk, backup medium, optical disk, flash drives, external hard drives, or digital memory card.

**Physical media**-includes printed documents and imagery that contains CJI

### V. PROCEDURE FOR THE USE OF CJI

Each CJIS workstation and the information obtained from it are to be handled in conformity to the policies and guidelines set forth by:

1. The Massachusetts General Laws
2. The Code of Massachusetts Regulations (CMR)
3. 28 code of Federal Regulations 20.
4. The Massachusetts Department of Criminal Justice Information Services through manuals, training, CJIS Administrative Messages, information contained on the CJIS Extranet, and

information disseminated at the Regional Working Groups meetings.

## **A. CORI OVERVIEW**

- A. The Massachusetts Public Records Law (G.L. c. 4, § 7) gives the public the right of access to most records maintained by a government agency. However, CORI information, including that which is obtained from the CJIS network is exempt from public access under the CORI Law (G.L. c. 6, §§ 167-178).
- B. CORI is data compiled by a criminal justice agency concerning an identifiable individual and which relates to the nature of an arrest, criminal charge, judicial proceeding, incarceration, rehabilitation or release, and may include a juvenile tried as an adult.
- C. Under 803 CMR, only those officials and employees of criminal justice agencies, as determined by the administrative heads of such agencies, shall have access to CORI. Criminal justice employees are eligible to receive CORI as needed during the course of their official duties.
- D. Reasons for conducting a board of probation (BOP) check may include, but is not limited to:
  - I. an investigation
  - II. an arrest
  - III. an individual applying for criminal justice employment
  - IV. local licensing purposes (i.e. where the police department is the licensing agency) and door-to-door sales people where the municipality requires the police department to regulate, and
  - V. Firearms licensing purposes.
- E. The officer may share CORI with other officers or criminal justice agencies when an investigation is being conducted, however, the dissemination must be logged in the agency's secondary dissemination log with the date, time, individual checked, purpose, officer's name, and the agency and agent to whom the information was given.
- F. A local municipal agency seeking CORI must apply to the DCJIS for CORI certification. If certified by the DCJIS, that agency shall submit all requests for CORI to the DCJIS.

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- G. Anyone requesting a copy of his or her own CORI shall be given a form to request such information from the DCJIS, or be directed to the DCJIS Web site, [www.mass.gov/cjis](http://www.mass.gov/cjis), to print the form.
- H. Many non-criminal justice agencies have been authorized by the DCJIS to receive CORI information under G.L. c. 172 (a). Such authorization was given to these agencies in writing, and a copy of this letter should be provided by these requesting agencies to the agency or police department that will be providing the requested CORI information.
- I. All other requests for CORI shall be referred to the Chief's office.
- J. To lawfully obtain CORI and to then furnish the information to any person or agency not authorized to receive is unlawful and may result in criminal and/or civil penalties (G.L. c. 6, § 177 and § 178).
- K. All complaints of CORI being improperly accessed or disseminated shall be handled as a citizen complaint and the Chief shall be advised of the matter. The complainant shall also be advised that they may file a complaint with the DCJIS by calling (617) 660-4760.

### **B. CORI**

- A. This policy is applicable to the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, professional licensing applicants, and applicants for the rental or leasing of housing.
- B. Where Criminal Offender Record Information (CORI) and other criminal history checks may be part of a general background check for employment, volunteer work, licensing purposes, or the rental or leasing of housing, the following practices and procedures will be followed:

#### **1. CONDUCTING CORI SCREENING**

- A. CORI checks will only be conducted as authorized by the DCJIS and MGL c. 6, §.172, and only after a CORI Acknowledgement Form has been completed.
- B. With the exception of screening for the rental or leasing of housing, if a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject

shall be given seventy two (72) hours' notice that a new CORI check will be conducted.

- C. If a requestor is screening for the rental or leasing of housing, a CORI Acknowledgement Form shall be completed for each and every subsequent CORI check.

## **2. ACCESS TO CORI**

- A. All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a "need to know". This may include, but not be limited to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications. (Requestor Organization Name) must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

## **3. CORI TRAINING**

- A. An informed review of a criminal record requires training. Accordingly, all personnel authorized to review or access CORI at will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.
- B. All personnel authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

## **4. USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING**

- A. CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.
- B. Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

## **5. VERIFYING A SUBJECT'S IDENTITY**

- A. If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.
- B. If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

## **6. INQUIRING ABOUT CRIMINAL HISTORY**

- A. In connection with any decision regarding employment, volunteer opportunities, housing, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

## **7. DETERMINING SUITABILITY**

- A. If a determination is made, based on the information as provided in section V of this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, , then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:
  - (a) Relevance of the record to the position sought;
  - (b) The nature of the work to be performed;
  - (c) Time since the conviction;
  - (d) Age of the candidate at the time of the offense;
  - (e) Seriousness and specific circumstances of the offense;
  - (f) The number of offenses;
  - (g) Whether the applicant has pending charges;
  - (h) Any relevant evidence of rehabilitation or lack thereof; and
  - (i) Any other relevant information, including information submitted by the candidate or requested by the organization.



The applicant is to be notified of the decision and the basis for it in a timely manner.

## **8. ADVERSE DECISIONS BASED ON CORI**

- A. If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' ***Information Concerning the Process for Correcting a Criminal Record***.

## **9. SECONDARY DISSEMINATION LOGS**

- A. All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record *any* dissemination of CORI outside this organization, including dissemination at the request of the subject.

## **C. INTERSTATE IDENTIFICATION INDEX**

- A. Interstate Identification Index (III) checks may only be made for three (3) purposes: the administration of criminal justice; background check of a person applying for criminal justice employment; background check of a person applying for a Firearms Identification Card or a Firearms License to Carry Permit.
- B. Each agency must be able to identify a requestor of internal III inquiries.
- C. Whenever III information is disseminated internally or externally to another criminal justice agency, it must be logged in the agency's III Records Check Log with the same information provided in the Agency's Secondary Dissemination Log.

## **1. NCIC FILES POLICY COMPLIANCE SUMMARY**

- A. This Department must ensure that caution indicators are set properly for wanted person file entries and explained in detail

under the Misc. field

- B. When entering Wanted Persons and/or Missing Persons, Vehicle, and any other records into the CJIS/NCIC system, one must make certain that all records are entered in a timely manner being sure to include all available information to create a complete record.
- C. Invalid records should be removed promptly from the CJIS network to guarantee integrity of the data.
- D. Every entry made into the CJIS/NCIC system should be subject to a second party check to ensure accuracy of the record.

## **2. NATIONAL INSTANT CRIMINAL BACKGROUND CHECKS SYSTEMS SURVEY (NICS)**

- A. NICS can only be used for Firearms Licensing purposes, no other transactions are authorized. Per the FBI, 'NICS can't be used for employment screening of any type, or to check on individuals used as references for firearms related permits. Finally, the NICS cannot be used for law enforcement investigations outside the scope of the Gun Control Act in conjunction with the Alcohol Tobacco Firearms and Explosives.'

## **VI. PROCEDURES FOR THE PROTECTION OF CJI**

- A. To protect CJI, every employee, contractor, intern, and temporary worker shall:
  - 1. Securely store electronic and physical media containing CJI within a locked drawer or cabinet when away from the work area for more than 5 minutes. Employees with offices must lock their office doors.
  - 2. Restrict access to electronic and physical media to authorized individuals.
  - 3. Ensure that only authorized users remove CJIS in printed form or on digital media.
  - 4. Physically protect CJI until media end of life. End of life CJI is to be destroyed or sanitized using approved equipment, techniques, and procedures. (See Media Disposal Policy)
  - 5. Not use personally owned devices to access, process, store, or transmit CJI unless pre-approved by the Commissioner.

6. Not utilize publicly accessible computers to access, process, store, or transmit CJI. Publicly accessible computers include, but are not limited to, hotel business center computers, convention center computers, public library computers, and public kiosks.
7. Store all hardcopy CJI printouts in a secure area accessible to only those employees whose job functions require them to handle such documents.
8. Take appropriate action when in possession of CJI while not in a secure area:
  - a. CJI must not leave the employee's immediate control. CJI printouts cannot be left unsupervised while physical controls are not in place.
  - b. Precautions must be taken to obscure CJI from public view, such as by means of an opaque file folder or envelope for hard copy printouts. For electronic devices like laptops, use session locks and/or privacy screens. CJI shall not be left in plain public view. When CJI is electronically transmitted outside the boundary of a physically secure location, the data shall be immediately protected using encryption.
    - i. When CJI is at rest (i.e. stored electronically) outside the boundary of a physically secure location, the data shall be protected using encryption. Storage devices include external hard drives from computers, printers, and copiers. In addition, storage devices include thumb drives, flash drives, back-up tapes, mobile devices, and laptops.
    - ii. When encryption is employed, the cryptographic module used shall be certified to meet FIPS 140-2 standards.
9. Lock or log off his/her computer when not in the immediate vicinity of the work area to protect CJI.

## **1. MEDIA TRANSPORT:**

- A.** Only sworn employees and authorized contractors are permitted to transport CJI outside of the Department. Each employee and contractor will take every precaution to protect electronic and physical media containing CJI while in transport and/or to prevent inadvertent or inappropriate disclosure and use.
- B.** Sworn employees and authorized contractors shall:

## *DCJIS/CJIS*

1. Protect and control electronic and physical media during transport outside of controlled areas.
2. Restrict the pickup, receipt, transfer, and delivery of such media to authorized personnel.
3. Include privacy statements in electronic and paper documents.
4. Secure hand carried, confidential electronic and paper documents by:
  - a. storing the documents, or the electronic media containing the documents in a closed handbag, laptop bag, brief case, etc.
  - b. viewing or accessing the CJI only in a physically secure location.
  - c. packaging hard copy printouts in such a way as to not have any CJI information viewable.
  - d. mailing or shipping CJI only to authorized individuals; DO NOT MARK THE PACKAGE TO BE MAILED CONFIDENTIAL; packages containing CJI material are to be sent either only by either U.S. Mail or by another shipping method(s) that provides for complete shipment tracking and history.
5. not take CJI home or when travelling unless absolutely necessary.

## **2. INADVERTENT OR INAPPROPRIATE DISCLOSURE OF CJI**

- A. If CJI is unintentionally or improperly disclosed, lost, or reported as not received, the following procedures must be immediately followed:
  1. You shall verbally notify the on-duty supervisor immediately.
  2. The supervisor will communicate the situation to the Captain. The Captain, in turn will notify the Chief and the ISO of the loss or disclosure of CJI.
  3. The Captain will review the incident and will implement 93H disclosure procedures if required.
  4. The ISO will review the incident and, if required, will notify the FBI CJIS Chief Information Security Officer (CISO) following established procedures.

## **VII. PROCEDURES FOR THE DISPOSAL OF CJI**

### **A. Physical media**

1. Print-outs and other physical media shall be disposed of by;
  - I. Shredding, using the shredder located in Records Office

### **B. Electronic media**

1. Hard-drives, tape cartridges, CDs, printer ribbons, flash drives, printer and copier hard-drives, etc.) will be properly disposed of by the Information Technology Department using one or more of the following methods:
  - I. Overwriting (at least 3 times) - an effective method of clearing data from magnetic media.
  - II. Degaussing - a method to magnetically erase data from magnetic media.
  - III. Destruction – a method whereby magnetic media is physically destroyed by crushing, disassembling, etc., ensuring that the platters have been physically destroyed so that no data can be retrieved
2. IT systems that have been used to process, store, or transmit CJI and/or sensitive and classified information shall not be released from the Department's control until the equipment has been sanitized and all stored information has been cleared using one of the above methods.
3. Any employee who has any type of electronic media to be destroyed is to notify his/her supervisor. The supervisor will be responsible for contacting IT Department to arrange for proper disposal of the media.

## **PENALTIES FOR IMPROPER ACCESS, DISSEMINATION AND HANDLING OF CJIS DATA**

1. An employee who improperly accesses or disseminates CJIS data will be subject to corrective disciplinary action up to and including, loss of

access privileges, civil and criminal prosecution, and termination. **See Disciplinary Procedure Policy.**

2. In addition to any penalty imposed by this department, a CJIS user may be subject to federal and state civil and criminal penalties for improper access or dissemination of information obtained from or through CJIS pursuant to M.G.L. c. 6, §§ 167A(d), 168 and 178 and 28 CFR 20: *Criminal Justice Information Systems*.

# TRAINING EXPENSE AND TRAVEL POLICY

|                                |                             |
|--------------------------------|-----------------------------|
| POLICY & PROCEDURE<br>NO. 2.16 | ISSUE<br>DATE: 3/3/2014     |
|                                | EFFECTIVE<br>DATE: 3/3/2014 |
|                                | REVISION<br>DATE: 6/1/2020  |
|                                |                             |

1) Nobody is to take their own personal car to training without approval from the Police Chief. The Police Department has plenty of cruisers, marked and unmarked, available. There may be many times when I have no choice but to allow you to take your own car. It is very expensive to pay you to take your own car.

2) If you organize and/or attend a training that is reimbursable from some other agency or source, I want to know about it and you will be responsible for making sure the proper paperwork is being filled out to get that reimbursement. Marsha and I will still do what we can but we will need your help. If you don't fill out the paperwork then it could lead to less training due to no money. These trainings that say FREE aren't free. I have to pay to replace you and at times your mileage, etc.

3) If your training involves an overnight stay(s) the Police Chief must approve the reservations and costs. There may be times when you want to go to a training that I can't pay for the overnight and/or all your meals. It will be up to you to decide if it's worth going or to fund your own stay.

## **Police Identification**

|   |                                   |
|---|-----------------------------------|
| <b>POLICY &amp; PROCEDURE NO.</b><br><b>#2.19</b> | ISSUE<br>DATE: __7-24-17__        |
|   | EFFECTIVE<br>DATE: __7-24-17__    |
|   | REVISION<br>DATE: <u>6/1/2020</u> |

### **1 General Considerations and Guidelines**

#### **1.1 Purpose**

1.1.1 It is imperative that citizens who are approached or questioned by police officers be able to verify that the officer is actually a law enforcement officer. It is also important that sworn personnel carrying firearms are able to identify themselves to security and other law enforcement personnel when entering secure properties or interacting with other law enforcement agencies.

1.1.2 The Montague Police Department is participating with other Massachusetts police departments in a state-wide program administered by the Massachusetts Chiefs of Police Association to provide identification cards for authorized police officers, both active and retired. The purpose of the project is to provide a secure, standardized identification card that will assure the public and law enforcement officers that the bearer is a legitimate sworn officer in the Commonwealth of Massachusetts. Identification cards issued under this program utilize security features to thwart counterfeiting and tampering.



## **1.2 Authority**

- 1.2.1 M.G.L. 41 § 98D requires that municipal police departments issue identification cards to every full time officer bearing the officer's photograph and the municipal seal. The statute requires that officers carry the cards on their person, and exhibit them upon lawful request for purposes of identification. Identification cards issued are the property of the issuing department, and shall be surrendered immediately upon demand to a ranking officer or designee of such an officer.

## **1.3 Definitions**

- 1.3.1 **"Officer"** in this policy shall, unless the context dictates otherwise, apply to those employed both on a full-time and a part-time basis, the latter including all those so employed regardless of their designation as a special, reserve or intermittent police officer.
- 1.3.2 **"Ranking Officer"** in this policy shall be understood to mean an officer of higher attained rank only, and not to mean an officer of seniority based on time. "Detective" shall be considered an assignment, not a rank. Therefore, a Detective shall *not* be considered a "Ranking Officer" to a patrolman.
- 1.3.3 **"Retired Officer"** in this policy shall refer to a former full time officer meeting the criteria further described and specifically defined in Section 4 of this policy.
- 1.3.4 **"ID Card"** in this policy shall refer to a Police Identification Card as described herein.

## **2 Policy**

### **2.1 It is the policy of the Montague Police Department to:**

- 2.1.1 Provide one identification card to every police officer;
- 2.1.2 Require officers to carry their identification card with them at all times while on duty, except in unusual circumstances and when properly authorized;

- 2.1.3 Provide one identification card to every full-time police officer who separates from the department and meets all of the criteria further described and specifically defined in Section 4 of this policy; and
- 2.1.4 Ensure that if any identification documents are issued to other employees of the department, that they are of a design that is easily distinguishable from the ID cards issued to police officers.

### **3 Procedures**

**3.1 The Chief of Police or his designee will issue ONE identification card to every police officer.**

**3.2 Every ID card will bear the following on the front of the card:**

- 3.2.1 A banner containing the words “Commonwealth of Massachusetts” and “Police”;
- 3.2.2 A full face photograph of the officer;
- 3.2.3 An image of the department’s uniform shoulder emblem;
- 3.2.4 The officer’s full name;
- 3.2.5 The officer’s rank (in the case of a part time officer, the rank shall be “Reserve Officer”);
- 3.2.6 The name, address, and telephone number of the police department; and
- 3.2.7 The signature of the Chief of Police or Acting Chief of Police at the time of the card’s issuance.

### 3.3 Carrying of Identification Cards

- 3.3.1 Police officers shall carry their ID cards on their person in an easily accessible place at all times while on duty.
- 3.3.2 Officers who are on duty or conducting police action while off-duty shall display their ID card upon the lawful request of a citizen, except when doing so would be dangerous or would compromise a police investigation, such as in the case of an officer acting in an undercover capacity.
- 3.3.3 Off-duty officers are encouraged to carry their ID card on their person at all times, excluding those circumstances where they are unable to properly secure it, and shall display it upon the lawful request of a law enforcement officer.
- 3.3.4 Officers *must* carry their ID card on their person in an easily accessible place, whether inside Massachusetts or in another state, whenever carrying a *department issued* firearm. An off duty officer, while encouraged to do so, may choose whether or not to carry his or her ID card when carrying a non department issued firearm.
- 3.3.5 Officers have been seriously injured or killed during robberies because the subjects robbing them realized that they were robbing a police officer. For this reason, off-duty officers or officers working in plainclothes ***shall not*** carry their ID in such a way that it is plainly visible when the officer retrieves cash or a credit card.

### 3.4 Control of Identification Cards

- 3.4.1 The department will issue *one* ID card to every police officer at the time of the implementation of this policy. Thereafter, as new officers join the department, an ID card will be issued to them. Typically, this will be to full-time officers upon graduation from the police academy, or when such officers join the department by other routes, such as so-called “lateral transfers” or hiring from other police agencies. In the case of part-time officers this will be upon graduation from the Reserve/Intermittent Training Program of the Municipal Police Training Committee, or upon hiring a part time officer from another agency who has already completed said training.
- 3.4.2 Upon issuance of ID cards, each individual shall sign off on:
  - 3.4.2.1 The receipt of their card;
  - 3.4.2.2 The receipt of a copy of this policy; and
  - 3.4.2.3 An acknowledgement of understanding and agreement to abide by this policy.
- 3.4.3 Due to the likelihood that criminals will use stolen police identification to commit a crime, all officers shall diligently safeguard their cards so as to prevent loss or theft. Officers whose lack of diligence results in the loss or theft of an ID card shall be subject to disciplinary action.
- 3.4.4 Officers shall not loan or give their ID cards to any person. They shall, however, surrender the same on demand to a ranking officer of the department.
- 3.4.5 Officers shall not reproduce photograph or post images or copies of their ID on the Internet or elsewhere or allow others to do so, unless specifically granted permission *for each individual instance* by the chief of police or his designee.
- 3.4.6 Any officer who loses his/her ID card, or whose ID card is stolen, shall immediately, *whether on duty or off*, report the loss or theft to the Shift Commander currently on duty, who shall;
  - 3.4.6.1 File a written report concerning the loss or theft; and
  - 3.4.6.2 Ensure that the card is entered as a stolen article in LEAPS and NCIC under the article type ICREDEN (The cards are serial numbered). The remarks field of the entry should contain a description of the card.
- 3.4.7 Lost or stolen cards that are recovered shall be cancelled in LEAPS and NCIC. If a replacement card has already been issued, the recovered card shall be destroyed.
- 3.4.8 Upon return to duty, the officer whose ID card was lost or stolen shall file a full report to the Chief of Police, documenting the events surrounding the loss or theft.

3.4.9 Lost, damaged or stolen ID cards will be replaced by the department; however the department may assess the cost of the replacement card to the card holder if the loss, damage, or theft of the card was the result of the officer's negligence in their duty to appropriately safeguard the card.

3.4.10 The department will demand the return of an ID card from any officer whenever the officer:

3.4.10.1 Is suspended;

3.4.10.2 Is prohibited by the department from carrying a firearm;

3.4.10.3 Is terminated; or

3.4.10.4 Resigns transfers or retires from the department.

3.4.11 Officers are responsible for applying for a new ID card whenever there is a change in the officer's name, full or part-time status, or rank.

3.4.12 Department ID cards have expiration dates. Every officer is personally responsible for ensuring that he or she:

3.4.12.1 Obtains a new card prior to the expiration of the existing card; and

3.4.12.2 Returns the expiring card to the department as soon as the new card is received.

## **4 Identification Cards for Former Police Officers**

### **4.1 Criteria**

4.1.1 Upon the separation from duty of any full-time officer, the department will issue an ID card identifying the officer as a retired police officer, provided that the officer:

4.1.1.1 Separated in good standing, meaning that such officer was not charged with or suspected of criminal activity at the time of retirement, nor was he or she

under investigation or facing disciplinary action for an ethical violation of departmental rules, or for any act of dishonesty;

4.1.1.2 Before such separation, served as a full time law enforcement officer for an aggregate of ten years or more, or separated from service due to a service-connected disability after completing his or her probationary period;

4.1.1.3 Is not unqualified to be a police officer for reasons relating to mental health; and

4.1.1.4 Is not prohibited by Federal law from possessing a firearm.

## **4.2 Design of Retired Police Identification Cards**

4.2.1 ID cards issued to retired officers as described above will be of the same design as those issued to active duty officers except that they will bear the word “RETIRED” in red lettering on the face of the card.

## **4.3 Control of Retired Police Identification Cards**

4.3.1 ID cards issued to retired officers remain the property of the Police Department.

4.3.2 Retired Officers who receive an ID card must sign an agreement stating that they recognize that:

4.3.2.1 The card belongs to the department, and that they agree to return it upon demand;

4.3.2.2 Issuance of a retired ID card *does not* it and of itself grant the retired officer to carry a firearm;

4.3.2.3 They have read, understood, and agree to comply with this policy; and

4.3.2.4 That they have read and satisfy the definition of a “qualified retired law enforcement officer” under Title 18 USC, Section 926C.

## **Police Identification Card Receipt and Acknowledgement**

I, \_\_\_\_\_ hereby acknowledge that:

Initials

1. I have received my police identification card, serial # \_\_\_\_\_
2. I have been provided a copy of the "Police Identification Policy", Revision 1.1 \_\_\_\_\_
3. I have read, understood, and will abide by the aforementioned policy \_\_\_\_\_

Officer's Signature

Date

\_\_\_\_\_

\_\_\_\_\_

Issuing Officer's Signature

Date

\_\_\_\_\_

\_\_\_\_\_

# RESPONSE TO CALLS

|                                       |                             |
|---------------------------------------|-----------------------------|
| POLICY & PROCEDURE NO.<br><b>3.01</b> | ISSUE<br>DATE: 9/9/2013     |
|                                       | EFFECTIVE<br>DATE: 9/9/2013 |
|                                       | REVISION<br>DATE: 6/1/2020  |
|                                       |                             |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The manner in which officers respond to calls for services will vary according to the nature and severity of the call. This is necessary to ensure the maximum safety of the general public and of the officers themselves. Types of calls can be classified into three categories: routine, urgent, and emergency. The type of response is determined by the category into which the call falls. The total number of officers to be initially sent on a call can also be determined through these categories.

The purpose of this policy is to provide personnel with clear guidelines as to what calls will generally fit into which category, thus determining the degree of response and the number of officers to be assigned. None of these procedures will preclude the possibility of circumstances which will alter our normal and expected reactions. Response to any type of call requires an officer to utilize the shortest and safest route of travel.

## II. POLICY

It is the policy of this department that:

1. The department will evaluate the urgency of the police response to a given situation and assign the appropriate number of officers; and,
2. In situations when the department is unable to respond to calls with sufficient on-duty personnel, it may have to rely on off-duty officers, non-regular personnel and officers from neighboring departments via mutual aid agreements.



### III. PROCEDURES

#### **A. *Statutory Guidelines:*** Emergency Vehicle Operation: M.G.L.

Chapter 89, Section 7B states that the driver of any police vehicle "in an emergency and while in the performance of a public duty may drive such vehicle at a speed in excess of the applicable speed limit if [s]he exercises caution and due regard under the circumstances for the safety of persons and property, and may drive such vehicle through an intersection of ways contrary to any traffic signs or signals regulating traffic at such intersection if [s]he first brings such vehicle to a full stop and then proceeds with caution and due regard for the safety of persons and property, unless otherwise directed by a police officer regulating traffic at such intersection."

#### **B. *Categories of Calls for Service***

##### 1. GENERALLY

- a. Under the direction of the officer-in-charge, the number of officers to be assigned to a call will normally be left to the dispatcher's discretion.
- b. Certain types of crime will require the dispatching of at least two officers.
  - 1) Emergency calls and many urgent calls will normally require two officers or units to respond.
  - 2) Routine calls will normally require only one officer or unit to respond.
- c. Patrol supervisors have the responsibility and authority, at their discretion, to determine the number of officers necessary at any particular call or assignment.
- d. It shall be the responsibility of the dispatcher or person taking the call to obtain information from the caller which will determine the severity and thus govern the degree of response to any call.
- e. Dispatchers should avoid giving callers overly optimistic estimates of the timeliness or level of probable police response. Simply stated, do not make promises concerning how many officers will arrive or how quickly they will respond unless you are absolutely certain.
- f. The following procedures provide guidelines for the evaluation of the urgency of a police response to a given situation.

##### 2. EMERGENCY CALLS: CODE THREE RESPONSE

- a. Emergency calls are those which require immediate response from the department. They are critical in nature and will usually

involve situations where there is actual danger of serious injury or death.

- b. Officers responding to emergency calls will use both emergency lights and siren, except when doing so would eliminate the element of surprise desired when responding to certain types of crimes in progress, and will adhere to the law.<sup>1</sup>
  - c. Officers must bear in mind that during the response, they have a responsibility to the public to ensure that their actions do not create a greater public hazard than is represented by the nature of the situation to which they are responding.
  - d. Conditions that will define an Emergency/Code Three Response are:
    - 1) Any imminent threat to life or danger of serious physical injury or major property damage;
    - 2) Any ongoing felony or misdemeanor that involves violence and may result in injury;
    - 3) Any serious felony or violent misdemeanor that has just occurred and reason exists to believe the suspect is still in the area;
    - 4) Any incident that involves exigent or unique circumstances that demand an immediate police response; and
    - 5) An officer in trouble call or any request from an officer for an emergency response.
  - e. Examples of emergency calls would include a shooting or stabbing; personal injury motor vehicle accidents; life threatening need for medical assistance; bank or armed robberies in progress; serious felonies in progress; subject with a gun or other deadly weapon; a bombing, explosion, major fire, or building collapse; and hostage situations.
  - f. If available, a minimum of two officers or units shall be dispatched on these types of calls. Other units on duty should immediately deploy themselves to a location within their area which is closest to the location of the call in case they, too, are dispatched.
  - g. Responses to vehicular pursuit calls shall be governed by the department policy on **Vehicular Pursuit 4.03**.
3. URGENT CALLS: CODE TWO RESPONSES
- a. Urgent calls are those which require quick response on the part of the officer, but are not so critical that they could be termed emergency. An officer's presence is needed at the scene, but the need is not immediate.

- b. An Urgent/Code Two Response is accomplished by responding directly to an assignment without unnecessary delay. This type of call will have flexibility in the manner of response (i.e., emergency lights with or without siren). The response should be made in a quick but safe manner.
  - c. Units responding to urgent calls should be attentive to their radios, as the situation may quickly change to a more or less serious incident.
  - d. Conditions that will define an Urgent/Code Two Response are:
    - 1) Any incident that does not represent a significant threat to life and property or a felony that has occurred without injury and the suspect has fled the area;
    - 2) An in-progress incident that could be classified as a possible crime;
    - 3) Any incident that represents a significant hazard to the flow of traffic;
    - 4) Any incident that requires a prompt, non-emergency response;
    - 5) An officer's call for non-emergency assistance (back-up unit, potential but not present problem); and
    - 6) Officers holding a prisoner and requesting transport will receive an Urgent/Code Two Response unless special circumstances dictate otherwise.
  - e. Examples of Urgent Calls are domestic/family problems; property damage motor vehicle accidents; non-life threatening medical aids; and any other call which requires immediate response by the department.
  - f. Urgent calls will generally require that at least two units be dispatched, unless the primary unit responding is a two officer unit.
  - g. All officers must remain aware of the statutory limits placed on the operation of a patrol vehicle when emergency lights and sirens are in use.<sup>2</sup>
4. ROUTINE CALLS: CODE ONE RESPONSE
- a. Routine calls are those which require police response for the purpose of taking some sort of action, but which do not require immediate arrival, since the situation will probably not deteriorate to critical status due to the time period of that arrival.
  - b. A Routine/Code One Response involves no emergency lights or sirens. It is a normal traffic speed response.

- c. Usually, only one officer will be initially assigned, unless the dispatcher or shift commander feels it necessary for safety purposes to assign more than one. Examples of routine calls would be past breaking and entering; loud groups or parties; barking dogs; larceny or stolen car reports; transport assistance (bank deposit) for retail businesses; and, any other call which can be termed routine in nature.
- d. Routine responses include a call for service and taking a report.

### ***C. Response to Officer Initiated Calls***

1. Any units responding to an officer initiated call (such as an officer in trouble) shall notify the dispatcher that they are responding and shall indicate from where they are responding.
2. Units will continue their response at the direction of the dispatcher.
3. All units will closely monitor their radios in the event that the situation changes (officer in trouble downgraded to a backup), so that their response can be appropriately modified.
4. The first unit to arrive at the scene will report the current situation so that other units may adjust their response accordingly.
5. Any units called off, by either the dispatcher or a supervisor, will immediately discontinue any emergency operation and resume their normal patrol.

### ***D. Upon Arrival***

1. Upon arrival, first responding employees shall assess the situation and determine, based upon the information at hand, if responding resources are adequate for the situation.
2. If the response appears excessive, the employee shall notify the dispatcher and may request a reduced response.
3. The employee may request additional resources as appropriate for the situation, or in accordance with department policy, by contacting the dispatcher.
4. On-duty, local, or contracted resources may be requested directly by the first responding officer. Such resources may include requests for a supervisor, Emergency Medical Services, investigator, fire department, highway department, Mass Highway, Gas Company, etc.
5. Requests for off duty personnel, mutual aid, or specialty assistance shall be authorized by a supervisor.
6. Any determination as to response made by the supervisor shall be followed.

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<sup>1</sup>M.G.L. c. 89, §7B.

<sup>2</sup>M.G.L. c. 89, §7B.

# USE OF FORCE

|                        |                             |
|------------------------|-----------------------------|
| POLICY & PROCEDURE NO. | ISSUE<br>DATE: 2/5/2016     |
|                        | EFFECTIVE<br>DATE: 2/5/2016 |
| 3.02                   | REVISION<br>DATE: 6/1/2020  |
|                        |                             |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

Police officers are continuously confronted with situations requiring or resulting in the use of force. The degree of force used is dependent upon the facts surrounding the situation the officer's face. Only a reasonable and necessary amount of force may be used. The objective of the use of force is to maintain and/or reestablish control over a situation.

## II. POLICY

It is the policy of the department that:

1. Officers use only the force that is reasonably necessary to accomplish lawful objectives; such as to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others.
2. When exigent and unforeseen circumstances cause officers to deviate from the provisions of this rule, officers are still expected to act with intelligence, sound judgment and in full conformity with both state and federal laws and constitutional provisions. Any such deviations from the provisions of this rule shall be examined on a case by case basis.

## III. DEFINITIONS

- A. *Force*: Any physical effort used to compel, repel and/or control.
- B. *Non-Lethal Force*: (Non-Deadly Force) Force which is not likely or intended to cause serious bodily harm or death.

- C. *Lethal Force*: (Deadly Force) Force which is likely or intended to cause serious bodily harm or death.
- D. *Bodily Harm*: A bodily injury that does **not** create a substantial risk of death, and does not cause serious and/or permanent disfigurement, or significant loss or impairment of the functioning of any body part.
- E. *Serious Bodily Harm*: (Serious Bodily Injury) A bodily injury that creates a substantial risk of death, causes serious and/or permanent disfigurement, or results in significant loss or impairment of the functioning of any body part.

## IV. PROCEDURES

### A. Use of Force by Sworn Officers

1. SWORN OFFICERS: Officers use only the force that is reasonably necessary to accomplish lawful objectives such as to make a lawful arrest, to place a person into protective custody, to effectively bring an incident under control, or to protect the lives or safety of the officer and others.
2. PERCEIVED CIRCUMSTANCES: The level of force used by an officer shall be a response based upon:
  - a. Threat Perception - *the reasonable officer's perspective* of the situation in reference to the severity of any crime, the existence of an immediate safety threat to the officer or others, and the degree of compliance from the subject;
  - b. Perceived Subject Action(s) - the subject action(s), *as perceived by the reasonable officer*:
    - 1) Compliant: The officer maintains or gains compliance to desired directives via options of tradition, time, presence, communication skills, etc.
    - 2) Passive Resistive: The subject's degree of noncompliance is free of physical or mechanical enhancement, other than sheer unresponsiveness to the officer's directives.
    - 3) Active Resistive: The subject's noncompliance has become more active in scope and intensity to a level of energy enhanced physical or mechanical defiance.
    - 4) Assaultive (Bodily Harm): An actual attack upon, or aggression towards, an officer or others. The scope and severity of the attack would not support the reasonable officer's assessment of death or serious bodily harm to occur to the officer or others.

- 5) Assaultive (Serious Bodily Harm/Death): The reasonable officer could conclude that death or great bodily harm may be inflicted as a result of the subject's actions.

### 3. REASONABLE OFFICER RESPONSES

- a. Cooperative Controls: (Compliant) - Includes the subject's acceptance of authority by the use control techniques including; communication skills, common tactics, body language, etc.
- b. Contact Controls: (Passive Resistant) - "Hands on" techniques used to guide or direct the subject. The primary force component at this level could be non-pain compliance techniques, etc.
- c. Compliance Techniques: (Active Resistant) - The force forms could include elements of pain compliance, chemical irritants, joint restraints, non-striking baton control techniques, electrical weapons in drive stun mode, etc.
- d. Defensive Tactics: (Assaultive) – The officer is justified in taking appropriate steps to immediately cease the assaultive action and to gain compliance and maintain control of the subject. Force could include weapon (baton) strikes, electrical weapon deployment, and canine apprehension.
- e. Deadly Force: (Lethal) - Absolute and immediate tactics must be deployed to stop the lethal risk and secure conclusive compliance and control. Force options could include those leading to permanent debilitation or even death, including firearms and any weapons of available means.

## ***B. Use of Deadly Force***

1. Officers are authorized to use deadly force to:
  - a. Protect the officer or others from what is reasonably believed to be a threat of death or serious bodily injury; and/or
  - b. To effect an arrest only if<sup>1</sup>:
    - 1) The arrest is for a felony;
    - 2) The officer reasonably believes that the force employed creates no substantial risk to innocent persons; and
    - 3) The officer reasonably believes (i.e. has “probable cause” to believe) that:
      - a) The crime for which the arrest is to be made involved conduct including the use or threatened use of deadly force; or



- b) There is a substantial risk that the person to be arrested may cause death or serious bodily harm if such person's apprehension is delayed.
- 2. Where practical prior to discharging a firearm, officers shall identify themselves as law enforcement officers.
- 3. Officers may use deadly force to euthanize an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured when the officer reasonably believes that deadly force can be used without harm to the officer or others.

### ***C. Deadly Force Restrictions***

- 1. WARNING SHOTS: Firearms shall not be discharged as a bluff or warning.
- 2. MOVING VEHICLES: Officers should refrain from discharging a firearm at a moving vehicle unless any occupant is using or threatening to use deadly force. Officers should not shoot when the vehicle is no longer an imminent threat.

### ***D. Use of Non-Lethal Force***

- 1. Where deadly force is not authorized, officers may use only that level of force that is reasonably necessary to bring an incident under control.
- 2. Officers are authorized to use non-deadly force techniques and issued equipment to:
  - a. Protect the officer, subject, or others from harm;
  - b. Restrain or subdue a resistant individual, while making a lawful arrest or placing a person in protective custody; and/or
  - c. Bring an unlawful situation safely and effectively under control.
- 3. The mere placing of handcuffs on a prisoner will not be construed to be a use of physical force regulated under this policy. Use of restraining devices is mandatory on all prisoners, unless in the officer's judgment unusual circumstances exist which make the use of restraining devices impossible, detrimental, or unnecessary (e.g., very young juvenile, handicapped, injured).

### ***E. After Care***

- 1. ELECTRICAL WEAPONS: Suspects subdued by the use of an electrical weapon must receive specific after care. See the department policy on ***Electrical Weapons, 3.11***, for further information.
- 2. Chemical Weapons
  - a. Pepper Spray

- 1) Suspects subdued through the use of pepper spray may need to be decontaminated. Officers should refrain from decontaminating detainees while they are violent or assaultive.
  - 2) Remove suspect from contaminated area. If the subject was sprayed in a closed room or vehicle, ventilate the area if possible.
  - 3) Suspects should be instructed to try to be calm and not to touch their face. If suspect is known to be wearing contact lenses, allow suspect to remove them as soon as reasonably and safely possible.
  - 4) Decontamination wipes may be used if available.
  - 5) Allow suspect access to a running hose, holding cell sink, eye wash station, or other clean water source if circumstances permit. The effected area may be washed with soap and water.
  - 6) Creams and oils should be avoided as they lock the capsicum against the skin.
  - 7) If symptoms such as breathing difficulties, profuse sweating and loss of consciousness persist, seek medical attention.
- b. Tear Gas – CN, CS, CR
- 1) Remove suspect from contaminated area to fresh air. Wind or a fan blowing on the suspect will remove particles.
  - 2) Avoid rubbing eyes. Wash affected area with soap and water.
  - 3) Remove contaminated clothing.
  - 4) Be careful to avoid becoming cross contaminated.

### ***F. Medical Attention***

1. After any level of force is used (including weaponless tactics), the officer shall immediately evaluate the need for medical attention or treatment for that person upon whom the force was used and arrange for such treatment when:
  - a. The suspect is in obvious need of medical attention.
  - b. The suspect has a serious visible injury; or
  - c. The suspect complains of injury or discomfort and requests medical attention.
2. Any person requesting and deemed in need of immediate medical attention shall be evaluated by medical personnel to the appropriate hospital or medical facility. Any person deemed in need of immediate medical attention that refuses such assistance, or demonstrates that they are unable to prudently make decisions in the best interest of

their own health, shall be evaluated by medical personal at the discretion of the Officer in Charge to the extent necessary to safeguard their well-being while in custody. All medical treatment received shall be noted in the officer's report.

- a. If the suspect displayed signs of extreme uncontrolled signs of extreme uncontrolled agitation or hyperactivity prior to the use of force, or displays Impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or bizarre behavior AND during the arrest exhibits great strength, a diminished sensitivity to pain, the individual may be showing signs of Excited Delirium. During the arrest or immediately after the struggle sudden death may ensue. This is a serious medical emergency. Arrestees displaying these symptoms should be checked by medical personnel.
- b. 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. Arrestees displaying these symptoms should be checked by medical personnel.
- c. 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. Arrestees displaying these symptoms should be checked by medical personnel.

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<sup>1</sup> *Com. v. Klein*, 372 Mass. 823, 363 N.E.2d 1313 (1977)

# USE OF FORCE REPORTING

|   |   |
|---|---|
| POLICY & PROCEDURE NO.<br><br><b>3.03</b> | ISSUED: With TY 2017<br>Defensive Tactics In-<br>Service Training |
|   | EFFECTIVE 1/20/17<br>DATE: _____                                  |
|   | REVISION<br>DATE: <u>6/1/2020</u>                                 |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The manner in which police department members use force is an extremely critical issue that generates intense public scrutiny. When these incidents occur they demand a thorough and complete inquiry into all aspects of the incident. Only through an exhaustive inquiry can the facts of the incident evolve and public confidence be maintained.

## II. DEFINITIONS

- A. Weaponless Physical Force: The application of force and/or hand control techniques that have little or no chance of producing injuries when gaining control over or subduing non-compliant or resisting persons. These techniques include, but are not limited to: physical touching, gripping or holding, frisking, pain compliance measures, pressure point application, escort techniques, handcuffing, or other custodial procedures.
- B. Reportable Use of Force: Any application of force used by a member of this department which would trigger a report as directed under section III of this policy.
- C. Serious Bodily Injury: For the purposes of this policy, "Serious Bodily Injury" shall refer to any bodily injury that results in permanent disfigurement, the loss or impairment of a body part or bodily function, or any injury that creates a substantial risk of death.

- D. Command Staff: For the purposes of the application of this policy, the Chief or Lieutenant (or acting Chief or Lieutenant) of the police department, or their designee.
- E. OIC of Defensive Tactics: The sworn officer of the department designated by command staff to provide guidance to officers on use of force and defensive tactics best practices, and to serve as the first point of contact in the use of force review process.
- F. Employee: For the purposes of the application of this policy, any sworn officer officially affiliated with the department whether full or part time.

### III. POLICY

**Reportable Use of Force:** It is the policy of the Montague Police Department to require a written use of force report any time an employee:

1. Applies any weaponless physical force which results in an injury or complaint of injury to either a department member or another person; or
2. Applies any weaponless physical force amounting to compliance techniques, defensive tactics, or deadly force as defined in departmental policy 3.02, "Use of Force"; or
3. Applies any physical force through the use of a lethal or less-lethal weapon; or
4. Discharges a department issued or authorized firearm, for reason other than training or practice purposes. The intentional discharge of firearms for the euthanizing of an animal, ballistic testing, firearms or ammunition testing, or firearms maintenance shall also be excluded from the use of force reporting requirement (such discharges may require a firearms discharge report, as directed).
5. **Note:** The use of handcuffs as a restraint; the physical escorting or removal of passively resistant subjects; mere display of weapon (including un-holstering or tactical handling of firearm or other weapon), the presence of police department personnel, equipment, animals, or the use of verbal commands are not considered a reportable use of force for the purposes of this policy.

## IV. PROCEDURES

### ***A. Employee Responsibilities***

1. Each employee who uses, participates in, or witnesses “reportable force” as defined in this policy shall:
  - a. Immediately upon the occurrence of a reportable use of force incident, assure the officer in charge of patrol at the time of the incident is notified.
  - b. Upon such time as they are reasonably and practically able, complete any applicable Incident/Arrest report (if lead officer of the incident), any applicable narratives/supplemental narratives required, and a department Use of Force Report, unless directed otherwise by a ranking officer, or if the completion of such report would violate the officer’s Fifth Amendment protections and/or if transactional immunity for said officer(s) would be triggered.

The Use of Force Report shall be completed using a department use of force reporting form, and at a minimum, shall include:

- 1) The employee’s perceived actions of the suspect and circumstances that necessitated the use of force;
  - 2) What force was used by the employee;
  - 3) The effect (or lack thereof) of the force on the suspect;
  - 4) Injuries to the suspect, employees, or others;
  - 5) Complaints of injury by the suspect or others; and
  - 6) Medical treatment received or refused by the suspect or others.
  - 7) Any other facts or pertinent details as directed by circumstance or by a ranking officer
- c. A detailed narrative report must be completed if ordered by a ranking officer.
  - d. An injured employee shall submit the required injury reports as soon as practical.
  - e. Any employee, whose action(s) or use of force results in death or serious bodily injury, shall be removed from duty assignment and placed on full paid administrative leave pending an administrative review.

### ***B. Supervisor/OIC Responsibilities***

1. **RESPONSE**
  - a. Unless unable to practically do so, the patrol supervisor or the shift OIC shall immediately respond to the scene of an incident

where, as the result of an application of physical force, an officer is injured, or a prisoner has a visible injury or complains of injury/discomfort and requests medical attention, and he or she shall:

- 1) Ensure that officers receive any necessary assistance, including medical and/or mental health treatment
- 2) Ensure that the need for medical treatment for the prisoner is properly evaluated and provided, as outlined in policy 16-2, "Use of Force".
- 3) Determine if the OIC of Defensive Tactics and/or Command Staff should be notified and/or respond to the scene, and make such contact immediately if necessary.
- 4) In the event contacting the OIC of Defensive Tactics is deemed necessary but the OIC of Defensive Tactics is unavailable, command staff shall be contacted without delay.

## **2. INVESTIGATION**

- a. In conducting the investigation, the supervisor/OIC shall:
  - 1) document the suspect's statements;
  - 2) document injuries sustained by the employee, suspect, or others;
  - 3) document medical treatment needed, provided, or requested;
  - 4) identify and interview witnesses, or direct same;
  - 5) document, as necessary, via writing, photo, video, etc., the scene of the incident, injuries, lack of injuries, property damage, etc.; and
  - 6) Interview any medical care provider concerning the injury and its consistency with the reported use of force.
- b. A supervisor/OIC directly involved in an incident shall not supervise the investigation of the use of force in that same incident. An uninvolved supervisor, the OIC of Defensive Tactics, or Command Staff shall be notified and assume supervision of the investigation as soon as practically possible.
- c. Any incident where force results in death or serious bodily injury shall require an investigation be undertaken by command staff, or by the OIC of Defensive Tactics under the supervision of Command Staff.
- d. In those instances where death has or is likely to occur, the District Attorney's office shall be notified.

### **3. EMPLOYEE STATEMENT/REPORTS**

- a. The investigating supervisor/OIC may:
  - 1) Order any involved employee(s) or employee(s) who were witness to a reportable use of force incident to submit a full and complete report of the incident in writing as soon as they are practicably able; or
  - 2) Schedule a time at which an employee involved in the incident must meet with department investigators and submit a written report of the incident.
- b. The investigating supervisor/OIC conducting the investigation shall file at least a preliminary report prior to the conclusion of the tour of duty.
- c. The investigating supervisor will compile the investigative report and submit it to the OIC of Defensive Tactics immediately upon the completion of the investigation.
- d. Upon preliminary review by the OIC of Defensive Tactics, a copy of the final report shall be submitted to Command Staff for review and filing.

## ***V. Administrative Review:***

### ***A. Final Review***

1. A member of Department Command Staff shall be responsible for the following:
  - a. Ensuring that an ample investigation was conducted and that all necessary reports were prepared and submitted; and
  - b. Conducting an administrative review of all reports submitted to verify that the use of force was justified and in compliance with department policy. Such review may not be conducted by any person who was involved in the incident; and
  - c. Shall, in incidents resulting in serious bodily injury or death, prepare a report to the Chief regarding the incident, including any comments and recommendations for appropriate action.
2. The Chief of Police will conduct an additional administrative review of any such report filed to him and shall take appropriate action.

### ***B. Use of Force Reports Use and Filing***

1. The Use of Force Report shall be used for internal statistical and analytical purposes only, and shall not be part of the incident or arrest file for the particular incident.



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2. The use of Force Reports shall be kept on file with the OIC of Defensive Tactics and the member of Command Staff responsible for administrative review.
  3. ANNUAL ANALYSIS: The member of Command Staff responsible for administrative review shall conduct an annual analysis of all use of force reports and submit a written report to the Chief. Such analysis and conclusions may indicate the need for training, staffing changes, equipment changes, or policy modification. The review should consider:
    - a. A comparison of the total number of use of force incidents compared to previous years;
    - b. Type of force used;
    - c. Type of weapons used;
    - d. Effectiveness of the use of force techniques;
    - e. Nature of the incident that required force;
    - f. Intensity of attack or resistance;
    - g. Suspect ethnicity/race;
    - h. Day of the week and time of day;
    - i. Years of experience of employee(s) involved;
    - j. Uniform or plain clothed employee;
    - k. Severity of injuries to employee or suspect, if any; and
    - l. Summary breakdown of the disposition of the administrative reviews (justified/not justified, compliance with policy, etc.).

# ARRESTS

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|--|--|
| <p>POLICY &amp; PROCEDURE NO.</p> <p><b>3.04</b></p> | <p>ISSUE</p> <p>DATE: _07-24-17_____</p>     |
|  | <p>EFFECTIVE</p> <p>DATE: _07-24-17_____</p> |
|  | <p>REVISION</p> <p>DATE: <u>6/1/2020</u></p> |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The authority to arrest, thereby depriving a person of his/her liberty, is one of the most serious and sensitive duties of a police officer. Whenever there is sufficient time and opportunity to do so, a warrant should be obtained in advance of an arrest.

By the very nature of police work, however, many arrests must be made without a warrant. Police officers should have a clear understanding of their powers, duties and responsibilities under the law of arrest.

If an unlawful arrest is made, any search made incidental to that arrest may be found unlawful and any evidence seized declared inadmissible. Any confession or admissions made may also be excluded, if made after an unlawful arrest. In addition, civil liability may also result.

## II. POLICY

It is the policy of this department:

- A. That officers make mandatory arrests as required by statute or policy;
- B. That officers exercise discretion and make warrantless arrests as appropriate in the performance of their duties;
- C. It is preferred that a warrant be obtained when practical prior to making an arrest when the offender does not create a threat to the public, or is not likely to flee, and especially where less serious offenders are involved; and

- D. That when appropriate circumstances exist, officers may exercise discretion and not make an arrest. In such limited cases, citations, summonses, informal resolutions, warnings and referrals to other agencies may be alternatives to arrest.

### **III. DEFINITIONS**

- A. Arrest:** The taking of a person into custody and depriving him/her of his/her freedom of action, in accordance with law, in order that such person can be brought before the court to answer to a criminal charge.<sup>1</sup>
- B. Probable Cause:** Probable cause for arrest exists if, at the time of arrest, the facts within the knowledge of the arresting officer (or within the collective knowledge of the police) are reasonably trustworthy and are sufficient to warrant a person of reasonable caution and prudence to believe that the person being arrested has committed or is committing the crime for which the arrest is being made.<sup>2</sup>
- C. Felony:** Any crime punishable by death or imprisonment in the state prison.<sup>3</sup>
- D. Misdemeanor:** Any crime where there is no possibility of punishment by death or imprisonment in the state prison.<sup>4</sup>
- E. Breach of the Peace:** A violation of public order or decorum which disturbs the public peace and tranquillity; or any act of disorderly conduct which disrupts the public peace.<sup>5</sup>
- F. Arrest Warrant:** An order in writing, issued by an authorized court official, directed to officers authorized to serve criminal process, commanding them to arrest the person named or described therein and to bring such person before the court to answer to a charge of crime.

### **IV. PROCEDURES**

#### **A. Arrests in General**

##### **1. AUTHORITY**

- a. Duly sworn police officers of cities and towns gain their authority to make arrests from G.L. c. 41, § 98.
- b. A duly authorized police officer may make a lawful arrest either with or without a warrant. However, whenever practical, arrests should be made with a warrant.
- c. To effectively and lawfully execute an arrest there must be:
  - 1) An intention on the part of the police officer to make an arrest;
  - 2) The communication of the knowledge and understanding of that intent to the person to be arrested; and

- 3) Either a physical seizure or submission to the officer by the arrested person.<sup>6</sup>
  - d. An arrest should never be made to show authority or to vent personal feelings.
    - 1) The attitude of the offender should not be the determining factor in making an arrest.
    - 2) Verbal abuse alone is not a sufficient justification for an arrest.
    - 3) An arrest should not be used to resolve a problem when other options are available.
2. FORCE
- a. Force should only be used when there is resistance or reasonable certainty of resistance.
  - b. The amount of force shall be restricted to that which is reasonable, necessary, and proper for the safe custody of the arrestee, or for overcoming any resistance that may be offered. See department policy on ***Use of Force***.<sup>7</sup> **Policy #16-2**
  - c. An arrestee has no right to resist arrest, lawful or unlawful, by a police officer, unless the officer uses excessive force.<sup>8</sup>

## ***B. Arrests with a Warrant***

1. AUTHORITY
- a. A police officer may make a lawful arrest with a warrant when:
    - 1) The officer making the arrest and detention has actual knowledge that a warrant then in full force and effect for the arrest of such person has in fact been issued, or
    - 2) The officer possesses a valid arrest warrant.
  - b. A warrant may be executed in any place within the Commonwealth.<sup>9</sup>
2. APPLICATION OF WARRANT
- a. An arrest warrant issued pursuant to a complaint must be founded upon probable cause supported by oath or affirmation, but it is not necessary to recite the facts that constitute probable cause in the complaint.<sup>10</sup>
  - b. The warrant must be obtained from the proper authority. The following judicial officers have the statutory authority to issue arrest warrants:
    - 1) Justices of the Supreme Judicial Court, the Superior Court, and the District Court Departments;<sup>11</sup> and

- 2) A Clerk/Magistrate, Assistant Clerk/Magistrate, Temp Clerk/Magistrate, or Temporary Assistant Clerk/Magistrate of a District Court Department.<sup>12</sup>
- c. The preference of the legislature is that defendants are summonsed rather than arrested. A summons shall be issued instead of a warrant unless, in the judgment of the court or justice, there is reason to believe that the defendant will not appear upon summons.<sup>13</sup>
- d. An arrest warrant may be issued in any case except where the accused is a juvenile less than twelve years of age, in which case a summons is the appropriate mechanism.<sup>14</sup>

### 3. EXECUTION

- a. Prior to serving an arrest warrant, an officer should examine it carefully to determine what the officer's powers are under it and whether:
  - 1) It clearly names and describes the person to be arrested or, if his/her name is unknown, any name or description by which [s]he can be identified with reasonable certainty;<sup>15</sup>  
NOTE: A so-called "John Doe" warrant without a further satisfactory and sufficient description is unlawful and void.<sup>16</sup>
  - 2) The officer is authorized to serve it; and
  - 3) It clearly describes the offense for which the arrest is to be made.  
NOTE: The warrant shall recite the substance of the offense charged, and it shall command that the defendant be arrested and brought before the court.
- b. A person arrested on a warrant, or otherwise taken into custody by a police officer, has a right to know the true grounds for such arrest.
  - 1) The officer need not have the warrant in his/her possession at the time of arrest; however, upon request [s]he shall show the warrant to the arrestee as soon as possible.<sup>17</sup> A printout of a warrant from CJIS shall constitute a true copy of the warrant.<sup>18</sup>
  - 2) If the officer does not have the warrant in his/her possession at the time of arrest, [s]he shall inform the arrestee that a warrant has been issued and of the offense charged.<sup>19</sup>
  - 3) If the officer does not then know of the offense charged, [s]he shall inform the arrestee thereof within a reasonable time after the arrest.<sup>20</sup>

- 
- c. After the warrant has been executed, the arresting officer or OIC shall ensure that the warrant is located on CJIS/WMS.
4. WARRANTS ISSUED BY OTHER JURISDICTIONS
- a. OTHER COUNTY: When a person subject to a warrant issued by another county is arrested, [s]he shall be brought before a court of the county where the arrest was made in order to be admitted to bail.<sup>21</sup>
  - b. OTHER STATE: A person who is the subject of an out-of-state warrant may not be arrested in Massachusetts on that warrant. Rather, a warrantless arrest shall be made pursuant to M.G.L. 276 §20B, Fugitive from Justice.<sup>22</sup>

### ***C. Arrests without a Warrant***

- 1. Generally: Warrantless arrests merit much more detailed study because of the subjective factors involved.
  - a. If an unlawful arrest is made, any search made incidental to that arrest may be found unlawful, and any evidence seized may be declared inadmissible.
  - b. Any confession or admission made by the person arrested may also be excluded, if made after an unlawful arrest.
- 2. Lawful Authority: An arrest without a warrant may be lawfully made when certain circumstances exist:
  - a. FELONY: For a felony committed in the officer's presence or on probable cause that a felony has been committed.
  - b. MISDEMEANOR:
    - 1) For a misdemeanor committed in the officer's presence when such arrest is authorized by statute; or
    - 2) For certain misdemeanors authorized by statute for which arrest is allowed even though such misdemeanors were not committed in the officer's presence; or
    - 3) For a misdemeanor where there is no statutory authority to arrest, such arrest may be made only if:
      - a) The misdemeanor is committed in her/her presence; and
      - b) The misdemeanor is causing or threatening to cause a breach of the peace; and
      - c) The misdemeanor is still continuing or only briefly interrupted.

### 3. PROBABLE CAUSE

- a. In addition to having lawful authority, it is required under the Fourth Amendment that police officers have "probable cause" in order to make a valid arrest without a warrant.<sup>23</sup> [See definition of "probable cause" in definitions section.]
- b. The element of probable cause must exist at the time of arrest. Subsequent events or information acquired later cannot be used to justify that arrest.<sup>24</sup>
- c. The information upon which an officer relies in making an arrest must be more than just rumor or mere suspicion, but it does not require sufficient evidence to justify a conviction.<sup>25</sup>

Note: It does require a reasonable, common sense approach by a police officer and an honest judgment based upon a combination of factors, any of which standing alone might not be enough to justify an arrest but which, if viewed as a whole, constitute probable cause.

- d. Probable cause to make an arrest is always an overriding consideration for every police officer.
  - 1) Whether or not an arrest is based on probable cause will depend on a variety of factors, and unless the offense is committed in the officer's presence, usually no single fact alone is controlling.
  - 2) Therefore, the totality of circumstances surrounding the arrest is of great importance. Each officer should be aware of the following types of circumstances which have been looked to in establishing probable cause:
    - a) Direct observations of the police officer;
    - b) Knowledge of the prior criminal record or criminal activity of the person arrested;<sup>26</sup>
    - c) Flight accompanied by other factors;<sup>27</sup>
    - d) Evasive answers and/or conflicting stories;<sup>28</sup>
    - e) Time of day or night;<sup>29</sup>
    - f) History of criminal activity in the particular area;<sup>30</sup>
    - g) Experience of the officer applied to observations and firsthand information;<sup>31</sup> and
    - h) Reliable hearsay.<sup>32</sup>
- e. HEARSAY: Hearsay statements often present problems in establishing probable cause and also evidentiary problems during trial. Usually, they are derived from three principal sources:

- 1) Statements from the victims and/or witnesses;
- 2) Statement from other police officers;
- 3) Statements from informants.
  - a) It is this source that is most closely scrutinized when used to establish probable cause.
  - b) An officer relying on the hearsay statement of an informant must:
    - i. Show the circumstances establishing the reliability of the informant; and
    - ii. Show the circumstances establishing the reliability of the informant's information.<sup>33</sup>

#### ***D. Extra-Territorial Arrest***

##### **1. GENERALLY**

- a. Other than constitutional safeguards, the other major constraint on the power of arrest is jurisdictional. Generally, the power to arrest ceases at the boundaries of the officer's city or town.
  - b. Where an officer has been appointed and sworn as a "special police officer" in another (often neighboring) jurisdiction, [s]he has arrest powers in that community as well.
  - c. However, there are four instances in which an officer may make "extra-territorial" arrests, that is, arrests outside the limits of the city or town where [s]he has been appointed.
2. FRESH PURSUIT IN STATE: An officer may, "on fresh and continued pursuit," pursue and arrest an offender in any other city or town in Massachusetts if:<sup>34</sup>
- a. The offense is one for which a warrantless arrest is authorized; and
  - b. The offense was committed in the officer's presence; and
  - c. The offense was committed in the officer's jurisdiction (city or town, etc.).
3. MUTUAL AID: If there is a mutual aid agreement in effect between his/her city or town and the city or town to which [s]he has been assigned under the mutual aid agreement, an officer may exercise the same authority in such city or town as [s]he exercises in his/her own city or town.<sup>35</sup>
4. INTERSTATE FRESH PURSUIT: An officer may "on fresh pursuit" pursue and arrest a person who has committed a felony in Massachusetts and may pursue and arrest such person in any other state if that other state has in force similar interstate felony fresh



pursuit laws.<sup>36</sup> (New York and all New England states have such laws.)

#### 5. CITIZEN'S ARREST

- a. An officer may exercise his/her citizen's arrest powers. For example, any citizen may make an arrest for a felony if a felony has, in fact, been committed.
- b. When a police officer exercises his/her citizen's arrest powers outside his/her jurisdiction, [s]he need only have probable cause to believe that a felony has been committed and that the person arrested committed it.<sup>37</sup>
- c. Such citizen's arrest powers may be exercised in another state.<sup>38</sup>

### ***E. Arrests in Dwellings***

#### 1. SERVICE OF WARRANT AT DWELLING OF NAMED PERSON

- a. Police officers may enter the dwelling of a person named in an arrest warrant to serve an arrest warrant without obtaining a search warrant, provided there is a specific and articulable facts and observations that the arrestee is in his or her residence at the time the arrest warrant is executed.<sup>39</sup>
- b. KNOCK AND ANNOUNCE: To serve an arrest warrant on private property, police officers shall first knock and announce their authority and purpose (unless the warrant issued is a "No Knock and Announce Warrant") and wait a reasonable period to be admitted.<sup>40</sup>
  - 1) Once a reasonable time has passed and the officers have not been voluntarily admitted, and there is reasonable cause to believe that the wanted person is on the premises, officers may use whatever force is reasonably necessary to gain entrance.<sup>41</sup>
  - 2) The least amount of force that will accomplish an entrance should always be used.
- c. DISPENSING WITH ANNOUNCEMENT: If the police officers reasonably believe that announcing their presence and purpose will endanger themselves or others, or will result in the escape of the wanted person or the destruction of evidence, they may dispense with the announcement of authority and purpose.<sup>42</sup>
  - 1) In such cases, they may attempt to deceive the suspect into voluntarily opening the door, or gain entrance by a ruse, if this will result in a safe and successful apprehension with less destruction of property or risk of harm to persons.<sup>43</sup>
  - 2) Massachusetts has given recognition to a "Useless Gesture" exception, at least in the narrow situation where the facts

known to the officers would justify them in being virtually certain that the occupant already knows the police officers' identity and purpose.<sup>44</sup>

- 3) Further, violation of the "no-knock" rule may require that the evidence which has been seized be suppressed.<sup>45</sup>
- d. NO KNOCK WARRANT: If at the time police make application for an arrest warrant, they reasonably believe that dispensing with the knock and announce rule may be necessary, they should so inform the magistrate, give their reasons, and ask that the arrest warrant be marked "No Knock and Announce Warrant."
  - 1) Valid reasons for requesting a "No Knock and Announce Warrant" would include a reasonable belief that the suspect would escape, or would resist violently if not taken quickly and by surprise, or that evidence or contraband would be destroyed if the police have to knock and announce their presence.<sup>46</sup>
  - 2) A defendant is entitled to suppression of the evidence seized to a "no-knock" search where the officer had knowledge or information available that would have justified dispensation with the rule, but had not presented the evidence to the issuing magistrate.<sup>47</sup>
  - 3) However, when the police seek to execute the "No Knock and Announce Warrant," they must reappraise the situation at that time. If the reason or circumstance that justified issuance of the "No Knock and Announce Warrant" is no longer present, then they must follow the normal knock and announce procedure.<sup>48</sup>
2. SERVICE OF ARREST WARRANT AT THE DWELLING OF A PARTY NOT NAMED IN THE WARRANT
  - a. If police seek to arrest a person in someone else's dwelling, they must obtain a search warrant unless:<sup>49</sup>
    - 1) Lawful consent to enter is granted; or
    - 2) Exigent circumstances are present which excuse the failure to obtain a search warrant.
  - b. Exigent or emergency circumstances necessary to excuse the failure to obtain a warrant before entering a dwelling to make an arrest are determined by the following factors:
    - 1) Whether the crime was one of violence or there is a showing that the suspect is armed;
    - 2) Whether there is a clear demonstration of probable cause to arrest;

- 3) Whether there is strong reason to believe the suspect is in the dwelling;
  - 4) Whether there is the likelihood that the suspect would escape if not apprehended immediately;
  - 5) Whether the entry can be made peaceably; and/or
  - 6) Whether the entry would be in the nighttime (or could be made in the daytime when clerk/ magistrates are more readily available).
- c. Warrantless Arrest in Dwelling: Police officers should first determine whether a warrantless entry and arrest is allowed by law. Generally, no arrest warrant (or search warrant) is required to arrest a person who is in public. However, with regard to making an entry into and an arrest in a dwelling, the following standards apply:
- d. If the arrest pursuit was set in motion in public, the officer may make a hot pursuit warrantless entry into a private dwelling if the suspect runs into the dwelling.
  - e. If the police seek to arrest a person in that person's own dwelling, they must obtain an arrest warrant unless:<sup>50</sup>
    - 1) Lawful consent to enter is granted; or
    - 2) Exigent circumstances are present which excuse the failure to obtain an arrest warrant.
  - f. If the police seek to arrest a person in someone else's dwelling, they must obtain a search warrant unless:<sup>51</sup>
    - 1) Lawful consent to enter is granted; or
    - 2) Exigent circumstances are present which excuse the failure to obtain a search warrant.

### ***F. Alternatives to Arrest***

1. GENERALLY: Although police officers must always be guided by the intent and purpose of the law, there are limited circumstances in the discretion of the officer involved when the public interest would be better served by not making an arrest, even though there is legal justification for such action.
2. ALTERNATIVES TO ARREST: Arrest alternatives include:
  - a. Citations,
  - b. Summonses,
  - c. Informal resolutions,
  - d. Warnings, and

e. Referrals to other agencies.

3. Discretionary Situations:

a. Circumstances where alternatives to arrest may be appropriate include the following:

- 1) When an arrest could aggravate community conflict or possibly precipitate a serious disorder;
- 2) When there is a greater priority to respond to a more serious crime or to an urgent public emergency;
- 3) In neighborhood quarrels, noisy parties, landlord-tenant problems and minor disturbances of the peace where no serious crime has been committed and the officer can successfully act as a mediator.
- 4) In minor juvenile offenses where a warning and a talk with the parents can avoid a court appearance; (See department policy on **Handling Juveniles, #13-1.**)
- 5) In other minor offenses where a summons can effectively accomplish the intended purpose; and
- 6) Minor motor vehicle offenses.

b. Circumstances where little or no discretion to use alternatives to arrest is appropriate include the following:

1) Domestic Violence

- a) Arrests are statutorily mandatory for violations of restraining orders (209A's)<sup>52</sup>
- b) Arrests are the preferred method for domestic crimes of violence including assaults and assaults and battery.<sup>53</sup>
- c) For further information, see the department policy regarding **Domestic Violence, #14-8.**

2) Operating Under the Influence of Alcohol

- a) Officers should arrest all operators for whom probable cause exists for operating under the influence of alcohol or drugs.
- b) Officers may, with a supervisor's approval, issue a criminal summons for operators injured in serious motor vehicle accidents.

**G. Officer Safety:** Arresting officers should not act in a careless or routine manner. They should take all necessary steps to ensure their own personal safety and that of the public and to secure destructible evidence. Such steps shall include, but are not limited to:

1. Obtaining assistance when necessary whether before or after the arrest. This is particularly advisable when:
  - a. There is more than one person to be arrested;
  - b. A dangerous crime is involved, usually a felony of a serious nature; or
  - c. Prior experience has shown the need for assistance in particular situations.
2. Searching for and seizing any instruments capable of inflicting serious bodily injury or causing death, and evidence of any crime;
3. Making a search of the area within the immediate reach and control of the persons arrested for weapons or destructible evidence; and
4. Keeping the persons arrested in control and in view of the officer at all times. If more than one officer is present, the additional officer shall never pass or position himself/herself between the arresting officer and the person arrested.

### **H. Following Arrest**

1. Once an arrest is made, it is the responsibility of the arresting officer or officers to ensure that arrestees do not injure themselves or others, and that they do not escape or dispose of evidence.
2. At the time of arrest, a "search incidental to arrest" shall be conducted.
3. Persons arrested shall be given the Miranda warnings as soon as possible and prior to interrogation or any questioning likely to elicit an incriminating response
4. See department policy on **Handling Juveniles , #13-1** when a person under the age of seventeen is arrested.
5. The persons arrested shall be handcuffed, double-locked (if medically able) and promptly and safely transported to the station house.
6. Upon arrival at the station house, the persons arrested shall be booked and processed in accordance with the department policy on **Detainee Processing, #17-4.**

**I. REPORTS:** Arresting officers will make a full and complete report of any arrests made, with or without warrants, in accordance with standard department procedures.

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<sup>1</sup> See, 6A C.J.S. “Arrest” §4.

<sup>2</sup> *Beck v. Ohio*, 379 U.S. 89, 85 S. Ct. 223 (1964); *Com. v. Crawford*, 410 Mass. 75, 571 N.E.2d 7 (1991); *Com. v. Motta*, 424 Mass. 117, 676 N.E.2d 795 (1997).

<sup>3</sup> M.G.L. c. 274, §1.

<sup>4</sup> M.G.L. c. 274, §1.

<sup>5</sup> See 11 C.J.S. “Breach of the Peace” §1.

<sup>6</sup> *Mass. General Hospital v. Revere*, 385 Mass. 772, 434 N.E.2d 1851 (1982), *rev. on other grounds*, 463 U.S. 239 (1983); *Com. v. Cook*, 419 Mass. 192, 644 N.E.2d 203 (1994).

<sup>7</sup> See *Com. v. Klein*, 372 Mass. 823, 363 N.E.2d 1313 (1977).

<sup>8</sup> *Com v. Moreira*, 388 Mass. 596, 447 N.E.2d 1224 (1983).

<sup>9</sup> M.G.L. c. 276, §23.

<sup>10</sup> *Com. v. Baldassini*, 357 Mass. 670, 260 N.E.2d 150 (1970).

<sup>11</sup> M.G.L. c. 276, §21.

<sup>12</sup> M.G.L. c. 318, §32.

<sup>13</sup> M.G.L. c 276, §24.

<sup>14</sup> M.G.L. c. 119, §54.

<sup>15</sup> *Won Sun v. U.S.*, 371 U.S. 471, 83 S. Ct. 407 (1963).

<sup>16</sup> *Com. v. Crotty*, 92 Mass. 403 (1865).

<sup>17</sup> Mass. Rules of Crim. Proc. 6(c)(3).

<sup>18</sup> M.G.L. c. 276, §23A.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> M.G.L. c. 276, § 29.

<sup>22</sup> M.G.L. c. 276, § 20B.

<sup>23</sup> See *Whren v. U.S.*, 116 S. Ct. 1769 (1996).

<sup>24</sup> *Beck v. U.S.*, 385 U.S. 293, 87 S. Ct. 408 (1966); *Com. v. Bottari*, 395 Mass. 777, 482 N.E.2d 321 (1985).

<sup>25</sup> *Won Sun v. U.S.*, 371 U.S. 471, 83 S. Ct. 407 (1963); *Com. v. Stevens*, 361 Mass. 885, 283 N.E.2d 673 (1972), *Com. v. Roman*, 414 Mass. 642, 609 N.E.2d 1217 (1993).

<sup>26</sup> *Com. v. Rossetti*, 349 Mass. 626, 211 N.E.2d 658 (1964); *Com. v. Silva*, 366 Mass. 402, 359 N.E.2d 942 (1974).

<sup>27</sup> *Won Sun v. U.S.*, 371 U.S. 471, 83 S. Ct. 407 (1963); *Com. v. Thibeau*, 384 Mass. 762, 429 N.E.2d 1009 (1981).

<sup>28</sup> *U.S. v. Brown*, 457 F.2d 731 (1st Cir. 1972); *Com. v. Chaisson*, 358 Mass. 587, 266 N.E.2d 311 (1971).

<sup>29</sup> *Com. v Ellis*, 365 Mass. 574, 254 N.E.2d 408 (1970).

<sup>30</sup> *Com. v. Mercado*, 422 Mass. 367, 773 N.e.2d 243 (1996); *Com. v. Doulette*, 32 Mass. App. Ct. 506, 609 N.E.2d 473 (1992).

<sup>31</sup> *Com. v. Mitchell*, 353 Mass. 426, 233 N.E.2d 205 (1967); *Com v. Santaliz*, 413 Mass. 238, 596 N.E.2d 337 (1992).

<sup>32</sup> *Draper v. U.S.*, 358 U.S. 307, 79 S. Ct. 329 (1959).

<sup>33</sup> *See Aguilar v. Texas*, 378 U.S. 108, 84 S. Ct. 1509 (1964); *Spinelli v. U.S.*, 393 U.S. 410, 89 S. Ct. 584 (1969); *Com. v. Frazier*, 410 Mass. 235, 571 N.E.2d 1356.

<sup>34</sup> M.G.L. c. 41, §98A.

<sup>35</sup> M.G.L. c. 40, §8G.

<sup>36</sup> In Massachusetts, see M.G.L. c. 276, ss. 10A-10D (The Uniform Extraterritorial Arrest on Fresh Pursuit Law).

<sup>37</sup> *Com. v. Claiborne*, 423 Mass 275, 667 N.E.2d 873 (1996); *Com. v. Harris*, 11 Mass. App. Ct. 165, 415 N.E.2d 216 (1981).

<sup>38</sup> *Com. v. Harris*, 11 Mass. App. Ct. 165, 415 N.E.2d 216 (1981); *Com. v. Gullick*, 386 Mass. 278, 435 N.E.2d 348 (1982); *Com. v. Dise*, 31 Mass. App. Ct. 701, 583 N.E.2d 271 (1991).

<sup>39</sup> *Com. v. Silva*, 440 Mass. 772, 802 N.E.2d 535 (2004); *Com. V. Gentile* SJC-11372 (2014)

<sup>40</sup> *Com. v. Antwine*, 417 Mass. 637, 632 N.E.2d 818 (1994); *Com. v. Silva*, 440 Mass. 772, 781 n. 12, 802 N.E.2d 535, 543 n. 12 (2004).

<sup>41</sup> *Com. v. Reynolds*, 120 Mass. 190 (1876).

<sup>42</sup> *Com. v. Allen*, 22 Mass. App. Ct. 413, 494 N.E.2d 55 (1990).

<sup>43</sup> *Com. V. Cundriff*, 382 Mass. 137 (1980).

<sup>44</sup> *Com. v. Gondola*, 28 Mass. App. 286, 550 N.E.2d 880 (1990); *rev. den'd* 407 Mass. 1103, 554 N.E.2d 1214 (1990).

<sup>45</sup> *Com. v. Gomes*, 408 Mass. 43, 556 N.E.2d 100 (1990).

<sup>46</sup> *U.S. v. Ramirez*, 523 U.S. 65 (1998).

<sup>47</sup> *Com. v. Gomes*, 408 Mass. 43, 556 N.E.2d 100 (1990).

<sup>48</sup> *Com. v. Scalise*, 387 Mass. 413, 439 N.E.2d 818 (1982).

<sup>49</sup> *Warden v. Hayden*, 387 U.S. 294, 87 S. Ct. 1642 (1967); *Com. v. DeRosia*, 402 Mass. 284, 522 N.E.2d 408 (1988).

<sup>50</sup> *Payton v. New York*, 445 U.S. 573, 100 S. Ct. 1371 (1980); *Steagald v. U.S.*, 451 U.S. 204, 101 S. Ct. 1642 (1981); *Com. v. Forde*, 367 Mass. 798, 329 N.E.2d 717 (1975).

<sup>51</sup> *Warden v. Hayden*, 387 U.S. 294, 87 S. Ct. 1642 (1967); *Com. v. DeRosia*, 402 Mass. 284, 522 N.E.2d 408 (1988).

<sup>52</sup> M.G.L. c. 209A, §6(7).

<sup>53</sup> M.G.L. c. 209A, §6(7).

# WARRANTLESS ENTRY

|                                       |                               |
|---------------------------------------|-------------------------------|
| POLICY & PROCEDURE<br>NO. <b>3.05</b> | ISSUE<br>DATE 10/18/2013      |
|                                       | EFFECTIVE<br>DATE: 10/18/2013 |
|                                       | REVISION<br>DATE: 6/1/2020    |
|                                       |                               |

## I. General considerations and guidelines

- A. In the course of their activities, police officers sometimes encounter situations that require immediate action on their part to protect their safety and the safety of others or their property, and to prevent the destruction or concealment of evidence of crimes. Both criminal and noncriminal emergency situations may require the police to exercise their inherent authority to enter premises and conduct reasonable searches to protect the public safety and prevent or detect crime.
- B. On some occasions, the need for immediate measures to ensure public safety and/or to prevent the destruction or concealment of evidence is apparent, as when police encounter a crime in progress or hear screams or cries which lead one to suspect criminal acts, or an officer uncovers indications of recent criminal activity which must be pursued without delay. On the other hand, police may also encounter emergency situations that do not, at least on the surface, involve criminal activities. They may nonetheless require immediate police response, including entries and searches. These noncriminal emergencies include medical emergencies, fires and burning buildings, man-made disasters and natural calamities.



Note: while this state's courts have not yet ruled on whether rescuing critically endangered animals, especially household pets, comes within the emergency exception to the warrant requirement, it appears that the strong public policy favoring the preservation of the life of such animals will justify a warrantless entry under appropriate circumstances.

## **II. POLICY**

It is the policy of this police department to secure a warrant before entering private property except where it is impractical to obtain a warrant in a timely fashion and there exist clear circumstances, such as a public emergency, or the entry is made pursuant to their community caretaking role, justifying a warrantless entry.

## **III. DEFINITIONS:**

- A. *Community Caretaking Function:*** Immediate police action focused on rendering aid, assessing and responding to situations posing an imminent serious threat to life or property, and protecting the public health from imminent serious harm.
- B. *Public Emergency:*** A natural or man-made event that requires a police officer to act immediately to render aid to injured victims of the event, or to minimize or neutralize a serious threat of death or serious bodily injury or property damage.<sup>i</sup>

## **IV. PROCEDURES**

### **A. NON-CONSENSUAL ENTRIES: EMERGENCIES**

1. Many entries and searches conducted in emergency situations require police to take action without first obtaining a warrant from a judicial magistrate. These searches - conducted without a warrant because of the immediate need for police action to protect public safety - are referred to as searches justified by exigent or emergency circumstances. Police officers are peace officers and are empowered with authority to protect and preserve the public peace and the public safety.

2. A reasonable belief as to the potential loss or destruction of evidence may create exigent circumstances permitting a warrantless search and seizure of evidence.<sup>ii</sup>
3. Warrantless searches in a dwelling are presumptively unreasonable under Art. 14 of the Declaration of Rights of the Massachusetts Constitution and the Fourth Amendment to the United States Constitution. In the absence of a warrant, two conditions must be met in order for a nonconsensual entry to be valid: there must be probable cause and there must be exigent circumstances.<sup>iii</sup>
4. *The “Forde Factors”*

While the police may enter premises or a private dwelling to make an arrest with a warrant, they may only do so without a warrant where exigent or emergency circumstances are present. The police must be able to show that it was impractical to obtain an arrest warrant.<sup>iv</sup>

The exigency exception to the warrant requirement comes into play in cases where there is probable cause, but where taking the time to obtain a warrant would thwart its purpose, because, for example, the suspect may flee, evidence may be destroyed, or danger may be posed to the police or others.<sup>v</sup>

In *Com. v. Forde*<sup>vi</sup> the court delineated some factors which would tend to support a finding of exigency, justifying warrantless search, including:

- a. A showing that the crime was one of violence, or that the suspect was armed;
- b. A clear demonstration of probable cause;
- c. A strong reason to believe that the suspect is in the dwelling;
- d. A likelihood that the suspect will escape if not apprehended;
- e. Whether the entry is peaceable; and

- f. Whether the entry is in the nighttime.<sup>vii</sup>

Not all of these factors need be satisfied to support a finding of exigent circumstances.<sup>viii</sup> Additionally, the *Forde Factors* are also not the only factors which may lead to an exigent situation. Officers should document in their report the factors that led them to conclude that a warrantless entry was necessary and reasonable.

#### 5. *Victim Or Person In Danger*

The police may make a warrantless search of an area or premises occupied by a homicide suspect to arrest the suspected killer and to locate and protect any victim or others who may be in danger. A key factor is that there must be some indication that someone is in danger. However, once the exigency is over the police must thereafter obtain a warrant to continue to search once the premises are secured.<sup>ix</sup> Similarly, pursuant to M.G.L. c. 209A, § 6, a police officer is required to use all reasonable means to prevent harm in domestic abuse situations. In such a situation, an officer may have the right to make a warrantless entry into a house.<sup>x</sup> Officers should prepare a detailed report explaining all the circumstances surrounding such warrantless entry.

Caution: Officers should be aware that this state's courts have not yet ruled on whether the protection of an animal (especially a household pet) qualifies as the kind of emergency that justifies a warrantless entry. Where an officer has a reasonable basis to believe that a person is engaging in a crime involving animal cruelty, and the delay involved in obtaining a warrant would likely result in the death or serious injury to the animal, unless and until a court rules otherwise, a warrantless entry is authorized. A detailed report, documenting the officer's observations and the basis for any conclusions, is essential, so that a court will be aware of the entire circumstances confronting the officer at the time the decision was made to enter premises without a warrant.

6. *Dangerous Weapons*

When confronted with an emergency situation, especially where their own safety may be at stake, police may make a speedy and thorough search for weapons that could be used against them or to thwart an arrest.

7. *Police may not create the exigency*

In order for exigent circumstances to be valid, the exigency must not have been created by the police. If the police create the exigency the exception will not apply. For example, the police may not have probable cause to secure a warrant but, in lieu of a warrant, knock on the door to create an exigency and thus do away with the warrant requirement.

8. *Exigency must still exist at the time of the entry*

Police must be able to point to exigent or emergency circumstances in order to justify a warrantless entry and search under the “hot pursuit” exception to the warrant requirement.

9. *Once the pursuit or exigency has ended a warrant is required*

Once the original “hot pursuit” has ended and the suspect has been captured and the premises are secured, all other searching must stop until a warrant can be obtained.<sup>xi</sup>

10. *BURNING BUILDING, EMERGENCIES, DISASTERS*

A burning building presents an exigent or emergency situation and may be entered immediately and without a warrant to save lives and property. Once police (or fire officials) enter such a building, they may seize evidence found in plain view and may remain there a reasonable length of time to investigate the cause of the fire.<sup>xii</sup>

Situations that are analogous to a burning building in which police have the right to make an emergency warrantless entry to save lives or property are natural disasters or man-made calamities. When entering a dwelling without a

warrant in response to a public safety emergency, the police will be required to show that they could not have reasonably obtained a warrant before entry.<sup>xiii</sup>

#### 11. *Enter premise to quell a breach of the peace*

The courts have permitted, in rare circumstances, the police to enter private property, including dwellings, in order to quell a breach of the peace.

#### 12. *Consent*

Police officers may enter private property to make a warrantless arrest when they have been granted permission by someone with authority, or *apparent authority*, over the premises.

#### 13. *The Threshold*

Assuming there is probable cause, a warrantless arrest on a threshold of a dwelling is valid as occurring in a public place.<sup>xiv</sup> Should a suspect thereafter flee from the threshold inside a building, the police may pursue him or her if they believe that a failure to do so would result in the loss or destruction of evidence, or if *exigent circumstances* are present which otherwise justify the warrantless entry of a dwelling.<sup>xv</sup>

However, if the police approach the defendant's home with probable cause to make an arrest of a known suspect, they must have a valid warrant or exigent circumstances in order to make an arrest. The SJC, in *Com. v. Marquez*, ruled the arrest of a suspect on the threshold of his residence is impermissible because it may encourage police officers to forego the arrest warrant requirement.<sup>xvi</sup>

#### 14. *Private Business*

Business premises, where their occupants have a legitimate expectation of privacy, are entitled to constitutional protections (although not to the same degree as dwelling places).<sup>xvii</sup> In the absence of exigent circumstances or

consent, the police must obtain a warrant before entering private business or commercial premises to make an arrest.<sup>xviii</sup>

## **B. COMMUNITY CARETAKING AND BRIEF DETENTIONS**

1. There are certain interactions between police officers and citizens that do not require judicial justification, as local police officers are charged with community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to violation of any criminal statute.<sup>xix</sup> Sometimes referred to as the community caretaking function, the police may conduct a warrantless search if they encounter a person (or possibly animal – especially a household pet) in need of immediate care, even if no criminal conduct is thought to be involved.<sup>xx</sup> Opening a door of a parked vehicle to determine if the person slumped over the driver’s seat is just sleeping or is in need of medical attention is a classic example. Similarly, entering a yard to help untangle a leash that is choking a dog would fall under the category of community caretaking. However, entries into a residence or the surrounding curtilage are only allowed so long as the officer reasonably believes that a person or their property is in immediate danger.

Where the police — in their role as a *community caretaker* — find themselves compelled to enter a private dwelling “to protect or preserve life or avoid serious injury”, (e.g., neighbor reports cries of pain coming from inside dwelling), they may do so even in the absence of a criminal exigency or emergency.<sup>xxi</sup> Once lawfully inside, they may effect an arrest if other previously mentioned legal requirements are met.

Caution: Officers should be aware that this state’s courts have not yet ruled on whether the protection of an animal (especially a household pet) qualifies as the kind of situation that justifies a warrantless entry. Where an officer has a reasonable basis to believe that an animal (especially a household pet) is in

danger, and the delay involved in obtaining a warrant would likely result in the death or serious injury to the animal, unless and until a court rules otherwise, a warrantless entry is authorized. (A report of a “barking dog” all by itself, even if the barking lasted a long time, would not be the kind of situation ordinarily justifying a community caretaking entry. However, observing a severely bleeding cat or dog through the chain link fence surrounding a pen, might well qualify.) A detailed report, documenting the officer’s observations and the basis for any conclusions, is essential, so that a court will be aware of the entire circumstances confronting the officer at the time the decision was made to enter premises without a warrant.

2. Under the “community caretaking doctrine,” police officers are allowed, without reasonable suspicion of any criminal activity, to approach and detain citizens for community caretaking purposes.<sup>xxii</sup>
3. The decision of the police to make a well-being check must be reasonable in light of an objective basis for believing that a person’s safety and well-being may be in jeopardy; that concern extends, in certain circumstances, to the safety of the public as well.<sup>xxiii</sup> One of the more common areas where the community caretaking doctrine comes into play in a situation that would otherwise appear as a threshold inquiry is dealing with disabled or stranded motorists.
4. Even if the officer harbors a subjective belief that criminal activity may be afoot, this does not negate the officer’s community caretaking responsibility. Although the officer’s subjective belief of criminal activity does not affect his or her community caretaking responsibilities, the community caretaking activity must be authentic.
5. The community caretaking function may come into play when the police receive a report of a dangerous operator jeopardizing public safety. If the

situation is deemed to be an emergency the reliability and basis of knowledge requirement of the reporting person may not be needed.

6. Where a citizen reports that shots have been fired or that a person is in possession of a clearly illegal firearm such as a sawed-off shotgun, courts are more inclined to rule that the community caretaking doctrine will justify an investigatory stop.
7. The appendix to the 1998 case of *Com. v. Smigliano*, contains a list of decisions where courts have held that police officers may approach and detain citizens for community caretaking purposes and cases where courts have rejected the community caretaking function as a basis for a stop. Although many of the cases are out of state decisions the SJC did reference these cases in its decision.



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<sup>i</sup> Police Powers During Public Emergencies, Police Authority to Act Without a Warrant or Court Order Under the Community Caretaking Doctrine, Kurt N. Schwartz, Assistant Attorney General, December 9, 2003.

<sup>ii</sup> See *Com. v. Ortiz*, 435 Mass. 569, 572, 760 N.E.2d 282 (2002); *Com. v. Martino*, 412 Mass. 267, 276, 588 N.E.2d 651 (1992).

<sup>iii</sup> See *Kirk v. Louisiana*, 536 U.S. 635, 122 S.Ct. 2458, 2459, 153 L.Ed.2d 599 (2002); *Coolidge v. New Hampshire*, 403 U.S. 443, 478, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971); *Vale v. Louisiana*, 399 U.S. 30, 34-35, 90 S.Ct. 1969, 26 L.Ed.2d 409 (1970); *Com. v. Paniaqua*, 413 Mass. 796, 798, 604 N.E.2d 1278 (1992); *Com. v. Pietrass*, 392 Mass. 892, 897, 467 N.E.2d 1368 (1984).

<sup>iv</sup> *Com. v. Forde*, 367 Mass. 798, 329 N.E.2d 717 (1975).

<sup>v</sup> See *Com. v. Forde*, 367 Mass. 798, 807, 329 N.E.2d 717 (1975); *Com. v. Pietrass*, *supra* at 898-899, 467 N.E.2d 1368; *Com. v. Middi*, 46 Mass. App. Ct. 591, 594, 708 N.E.2d 124 (1999).

<sup>vi</sup> See *Com. v. Forde*, 367 Mass. 798, 807, 329 N.E.2d 717 (1975).

<sup>vii</sup> *Com. v. Viriyahiranpaiboon*, 412 Mass. 224, 227, 588 N.E.2d 643 (1992).

<sup>viii</sup> *Ibid.*

<sup>ix</sup> See, *Mincey v. Arizona*, 437 U.S. 385, 98 S.Ct. 2408 (1978); See also, *Thompson v. Louisiana*, 469 U.S. 17, 105 S.Ct. 409 (1984); *Com. v. Lewin*, 407 Mass. 617, 555 N.E.2d 551 (1990).

<sup>x</sup> *Com. v. Rexach*, 20 Mass. App. Ct. 919, 478 N.E.2d 744 (1985), *rev. den.* 482 N.E.2d 328 (1985).

<sup>xi</sup> See, *Mincey v. Arizona*, 437 U.S. 385, 98 S.Ct. 2408 (1978); *Com. v. Hall*, 366 Mass. 790, 323 N.E.2d 319 (1975).

<sup>xii</sup> *Com. v. Ploude*, 44 Mass. App. Ct. 137, 688 N.E. 2d 1028 (1998).

<sup>xiii</sup> *Com. v. Bates*, 28 Mass. App. Ct. 217, 548 N.E.2d 889 (1990).

<sup>xiv</sup> *U.S. v. Santana*, 427 U.S. 38, 96 S.Ct. 2406 (1976); *Com. v. Boswell*, 374 Mass. 263, 372 N.E.2d 237 (1978). *U.S. v. Santana*, 427 U.S. 38, 96 S.Ct. 2406 (1976); *Com. v. Boswell*, 374 Mass. 263, 372 N.E.2d 237 (1978).

<sup>xv</sup> *Id.* See also, *Com. v. Forde*, 367 Mass. 798, 329 N.E.2d 717 (1975).

<sup>xvi</sup> *Commonwealth v. Marquez*, 434 Mass. 370, 749 N.E.2d 673 Mass. (2001).

<sup>xvii</sup> *Marshall v. Barlow's, Inc.*, 436 U.S. 307, 98 S.Ct. 1816 (1978).

<sup>xviii</sup> *Com. v. Olivares*, 30 Mass. App. Ct. 596, 571 N.E.2d 416 (1991).

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<sup>xix</sup> *Com. v. McDevitt*, 57 Mass. App. Ct. 733, 786 N.E.2d 404 (2003); *Cady v. Dombrowski*, 413 U.S. 433, 441, 93 S.Ct. 2523, 37 L.Ed.2d 706 (1973); *Com. v. Evans*, 436 Mass. 369, 372, 764 N.E.2d 841 (2002).

<sup>xx</sup> *Mincey v. Arizona*, 437 U.S. 385, 98 S.Ct. 2408 (1978); *Com. v. Rexach*, 20 Mass. App. Ct. 919, 478 N.E.2d 744 (1985), *rev. den.* 482 N.E.2d 328 (1985).

<sup>xxi</sup> *Com. v. Bates*, 28 Mass. App. Ct. 217, 548 N.E.2d 889 (1990); *Mincey v. Arizona*, 437 U.S. 385, 98 S.Ct. 2408 (1978).

<sup>xxii</sup> *Com. v. Murdough*, 44 Mass. App. Ct. 736, 694 N.E. 2d 15 (1998); S.C., 428 Mass. 760, 704 N.E. 2d 1184 (1999); quoting from *Cady v. Dombrowski*, 413 U.S. 433, 93 S. Ct. 2523, 37 L. Ed. 2d 706 (1973).

<sup>xxiii</sup> *Com. v. Murdough*, 428 Mass. 760, 762, 704 N.E.2d 1184 (1999).

# JUVENILES

|                                |                              |
|--------------------------------|------------------------------|
| POLICY & PROCEDURE NO.<br>3.06 | ISSUE<br>DATE: 9/12/2013     |
|                                | EFFECTIVE<br>DATE: 9/12/2013 |
|                                | REVISION<br>DATE: 6/1/2020   |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

It is generally recognized that juveniles who engage in anti-social conduct present different problems to society than do adults who engage in similar activity. There is, therefore, a modification of police procedures in handling juvenile offenders. This special procedure is based on the concept that the juvenile offender is often not yet hardened and may be more easily influenced to conduct himself/herself within the law. There is no question that the attitude and actions of the police can have considerable impact upon the first offender who is often a badly frightened youngster at the time of his/her arrest. How [s]he is treated at that time by the police can make a lasting impression. At the same time, it must be remembered that the hardened juvenile criminal can be just as dangerous as any adult.

Although the police are not expected to be social workers, they must have an understanding of the social and psychological factors which contribute to juvenile misbehavior and crime. By the nature of their duties, the police should be familiar with any undesirable conditions in the community which breed juvenile delinquency. The prevention of juvenile crime has a high priority and any success in this regard can pay large dividends to the community and to its young people.

As a preventive measure, officers should frequently check those areas, places and buildings that have been particularly prone to juvenile delinquent behavior and question all juveniles found in suspicious situations. Energetic patrol, impressing the fact of a consistent police presence, can be a most effective deterrent. The department should also cooperate actively with all other agencies, public or private, that can be of assistance in deterring and controlling juvenile delinquency.

Police officers play a very important part in the Juvenile Justice System. Patience, understanding and firmness, together with close cooperation with court officials in the processing of juvenile cases, are necessary for the system to operate most effectively.

Police officers should be aware that constitutional rights are not lost by virtue of one's age. Indeed, juveniles merit greater protection, especially in the areas of questioning and waiver of rights.

## **II. POLICY**

- A. It is the policy of this department that:
1. Juveniles shall be afforded their constitutional and statutory rights when being questioned, searched, detained or arrested;
  2. Juvenile offenders shall not be detained at the police station for any longer than necessary;
  3. Officers shall, whenever reasonable and justified under this policy, take those measures necessary to effect positive change in juvenile offenders that are consistent with Massachusetts law and the safety and security interests of the community;
  4. The department is committed to the development and perpetuation of programs to prevent and control juvenile delinquency. [44.1.1.a]

## **III. DEFINITIONS**

- A. *Child in Need of Services (CHINS)*: Any child below the age of seventeen who:

1. Persistently runs away from the home of his/her parents or legal guardian, or
2. Persistently refuses to obey the lawful and reasonable commands of his/her parents or legal guardian.

Under an alternative definition, a "child in need of services" also covers any child between the ages of six and sixteen who

1. Persistently and willfully fails to attend school, or
2. Persistently violates the lawful and reasonable regulations of his/her school.<sup>1</sup>

*B. Delinquent Child:* A juvenile who violates any city ordinance or town by-law or who commits any offense against the Commonwealth.<sup>2</sup>

*C. Juvenile:* A juvenile, for purposes of Massachusetts criminal law, is anyone between the ages of 7 and 17.<sup>3</sup>

*D. Non-Offenses:* Children held in protective custody because they were found present where controlled substances are kept pursuant to G.L. c. 94C, s. 36, or are incapacitated due to intoxication pursuant to G.L. c. 111B, s. 8.

*E. Non-Secure Custody:* A condition under which a juvenile's freedom of movement is controlled by members of the department and, during such time, the juvenile:

1. Is held in an unlocked, multi-purpose room that is in no way designed for residential use;
2. Is not handcuffed to any stationary object;
3. Is held only long enough to complete identification, investigation and processing and then released to a parent or guardian or transferred to a juvenile facility or the court; and
4. Is under continuous supervision until released.

*F. Secure Custody:* A condition under which a juvenile's freedom of movement is controlled by being placed in a cell or locked room (or set of rooms) or being handcuffed to a stationary object.<sup>4</sup>

- G. *Status Offender*: A juvenile who has committed an offense that would not be a crime if committed by an adult. This includes: runaways, truants, youth curfew violations, and minors in possession of or transporting alcohol. [44.2.2(a)]

## IV. PROCEDURE

### A. Administration

1. The chief of police shall designate a juvenile officer or juvenile unit to have primary responsibility for juvenile operations.
2. The responsibility for participating in and supporting the department's juvenile operations is shared by all department components and personnel. [44.1.1(b)]

### B. Enforcement Alternatives [44.2.1]

1. Officers dealing with juveniles in enforcement capacities may exercise reasonable discretion in deciding appropriate action. Officers shall use the least coercive and most reasonable alternative, consistent with preserving public safety, order and individual liberty.
2. Whenever reasonable and possible, an officer will request a summons for a juvenile rather than taking him/her into custody.
3. Alternatives available include the following:
  - a. Release with no further action or following informal counseling when no arrest has been made. Officers may turn the juvenile over to his/her parent or guardian when appropriate;
  - b. Informal referral to an appropriate community social service agency;
  - c. Limited custody and station house warning. The juvenile shall be held in non-secure custody until released to his/her parent(s) or guardian;

- d. Issue a citation or applying for a summons or complaint; and [44.2.1(b)(c)]
  - e. Arrest.
3. Criteria When Choosing an Alternative
- a. In considering a course of action, the officer shall consider the nature of the offense, the age of the juvenile, the juvenile's prior contacts with the police, the availability of community-based rehabilitation programs, and, in some cases, the recommendation of the complainant or victim.

### C. Referral to Juvenile Court

- 1. While an officer should recognize the unique and often sensitive nature of juvenile contact, [s]he should not be deterred from properly enforcing the law when required to do so. A decision to arrest should be based on the same legal considerations as the arrest of an adult.
- 2. Officers may arrest juveniles for acts of delinquency and status offenses. [44.2.2(a)]
- 3. Arrested juveniles are subject to the same security and other transportation requirements as adults and may be handcuffed or otherwise restrained as necessary during transport and processing. See departmental policy on **Transporting Prisoners**. [44.2.2(d)]
- 4. When an arrest is made, the juvenile shall be brought to the processing facility without delay. The Juvenile Officer, or the Juvenile Division of the department, if any, shall be informed of the arrest as soon as possible. [44.2.2.(d)]
- 5. When a juvenile is arrested, with or without a warrant, the officer in charge of the police station shall:<sup>5</sup>
  - a. Notify the probation officer for the District Court or Juvenile Court for the judicial district in which the juvenile was arrested;

- b. Notify at least one of the parents, or, if there is no parent, the guardian of the child, or the person with whom the child resides; and [44.2.2.(e)]
  - c. Inquire into the situation to ensure that proper cause for the arrest existed and that the juvenile was and is treated in accordance with the law. The juvenile may be detained pending such notice and inquiry.
6. A child shall be released:
- a. To a parent, guardian or other reputable person upon acceptance, by the officer in charge, of the written promise of such person to be responsible for the appearance of the child in court at the required time and place; or
  - b. To a probation officer upon receipt of a request by such officer that the child be released to him/her.
7. A child between the ages of 14 and 17 shall not be released if:<sup>6</sup>
- a. The arresting officer requests in writing that [s]he be detained and the court issuing a warrant for the arrest of such child directs in the warrant that [s]he be held in safekeeping pending his/her appearance in court, or
  - b. A probation officer directs that such child be detained.
- NOTE: Notice of detention shall be given to the parent(s) or guardian or person with whom the child resides and to the probation officer. Nothing contained in this section should be construed to deny the juvenile the right to bail.
8. Juveniles arrested for criminal type offenses are subject to the same booking procedures as adults. See department policy on ***Detainee Processing, 7.03***. Juveniles taken into custody for status offenses or for non-criminal offenses shall not be fingerprinted or photographed.<sup>7</sup> [44.2.2(c)]
9. The arresting officer, the juvenile officer and the prosecutor should cooperate in the preparation and presentation of the case if court action is necessary.



10. Any police proceeding involving juveniles shall be treated in a confidential manner.

## **D. Holding Juveniles**

1. Delinquent Offenders
  - a. Juveniles between ages fourteen and seventeen accused of delinquent offenses may be held in secure custody for no longer than six hours for the purpose of identifying and processing the juvenile and, if appropriate, transportation to a juvenile facility or court.<sup>8</sup>
    - i. Records shall be kept that specify:
      - [a] The time the juvenile entered secure detention and the duration of each period of secure detention;
      - [b] The name of the police officer or custodial officer responsible for visual supervision and the schedule of visual supervision; and
      - [c] A statement of the need for secure detention.
  - NOTE: Juveniles accused of first or second degree murder or who will be tried in adult court as a youthful offender are not subject to the six hour detention limit as they are automatically tried in adult court.<sup>9</sup>
  - b. No child between the ages of fourteen and seventeen shall be detained in a police station or town lockup unless the detention facilities for children have received the written approval of the Commissioner of Youth Services.<sup>10</sup>
  - c. Lockup and other detention facilities shall be such as prevent juveniles who are detained from coming in sight and sound contact with adult prisoners.<sup>11</sup>

- d. No child under age fourteen shall be placed in a cell or otherwise securely detained for any reason. Such child may be held in a safe environment pending suitable disposition.

2. Status Offenders and Protective Custody

- a. Status offenders and juveniles held for protective custody shall not be held in secure custody.
- b. Status offenders may only be held long enough to complete identification, investigation and processing and then must be released to parents, guardians or other responsible adults or transferred to an alternative juvenile facility or court.
- c. A child under the age of seventeen may be taken into protective custody, for a period not exceeding four hours, if an officer:
  - i. Finds the child at a place where the officer reasonably believes there is a controlled substance of Class A, B or C;
  - ii. Reasonably believes the child to be under age seventeen; and
  - iii. Reasonably believes the child knew of the presence of the controlled substance.<sup>12</sup>

Note: The officer in charge of the police station shall make every reasonable effort to notify the juvenile's parent or guardian or other person having lawful custody.

- d. For procedures to follow when a person under age eighteen is taken into protective custody due to consumption of alcohol, see the department policy on **Protective Custody**.

3. Children in Need of Services
  - a. A parent, legal guardian or a police officer may file a petition in the district or juvenile court to have a child declared a "child in need of services". If the court so finds, the court may make orders pertaining to custody, counseling and educational, occupational or other services.
  - b. A child may not be arrested for engaging in behavior which constitutes being a child in need of services unless the child has failed to obey a summons or if the arresting officer has probable cause to believe the child has run away from home and will not respond to a summons.
4. All juveniles detained by the department shall be informed by the booking officer [*insert other position if applicable*] of the procedures regarding custody, release, and transportation to another facility or court, as applicable. [42.2.3(c)]

## **E. Custodial Interrogation of Minors**

1. For a general review of the standards and procedures to be followed when conducting custodial interrogation see the departmental policy and procedure on ***Interrogating Suspects and Arrestees***. It should be remembered that the Miranda Rules apply to juveniles.
2. In addition, the police must also follow the special rules that apply to the interrogation of juveniles. [44.2.2(c)]
  - a. INTERESTED ADULT RULE: In order to obtain a knowing and intelligent waiver by a juvenile, in most cases a parent or interested adult must be present, understand the warnings and have a meaningful opportunity to consult with the juvenile. Before initiating an interrogation, the juvenile's parent, legal guardian, or other interested adult (including an attorney) should be present.<sup>13</sup> [42.2.3(a)]
    - i. UNDER AGE FOURTEEN: No waiver of rights by a juvenile under age fourteen will be valid if an interested adult is not present, understands the

warnings and has a meaningful opportunity to consult with the juvenile.<sup>14</sup>

- ii. **FOURTEEN YEARS OR OLDER:** For juveniles who are at least fourteen but under age seventeen, there should ordinarily be a meaningful opportunity to consult with a parent or interested adult. If there are valid, substantial reasons why an interested adult is not present, officers should ensure, before interrogating the juvenile, that [s]he understands the *Miranda* warnings and the consequences of waiving them and that any waiver of his/her rights is made intelligently, knowingly and voluntarily. A valid waiver will not occur unless the circumstance "demonstrates a high degree of intelligence, experience, knowledge or sophistication on the part of the juvenile".<sup>15</sup>
- iii. **SEVENTEEN YEARS OF AGE:** If the suspect is seventeen years of age at the time of the offense, [s]he is considered an adult in the criminal justice system. Thus for *Miranda* purposes, the special protections afforded to juveniles do not apply.<sup>16</sup>
- b. **INTERESTED ADULT EXPLAINED:** An interested adult is, most often, a parent of the juvenile. When the parent is unavailable, another interested adult may be called upon, such as, depending on the circumstances, a legal guardian, an adult brother or sister, grandparent, or other adult relative or an attorney.
  - i. A person would not qualify as an interested adult if the adult:
    - [a] Lacks the capacity to appreciate the juvenile's situation (e.g., is intoxicated);
    - [b] Appears to be actually antagonistic to the juvenile; or
    - [c] Is required to report the juvenile's offenses to authorities (e.g., an employee of the Department of Youth Services, or a school

official in the case of a weapons violation on school grounds).<sup>17</sup>

- ii. A person under the age of eighteen will not satisfy the interested adult rule.<sup>18</sup>
- c. **OPPORTUNITY TO CONSULT:** The interrogating officer should explain to the adult that the two of them will be left alone to provide them an opportunity to discuss the juvenile's rights. Then the adult and juvenile must be provided an actual opportunity to discuss the juvenile's rights and the consequences of the waiver.

### **3. *Interrogation***

- a. Prior to conducting a custodial interrogation of a juvenile, the interrogating officer shall be particularly careful to read each Miranda right distinctly, clearly and in a manner designed to ensure that the juvenile (and any adult present on his/her behalf) follows the words being spoken and comprehends their meaning.
- b. Preferably, a written card containing the Miranda warnings should be used. This card should be handed to the juvenile (and any adult present on his/her behalf) so that the juvenile can read it slowly and re-read it if necessary.
- c. When an adult acting on behalf of the juvenile is present, the officer shall read the Miranda warnings to the adult.
- d. Some inquiries shall be made of the juvenile (and any adult present on his/her behalf) as to the juvenile's age, most recent level of schooling and education, whether [s]he has any reading disabilities or mental or emotional conditions and whether [s]he understands the words contained in each Miranda warning.
- e. **UNDER FOURTEEN:** If the juvenile being interrogated is under the age of fourteen, he/she must be given an opportunity to have a meaningful consultation with an interested adult to discuss the Miranda warnings .<sup>19</sup>

- f. AGE 14 TO 17: If the juvenile is over the age of fourteen and an interested adult is present, the adult shall be given an opportunity to have a meaningful consultation with the juvenile.<sup>20</sup>
- 4. Officers shall ensure that the interrogation is not unduly coercive, particularly when an interested adult is not present. [44.2.3(b)]
  - a. The duration of each interrogation session should be limited and frequent breaks taken.
  - b. Absent extraordinary circumstances, only two officers shall be present at the interrogation.

NOTE: Massachusetts courts have not ruled on how long the interrogation session of a juvenile may continue before it becomes unduly coercive. Whether an interrogation is unduly coercive such that a valid waiver of rights cannot be made, is a facts and circumstances inquiry and will be dependent on the age, intelligence and sophistication of the juvenile, as well as the circumstances of the interrogation.<sup>21</sup>

- 5. REPORTS: Included in the arrest record will be the time in which each period of interrogation was commenced and completed, the officers present and the names of parents or responsible adults on hand.

**F. Abused or Neglected Children [42.2.2.(b)]**

- 1. A police officer who, in his/her professional capacity, has reasonable cause to believe a child under age 18 is suffering serious physical or emotional injury or death from abuse or neglect, including sexual abuse or malnutrition, shall immediately report such condition to the Department of Social Services by oral communication, followed by a written report within 48 hours of the oral communication.<sup>22</sup> Said report shall contain the following information:
  - a. The names and addresses of the child and parents or other person responsible for the child's care, if known;
  - b. The child's age;
  - c. The child's sex;

- d. The nature and extent of the child's injuries, abuse, maltreatment or neglect;
  - e. The circumstances under which the officer first became aware of the child's condition;
  - f. The action taken, if any, to treat, shelter or otherwise assist the child;
  - g. The name of the officer making the report;
  - h. Any other information which the officer believes may be helpful in establishing the cause of the injuries; and
  - i. The identity, if known, of the person or persons responsible for such injuries.
2. Juveniles may be taken into custody in situations where the officer believes that the life or health of the child is in immediate danger. In such cases, the Department of Social Services (DSS) shall be immediately contacted and requested to respond to the scene to take custody of the juvenile.<sup>23</sup> If DSS does not respond to the scene in a reasonable amount of time, the juvenile may be transported to the station to await DSS.
3. In serious cases of child neglect or abuse, the officer may apply to an appropriate juvenile court to have custody of a child under eighteen taken away from the parents or other neglectful or abusing custodian and have custody transferred, on an emergency basis, to DSS or a licensed child care agency or individual.<sup>24</sup>

## **G. School Liaison and Youth Programs**

1. The chief of police may establish and/or maintain a school liaison program and appoint one or more officers to do the following: [42.2.4]
- a. Act as a resource with respect to delinquency prevention;
  - b. Provide guidance on ethical issues in a classroom setting, as requested;

- c. Provide individual counseling and/or mentoring to students; and
  - d. Explain to students the role of law enforcement in society.
- 2. The department encourages all departmental personnel, as good citizens, to participate on their off-duty time, in any community recreational programs for youths. Where a recreational program is needed by does not exist, officers should encourage citizens and community leaders to organize one. [42.2.5]

## **H. Record Keeping**

- 1. Officers who select noncustodial alternatives or engage in informal enforcement contacts with juveniles shall complete appropriate field interview and/or incident reports as required by this agency. These reports shall clearly identify the juveniles involved, the nature of the incident and the rationale for the officer's disposition.
- 2. Juveniles taken into custody for criminal-type offenses shall be subject to the same reporting requirements as adults. Such records, including photographs and fingerprints, shall be clearly marked "Juvenile" and will be separated from adult arrest records. [82.1.1(a)(b)]



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<sup>1</sup> M.G.L. c. 119, s. 39E-J

<sup>2</sup> M.G.L. c. 119, s. 52

<sup>3</sup> M.G.L. c. 119, s. 52

<sup>4</sup> 28 CFR Part 31.303 (i)

<sup>5</sup> M.G.L. c. 119, s. 67

<sup>6</sup> M.G.L. c. 119, s. 67

<sup>7</sup> M.G.L. c. 263, s. 1A; *Com. v. Shipps*, 399 Mass. 820, 507 N.E.2d 671 (1987)

<sup>8</sup> Executive Order Number 339, Commonwealth of Massachusetts, Aug. 14, 1992; 28 CFR Part 31.303(f)(5)(iv)(H)

<sup>9</sup> M.G.L. c. 119, s. 68

<sup>10</sup> M.G.L. c. 119, s. 67

<sup>11</sup> M.G.L. c. 119, s. 67

<sup>12</sup> M.G.L. c. 94C, s. 36

<sup>13</sup> *Com. v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983)

<sup>14</sup> *Com. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

<sup>15</sup> *Com. v. King*, 17 Mass. App. Ct. 602, 460 N.E.2d 1299, *rev. den.* 391 Mass. 1105, 464 N.E.2d 73 (1984)

<sup>16</sup> *Com. v. Carey*, 407 Mass. 528, 554 N.E.2d 1199 (1990)

<sup>17</sup> *Com. v. A Juvenile*, 389 Mass. 128, 449 N.E.2d 654 (1983); *Com. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

<sup>18</sup> *Com. v. Guyton*, 405 Mass. 497, 541 N.E.2d 1006 (1989)

<sup>19</sup> *Com. v. Berry*, 410 Mass. 31, 570 N.E.2d 1004 (1991)

<sup>20</sup> *Id.*

<sup>21</sup> *See Com. v. Harris*, 364 Mass. 236, 303 N.E.2d 115 (1973)

<sup>22</sup> M.G.L. c. 119, s. 51A

<sup>23</sup> M.G.L. c. 119, s. 51B

<sup>24</sup> M.G.L. c. 119, s. 24

# ARRESTS WITH CHILDREN PRESENT

|                                |                              |
|--------------------------------|------------------------------|
| POLICY & PROCEDURE<br>NO. 3.07 | ISSUE<br>DATE: 3/19/2014     |
|                                | EFFECTIVE<br>DATE: 3/19/2014 |
|                                | REVISION<br>DATE: 6/1/2020   |
|                                |                              |

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## POLICY:

It is the policy of the Montague Police Department that anytime an adult subject is placed under arrest for any reason and the arrested subject, the arrestee, is responsible for caring for a child or children, (child is defines as anyone age 17 and under), the Montague Police Officers, prior to transporting the arrestee back to the Montague Police Department, will make sure there is someone on scene, preferably a parent, that can responsibly and safely take custody of the child and care for the child while the adult is in custody.

**If there is no adult on scene that can safely take custody and care for the child** then the Montague Police Department will immediately contact the Department of Children and Family (DCF). A Montague Police Officer will remain on scene with the child until a DCF worker arrives.

If there is an emergency and the officer must leave the residence, the child can be brought back to the Montague Police Department for safe keeping until someone arrives to care for and take custody of the child. If it will be an extended period of time before someone is able to take custody of the child, then the child can be transported to the Franklin Medical Center (FMC) to await someone to take custody of the child. This may include being transported to FMC in a

police cruiser or by ambulance. The Shift Commander will decide the best method of transport to FMC.

**If there are other adults on scene that are willing to take custody of the child,** the Montague Police Officer will make sure that the arrestee approves of leaving the child with the on scene adult. If the arrestee is not the child's actual parent or legal guardian then approval to leave the child with the on scene adult must be obtained from the actual parent or legal guardian of the child. The Officer or Dispatcher will be the one responsible for obtaining this approval. If the child's parent or legal guardian can't be reached by the police department then you may leave the child with the on scene adult if it is approved by the arrestee **and** the Shift Commander makes a determination that the scene appears safe enough to do so.

A warrant and record check will be done of all adults who are or will be present where the child will remain to ensure the safety of the child.

After clearing the scene of the arrest, a Montague Police Officer will contact DCF following the contact procedures for filing a 51A.

This policy takes effect immediately and will remain in effect until changed or updated by the Chief of Police.

# DOMESTIC VIOLENCE

|                                       |                             |
|---------------------------------------|-----------------------------|
| POLICY & PROCEDURE NO.<br><b>3.08</b> | ISSUE<br>DATE: 5/9/2014     |
|                                       | EFFECTIVE<br>DATE: 5/9/2014 |
|                                       | REVISION<br>DATE: 6/1/2020  |
|                                       |                             |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

Among the most difficult and sensitive calls for police assistance are those involving domestic violence. Officers must be alert and impartial, and must be concerned with the needs of victims where domestic violence is apparent or alleged. At the same time, officers must always anticipate the unexpected. Domestic violence situations are often characterized by anger, frustration, and intense emotion. These feelings can easily be directed against the responding officers, who can suddenly become the focus and target of ensuing violence by the batterer or the victim.

## II. POLICY

- A. It is the policy of this department to treat domestic violence with the same consideration as violence in other enforcement contexts.
- B. This department shall adhere to the requirements of G.L. c. 209A: Abuse Prevention.

## III. DEFINITIONS

- A. *Abuse*:<sup>1</sup> The occurrence of one or more of the following acts between family or household members:
  - 1. Attempting to cause or causing physical harm;
  - 2. Placing another in fear of imminent physical harm; or
  - 3. Causing another to engage involuntarily in sexual relations by force, threat of force or duress.

*B. Family or Household Members are defined as persons who:<sup>2</sup>*

1. Are or were married to one another;
2. Are or were residing together in the same household;
3. Are or were related by blood or marriage;
4. Have a child in common regardless of whether they have ever married or lived together; or
5. Are or have been in a substantial dating relationship which shall be adjudged by the court's consideration of the following factors:
  - a. The length of time of the relationship;
  - b. The type of relationship;
  - c. The frequency of interaction between the parties; and
  - d. If the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.

Note: This includes same sex relationships.

## **IV. PROCEDURE**

### ***A. Domestic Violence: Duties of Police Officers***

#### **1. GENERALLY**

- a. The duties of police officers in responding to reports of domestic violence are established in M.G.L. c. 209A section 6.
- b. Whenever any law officer has reason to believe that a family or household member has been abused or is in danger of being abused, such officer shall use all reasonable means to prevent further abuse. The officer shall take, but not be limited to, the following actions:
  - 1) **REMAIN ON THE SCENE:** Remain on the scene where the abuse occurred or was (or is) in danger of occurring as long as the officer has reason to believe that at least one of the parties involved would be in immediate physical danger without the presence of a law officer. This shall include but not be limited to remaining in the dwelling for a reasonable period of time.
  - 2) **Medical Treatment:** Assist the abused person in obtaining medical treatment necessitated by an assault, which may include driving the victim to the emergency room of the nearest hospital, or arranging for appropriate transportation to a health care facility, notwithstanding any law to the contrary.

- 3) GETTING TO A PLACE OF SAFETY: Assist the abused person in locating and getting to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or friend's residence (or a similar place of safety). The officer shall consider the victim's preference in this regard and what is reasonable under all the circumstances.
- 4) NOTICE OF RIGHTS: Give abuse victims immediate and adequate notice of their rights by handing them and reading a form detailing their rights (see Attachment A); where said person's native language is not English, the statement shall then be provided in said person's native language whenever possible; this form shall be left with such person.
- 5) ACTIVATING THE EMERGENCY JUDICIAL RESPONSE SYSTEM (EJR): Assist the abused person by activating the emergency judicial system (generally by contacting the state police, unless some other procedure has been established) when the court is closed for business.

## 2. ARREST WHEN APPROPRIATE

- a. Arrest any person a law officer witnesses or has probable cause to believe has violated a temporary or permanent vacate, restraining, or no-contact order or judgment issued pursuant to:
  - 1) Section eighteen, thirty-four B or thirty-four C of chapter two hundred and eight (Divorce);
  - 2) Section thirty-two of chapter two hundred and nine (Abandoned Spouse, Order of Support);
  - 3) Section three, three B, three C, four or five of chapter 209A (Abuse Prevention); or
  - 4) Sections fifteen or twenty of chapter two hundred and nine C (Children Born out of Wedlock); or
  - 5) A similar protection order issued by another jurisdiction.
- b. When there are no vacate, restraining, or no-contact orders or judgments in effect, arrest shall be the preferred response whenever an officer witnesses or has probable cause to believe that a person:
  - 1) Has committed a felony;
  - 2) Has committed a misdemeanor involving abuse as defined in section one of this chapter;
  - 3) Has committed an assault and battery in violation of section thirteen A of chapter two hundred and sixty-five.

3. **ABUSER BAIL:** Inform the victim that the abuser will be eligible for bail and may be promptly released.
4. **REFERRALS:** Provide the addresses and telephone numbers of available crisis centers or emergency shelters and, where appropriate, advise any victims or witnesses of the Victim/Witness Assistance Program administered by the local District Attorney's office.
5. **ARREST/INCIDENT REPORTS:** The victim shall be provided a copy of the full report at no cost upon request to the appropriate law enforcement department.<sup>3</sup>
6. **MANDATORY REPORTING**
  - a. **Child Abuse or Neglect:** A report will be filed with the Department of Social Services whenever the police officer has reasonable cause to believe that a child under the age of 18 has been abused or neglected, in accordance with M.G.L. c. 119, § 51A. During office hours, contact the local D.S.S. office. After hours, call the hotline: 1-800-792-5200.
  - b. **Disabled Person Abuse or Neglect:** A report will be filed with the Disabled Persons Protection Commission whenever the officer has reasonable cause to believe that a caretaker has abused/neglected a disabled person, between the ages of 18 and 59, in accordance with M.G.L. c. 19C, § 10. Call the hotline: 1-800-426-9009.
  - c. **Elder Abuse or Neglect:** A report will be filed with the Executive Office of Elder Affairs whenever the officer has reasonable cause to believe that someone age 60 or older has been abused/neglected, in accordance with M.G.L. c. 19A, §§ 14-26. Call the 24-hour hotline: 1-800-922-2275.
  - d. **Firearms:** Take appropriate action with firearms. See **Firearms** in this policy.

## ***B. Restraining Orders***

1. **Protection Order:** A Protection order issued by another jurisdiction is issued for the purpose of:
  - a. Preventing violent or threatening acts or harassment against;
  - b. Contact or communication with; or
  - c. Physical proximity to another person.
2. **VACATE ORDER**
  - a. This is a court order to leave and remain away from a premises, and to surrender forthwith any keys to said premises to the plaintiff.

- b. The defendant shall not damage any of the plaintiff's belongings or those of any other occupant.
- c. The defendant shall not shut off or cause to be shut off any utilities or mail delivery to the plaintiff.
- d. In the case where the premises designated in the vacate order is a residence, so long as the plaintiff is living at said residence, the defendant shall not interfere in any way with the plaintiff's right to possess such residence, except by order or judgment of a court of competent jurisdiction pursuant to appropriate civil eviction proceedings, a petition to partition real estate, or a proceeding to divide marital property.
- e. A vacate order may include in its scope:
  - 1) A household;
  - 2) A multiple family dwelling; and
  - 3) The plaintiff's workplace.

Note: When issuing an order to vacate the plaintiff's workplace, the presiding justice must consider whether the plaintiff and defendant work in the same location or for the same employer.
  - 4) Venue: If the plaintiff has left a residence or household to avoid abuse, such plaintiff shall have the option of commencing an action in the court having venue over such prior residence or household, or in the court having venue over the present residence or household.<sup>4</sup>
  - 5) Violations: Police officers shall arrest any person a law officer witnesses or has probable cause to believe has violated a temporary or permanent order.<sup>5</sup>

### ***C. Patrol Officers Response***

#### **1. RESPONDING TO THE SCENE**

- a. Whenever possible, at least two officers should immediately be dispatched and proceed to the scene.
- b. The dispatcher should check the address history and master file index for a history of any of the parties involved, particularly the alleged batterer, and provided officers with as much of the following information as is available:
  - 1) Any history of violence, weapons, or previous domestics;
  - 2) Any other relevant information, especially regarding a history of incidents involving the particular address, or the parties, and the likelihood of firearms being present;



- 3) Record of firearms identification cards and/or licenses to carry being issued to resident(s);
  - 4) The existence of any warrant for the suspect (by a check of LEAPS and the Warrant Management System);
  - 5) Board of Probation check of criminal history of the suspect; and
  - 6) Any existing or prior restraining orders against the suspect (B.O.P. check). Include orders held by persons other than the victim in this case.
- c. Officers should plan their approach and use of sound tactics during the response.

## 2. ARRIVAL

- a. Officers should not park directly in front of the scene, but a short distance away.
- b. Upon approach, officers shall make observations of the scene, and listen for sounds of a disturbance or violence.

## 3. CONTACT

- a. The initial contact by the responding officers must convey a professionally calm and helpful attitude.
- b. The officers shall state their reason for being present.
- c. They must be considerate and attentive toward all parties and their problems regardless of the officers' own views or personal reactions toward the matter.

## 4. GAINING ENTRY

- a. Officers shall use all reasonable means to prevent further abuse.<sup>6</sup>
- b. Officers may enter private premises:
  - 1) At the request of someone in lawful control of the premises;
  - 2) To enforce the provisions of a protective court order; or
  - 3) To take reasonable measures to prevent any further abuse under the authority of M.G.L. c. 209A.
- c. Officers may enter private premises where there is probable cause to believe that a felony has been or is being committed, or where a breach of the peace has been committed in an officer's presence.<sup>7</sup>
- d. Officers must leave if both parties request that they do so, unless there is probable cause to believe that a felony has been committed, or that their continued presence is necessary to prevent physical harm or to carry out the provisions of M.G.L. c. 209A.<sup>8</sup>

- e. "Private Premises" includes a house, an apartment, a condominium, a hotel room, a mobile home, a dormitory room or a house trailer.

#### 5. UPON ENTERING

- a. Take immediate control of the situation.
- b. Make an immediate arrest if an arrestable violent criminal act is witnessed by an officer or if a violation of an existing restraining order is obvious.
- c. Separate the parties and interview them apart from each other.
  - 1) Separation allows each to relate matters to an officer without being overheard or directly intimidated or interrupted by the other party.
  - 2) Officers should allow each party to present his or her story individually, avoiding any unnecessary interruptions or undue interference by the other party.
- d. Officers should remain within sight of one another whenever possible for officer safety purposes and to avoid any subsequent allegations of mistreatment.
- e. Prevent the physical movement of the parties as much as possible and control their access to any potential weapons, avoiding the kitchen area if possible.
- f. Officers should be mindful that an abuser who is under the influence of drugs or alcohol, or who suffers from mental illness, may pose a greater risk to the victim's and officers' safety.

#### 6. RENDERING AID

- a. Officers may transport victims of domestic violence to the emergency room of the nearest hospital in a police vehicle if necessary, but should receive supervisory approval, except in an emergency.<sup>9</sup>
- b. The preferred method of transportation is via ambulance.
- c. The victim may seek medical attention on his/her own.

#### 7. IMMUNITY FOR POLICE OFFICERS: No officer shall be held liable in any civil action regarding personal injury or injury to property brought by any party to a domestic violence incident for an arrest based on probable cause when such officer acted reasonably and in good faith and in compliance with this chapter.<sup>10</sup>

**D. INVESTIGATION****1. OBSERVATIONS**

- a. Officers shall make observations of the parties involved and the surroundings, photographing when possible, and documenting the observations in the report.
  - 1) Officers must pay particular attention to the following:
  - 2) Signs of injury to the victim including bruising, bleeding, and defensive wounds;
  - 1) Torn clothing;
  - 2) Signs of offensive injury to the suspect including the suspect's hands and fists; and
  - 3) Signs of a struggle including:
    - a) Broken furniture, doors, and windows.
    - b) Telephone being damaged or torn from the wall.
    - c) Objects broken from having been knocked over or thrown.

**2. EXCITED UTTERANCES**

- a. Officers should make note of spontaneous or excited utterances which may be admitted into evidence as an exception to the hearsay rule.
- b. Statements made to dispatchers during an emergency (E9-1-1) call may be admitted into evidence as an exception to the hearsay rule even if the victim refuses to testify.<sup>11</sup>
- c. Spontaneous statements made by a victim or witness may be admitted into evidence even if they later recant or refuse to testify, provided:<sup>12</sup>
  - 1) There is an occurrence or event "sufficiently startling to render inoperative the normal reflective thought processes of the observer;" and
  - 2) If the declarant's statement was "a spontaneous reaction to the occurrence or event and not the result of reflective thought."

**3. WITNESSES**

- a. Identifying Witnesses
  - 1) Attempt to identify and interview the party who called the police.
  - 2) Seek out other potential witnesses including children of the victim and batterer, neighbors and other witnesses.

- 
- 3) Be mindful of their concerns about retaliation.
  - b. Questioning Witnesses
    - 1) The officers must ask pertinent questions.
    - 2) If conditions prohibit the obtaining of this information at the scene, it must be obtained during the follow-up investigations. Such information should include:
      - a) Information regarding identities and relationships, including children.
      - b) The phone number of the residence.
      - c) Information about the suspect's ownership of, presence of, or access to firearms, and their location.
      - d) Any prior history of such disputes and whether there are any vacate, restraining, no-contact or other protective orders currently in effect, including those held against the suspect by someone other than the victim:
        - i. Document allegations of prior abuse, including expired protective orders.
        - ii. Seek appropriate criminal action for prior incidents.
      - e) Information on who has lawful custody of any minors involved and whether court approved visitation rights are being transgressed.
    - 3) Avoid emphasis or in-depth questioning on personal matters if there is an indication that the person would rather not discuss them more fully.
  - c. Additional Information: Ask the parties to produce copies of court orders or other court papers to verify their claims.

### ***E. Arrest Guidelines***

1. THE DECISION TO ARREST
  - a. Generally
    - 1) The safety of the victim and any involved children shall be paramount in any decision to arrest, and in the timing of the arrest.
    - 2) Officers should attempt to identify the primary aggressor, and take action based on that determination. In the majority of cases, an effective investigation will reveal the primary aggressor.

- 3) As in other types of criminal investigations, uncorroborated statements by a victim can constitute probable cause that the crime occurred.
- 4) The decision to arrest must be based on whether or not probable cause exists that the crime occurred, not on whether or not the victim wishes to seek complaints or wishes to testify at a future date.

b. Substantive Dating Relationship

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

c. Substance Abuse and Mental Health Issues

- 1) When assessing credibility in order to establish probable cause, officers should remember that a victim who is under the influence of drugs or alcohol, or who suffers from mental illness, is **not** an inherently unreliable witness.
- 2) An abuser who is under the influence of drugs or alcohol, or who suffers from certain mental illnesses, may pose a greater risk to the safety of the victim and officer.
- 3) It is not unusual for an abuser to display a calm demeanor following a violent assault.

2. MANDATORY ARRESTS

- a. Officers shall make a warrantless arrest of any person the officers witness or have probable cause to believe has violated an

emergency, temporary or permanent vacate, refrain from abuse, stay away or no-contact order or judgment, a suspension and surrender order, or protective order issued by another jurisdiction.<sup>13</sup>

- b. If the victim is unwilling to bring a complaint against the alleged abuser, officers are expected to arrest where probable cause exists.

NOTE: While G.L. c. 276, §28 concerning arrests without a warrant for a violation of certain statutes, among which is listed c. 209A, uses the word "may," this is superseded by the provisions of c. 209A, which specify that officers "shall" make such a warrantless arrest.

- 3. ARREST AS A PREFERRED RESPONSE: When there is no restraining order in effect, arrest shall be the preferred response whenever an officer witnesses or has probable cause to believe that a person:
  - a. Has committed a felony; or
  - b. Has committed an assault and battery on a family or household member in violation of G.L. c. 265, § 13A; or
  - c. Has committed a misdemeanor involving abuse, as defined in G.L. c. 209A; or
  - d. Has committed an assault and battery or permits another to commit an assault and battery upon an elder or a person with a disability in violation of M.G.L. c. 265, § 13K.
- 4. IF THE SUSPECT HAS FLED THE SCENE: When probable cause to arrest exists, and the suspect has fled the scene:
  - a. The officer will advise the dispatcher to inform area patrols, including other jurisdictions where the suspect is believed to be going, to attempt to locate and arrest the suspect based upon the probable cause of the investigating officer.
  - b. If another police department has determined that probable cause to arrest exists, that probable cause shall be honored. This department shall immediately attempt to locate the suspect and effect an arrest as requested, based upon the probable cause of the investigating department.
  - c. Officers will attempt to make a warrantless arrest when the suspect is not found immediately. However, as soon as is practical, the investigating department shall seek an arrest warrant from the appropriate court, in cases involving abuse as defined under G.L. c. 209A.

## 5. DUAL ARRESTS

- a. Any officer arresting both parties is required by law to submit a detailed, written report, in addition to an incident report, setting forth the grounds for dual arrest.<sup>14</sup>
- b. Dual arrests, like the issuance of mutual restraining orders, are strongly discouraged because they trivialize the seriousness of domestic abuse and increase the danger to victims.
- c. Officers should attempt to identify the primary aggressor, and take action based on that determination. In the majority of cases, an effective investigation will reveal the primary aggressor.
- d. Officers investigating an incident of domestic violence shall not threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement intervention by any party.<sup>15</sup>

## 6. ARREST OF A CAREGIVER

- a. In cases involving abuse of an elder or a person with a disability, officers must address the issue of whether or not the victim can be left alone safely, if the abuser is arrested.
- b. If a suspect is the caretaker of a child, the officer needs to determine whether or not the child can be left alone.
- c. If the child, elder or person with a disability cannot be left alone, the appropriate protective agency or family member(s) must be contacted, in order to arrange for the temporary care of the child, disabled or elder person.
- d. Any mandated reports of abuse or neglect will be filed in these instances.

## 7. SUMMONSES AND CLERK MAGISTRATE HEARINGS

- a. In instances where clear probable cause does not exist to effect an arrest, but the investigation indicates a likelihood that domestic violence may have taken place, an officer may seek a show cause hearing before the Clerk Magistrate.
- b. A show cause hearing shall not be an alternative to a lawful arrest based upon probable cause.

## 8. BAIL

- a. When a judge or other person authorized to take bail bails any person arrested under the provisions of chapter 209A, [s]he shall make reasonable efforts to inform the victim of such release prior to or at the time of said release.<sup>16</sup>

- b. Police will often be tasked with executing this requirement.

### ***F. Out of State Orders or Violations***

1. A protective order issued in another jurisdiction (as defined in G.L. c. 109A, § 1) shall be given full faith and credit in the Commonwealth.<sup>17</sup>
2. Officers shall make a warrantless arrest of any person the officers witness or have probable cause to believe has violated an emergency, temporary or permanent vacate, refrain from abuse, stay away, or no-contact order or judgment issued by another jurisdiction.
3. In assessing probable cause, an officer may presume the validity of the protection order issued by another jurisdiction when the officer has been provided with:
  - a. A copy of the order, by any source; and
  - b. A statement by the victim that such order remains in effect.

### ***G. Children***

1. WELFARE OF CHILDREN
  - a. Where children are present at a domestic dispute, their welfare and safety must be a major consideration.
  - b. Any evidence of neglect or emotional, physical or sexual abuse of children under eighteen shall be carefully noted.
2. ABUSE OF A CHILD
  - a. A police officer must take action when, in his/her professional capacity, [s]he has reasonable cause to believe that a child under eighteen is in any of the following situations:
    - 1) Is suffering serious physical or emotional injury resulting from abuse, including sexual abuse; or
    - 2) Is suffering serious physical or emotional injury resulting from witnessing domestic abuse, or from neglect, including malnutrition; or
    - 3) Is determined to be physically dependent upon an addictive drug at birth;
    - 4) Has died because of neglect, abuse or drug addiction; or
    - 5) Is present in a household in which the officer observes the presence of drugs or evidence of drug use.
  - b. The officer shall take the following action:.
    - 1) Notify his/her supervisor.
    - 2) Complete an incident report.



- 3) Submit an oral and/or written report to the Department of Social Services as required by G.L. c. 119, §51A.
3. CHILD CUSTODY: Officers should be aware that in serious cases of child neglect or abuse, "any person" may apply to an appropriate juvenile court to have custody of a child under eighteen taken away from the parents or other neglectful or abusing custodian and have custody transferred, on an emergency basis, to the Department of Social Services or a licensed child care agency or individual.

## ***H. Property***

1. Property Disputes: When a party to a domestic dispute is accused of removing or attempting to remove property from the dwelling or is accused of damaging or destroying property, the procedure is as follows:
  - a. The officer should investigate to determine if any criminal violation has occurred and take appropriate action.
  - b. The parties should be warned of the potential civil or criminal consequences of their conduct, and both parties should be advised to seek legal counsel.
2. COURT ORDERS TO RETRIEVE BELONGINGS
  - A. DEFENDANT
    - 1) Once a vacate, no contact, stay away or refrain from abuse order is issued, officers should not accompany a defendant to the property for any reason without specific judicial authorization.
    - 2) A vacate order includes the following requirement: "The defendant shall not damage any of the plaintiff's belongings or those of another occupant and shall not interfere with any utilities or mail delivery to the plaintiff."
    - 3) The defendant in the vacate order may be allowed to retrieve his/her belongings only under the following conditions:
      - a) The defendant must have a court order allowing for the retrieval.
      - b) The defendant must be accompanied by the police. Officers shall remain with the defendant throughout the process.
      - c) The victim must have prior notice by the department, and must agree to the timing of the retrieval.
      - d) The defendant must not be allowed to use this as a means of harassing the victim.

- e) Additional visits for property must be authorized by the court.
- b. PLAINTIFF (Victim): When a court order exists allowing for a victim to return to the defendant's residence in order to retrieve his or her belongings, the police shall accompany the victim to ensure the order is executed, and that the victim is able to follow the order free from harassment or abuse by the defendant.
- c. POLICE ROLE: When a police officer is present while a party to a restraining order retrieves property in compliance with a court order, the following must occur:
  - 1) The officer may not determine what property may be removed.
  - 2) Disputed property must remain, and the party claiming the property must seek satisfaction through the court.

## ***I. Firearms***

### **1. DOMESTICS GENERALLY**

- a. When a firearm or other weapon is present at the scene of a domestic violence situation or the responding officer(s) are informed that a firearm or weapon has been or may be involved in the dispute, the officer(s) shall:
  - 1) Seize the weapon as evidence of the crime, if the responding officers are informed that a firearm or weapon has been involved in the dispute.
  - 2) Request that the firearm or weapon be placed in their custody temporarily.
  - 3) Search for and take custody of the firearm or weapon if one of the parties residing there requests that they do so.
  - 4) Seize and take temporary custody of the firearm or weapon to alleviate the threat of serious violence that it poses.
  - 5) Determine whether a firearm is lawfully possessed before returning the same.
- b. If the officer determines that the weapon cannot be seized:
  - 1) A judge can order a defendant to surrender his/her guns, License to Carry and Firearms Identification Card; and
  - 2) The Chief can revoke a License to Carry for cause and an Firearms Identification Card for:
    - a) Felony convictions;
    - b) Drug use, possession or sale; and

c) Mental illness.

## 2. RESTRAINING ORDERS

- a. SERVICE OF SUSPENSION AND SURRENDER ORDERS: Upon issuance of a Suspension and Surrender Order as part of a G.L. c. 209A Order, the police shall immediately take possession of all of the following:
  - 1) Firearms, rifles, shotguns, machine guns;
  - 2) Ammunition; and
  - 3) Any license to carry firearms in the control, ownership or possession of a defendant.
- b. VIOLATIONS OF SUSPENSION AND SURRENDER ORDERS: In the interest of immediacy and the statutory mandate to arrest, officers shall make a warrantless arrest of any person the officers witness or have probable cause to believe has violated a c. 209A Suspension and Surrender Order.
- c. SEIZURE AND STORAGE OF FIREARMS: This department shall honor any another police department's request for assistance in seizing firearms, licenses and permits, regardless of which department is named within the order. The department named within the order shall be responsible for the storage of the seized items or the delegation of storage to an authorized facility.
- d. ORDERS AGAINST LAW ENFORCEMENT OFFICERS
  - 1) In cases involving a police officer who is a defendant in a c. 209A Suspension and Surrender Order, the officer must relinquish all firearms, including departmental weapons, to the department serving the order.
  - 2) For further information, see the department policy regarding ***Domestic Violence by Police Officers***.

## 3. FEDERAL FIREARMS PROVISIONS

- a. Although officers cannot enforce the following federal provisions, the chief should be notified whenever an officer identifies a case involving the following circumstances, because there may be federal action which can be taken.
- b. Persons Named in Protective Orders: Under the Federal Crime Control and Law Enforcement Act of 1994, it is unlawful for an individual subject to a "permanent" restraining order involving "intimate partners" to receive, ship, transport, or possess guns (including handguns, rifles, and shotguns) or ammunition that traveled in interstate commerce.

- c. Misdemeanors Involving Domestic Violence: Under 18 U.S.C. § 922(g)(9), it is unlawful for any person convicted of certain misdemeanor crimes involving domestic violence to ship, transport, possess, sell or otherwise dispose of, or receive, firearms or ammunition.
- d. Federal Felon in Possession of a Firearm: Under 18 U.S.C. § 922(g)(1), it is unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year to possess any gun or ammunition. **Law enforcement officers are exempt from this federal firearms disability.**

NOTE: Misdemeanors are excluded from consideration if they are punishable by a term of two years or less. Therefore, misdemeanors which are punishable by a term of imprisonment of more than two years fall within this provision.

## ***J. Incident Reports and Victim Confidentiality***

### **1. OFFICERS' REPORTS**

- a. The reporting procedures of any other crime scene should be applied to domestic violence incidents.
- b. Any officer arresting both parties is required by law to submit a detailed, written report, in addition to an incident report, setting forth the grounds for dual arrest.<sup>18</sup>

### **2. CONFIDENTIALITY**

- a. The records of cases arising out of an action brought under the provisions of this chapter where the plaintiff or defendant is a minor shall be withheld from public inspection except by order of the court, provided that:
  - 1) Such records shall be open, at all reasonable times, to the inspection of the minor, said minor's parent, guardian, attorney; and
  - 2) Such records shall be open, at all reasonable times, to the plaintiff and the plaintiff's attorney, or any of them.
- b. The plaintiff's residential address, residential telephone number and workplace name, address and telephone number, shall be confidential, except that the data shall appear on the court order and be accessible to the defendant and the defendant's attorney unless the plaintiff specifically requests that this information be withheld from the order.

### 3. RELEASE OF REPORTS

- a. The victim shall be provided a copy of the full incident report at no cost upon request to the appropriate law enforcement department.<sup>19</sup>
- b. Such confidential portions of the court records shall not be deemed to be public records.<sup>20</sup>

### ***K. Service of Orders***

1. Service of orders shall be made in hand unless otherwise ordered by the court.
  - a. Orders shall be served promptly upon receipt. Service of orders will not be delayed in order to forward service by a specialized officer or unit.
  - b. The victim's safety should be considered in the timing of the service of the order. Officers should encourage the victim to contact an advocate (either through the district attorney's office, or through the local battered women's program) in order to develop a safety plan around the service of the order, if appropriate.
  - c. A record must be kept of all attempts at service. Logging the attempt as a call in our police log is sufficient.
2. Return of Service, including service of Emergency Orders, must be completed and signed by the officer making service and promptly returned to the court.
3. A plaintiff who brings an order to the department for service should be interviewed to ensure that the department's responsibilities under G.L. c. 209A and this policy and procedure are met.

### ***L. Supervisor's Role***

1. ASSURANCES OF PRACTICES
  - a. Supervisors will ensure that the provisions of G.L. c. 209A and the following guidelines are met.
  - b. Dispatch logs will be reviewed to ensure that an incident report has been filed, even in cases where no arrest was made.
  - c. Calls which are received as allegations of domestic violence or a domestic disturbance will not be reclassified because no probable cause to arrest existed. Reports will be filed in these cases. A log entry will be sufficient. Officers are to make sure that there is a record of this indicating no probable cause existed.

- d. Incident and arrest reports will be carefully reviewed by a supervisor, in order to ensure that the provisions of G.L. c. 209A and these guidelines are met.
- e. If upon review of an incident report it is believed that probable cause exists, the supervisor will ensure that criminal charges are initiated according to the statute and these guidelines.
- f. Whenever a supervisor identifies a particular case as posing significant danger, this case should be discussed at roll call.
- g. Supervisors will ascertain that appropriate referrals were provided to the victim.

## 2. FOLLOW-UP INVESTIGATIONS

- a. The reviewing supervisors shall determine whether a follow-up investigation is needed.
- b. If so, the supervisor shall ensure that the investigation is conducted or forwarded to the appropriate entity or unit.
- c. Upon review of the follow-up investigation, the supervisor will ensure that additional charges are initiated whenever appropriate.

## 3. POLICE OFFICER AS A DEFENDANT

- a. Whenever a police officer from this or any other department is investigated regarding allegations of domestic violence, his or her Chief shall be notified.
- b. For further information, see the department policy regarding ***Domestic Violence by Police Officers***.

## ***M. Criminal Statutes***

### 1. CHAPTER 265: SECTION 43. STALKING

- a. Elements of the Crime of Stalking: Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person which:
  - 1) seriously alarms or annoys that person; and
  - 2) would cause a reasonable person to suffer substantial emotional distress; and
  - 3) makes a threat with the intent to place the person in imminent fear of death or bodily injury.
- b. Punishment: Such person shall be guilty of the crime of stalking and shall be punished by imprisonment in the state prison for not more than five years or by a fine of not more than one thousand

dollars, or imprisonment in the house of correction for not more than two and one-half years or both.

- c. Such conduct, acts or threats described in this paragraph shall include, but not be limited to, conduct, acts or threats conducted by mail or by use of a telephonic or telecommunication device including, but not limited to, electronic mail, internet communications and facsimile communications.
- d. Restraining Orders
  - 1) Whoever commits the crime of stalking in violation of a temporary or permanent vacate, restraining, or no-contact order or judgment; or a protection order issued by another jurisdiction; or a temporary restraining order or preliminary or permanent injunction issued by the superior court, shall be punished by imprisonment in a jail or the state prison for not less than one year and not more than five years.
  - 2) No sentence imposed under the provisions of this subsection shall be less than a mandatory minimum term of imprisonment of one year.
- e. Jurisdiction: Chapter 277: Section 62B. Stalking; jurisdiction: The crime of stalking, as set forth in section forty-three of chapter two hundred and sixty-five, may be prosecuted and punished in any territorial jurisdiction of the commonwealth wherein an act constituting an element of the crime was committed.

## 2. CHAPTER 265: SECTION 43A. CRIMINAL HARASSMENT

- a. Elements of the Crime of Criminal Harassment: Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which:
  - 1) Seriously alarms that person; and
  - 2) Would cause a reasonable person to suffer substantial emotional distress.
- b. Such person shall be guilty of the crime of criminal harassment and shall be punished by imprisonment in a house of correction for not more than two and one-half years or by a fine of not more than \$1,000, or by both such fine and imprisonment.
- c. Such conduct or acts described in this paragraph shall include, but not be limited to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device including, but not limited to, electronic mail, internet communications or facsimile communications.

- d. Whoever, after having been convicted of the crime of criminal harassment, commits a second or subsequent such crime, or whoever commits the crime of criminal harassment having previously been convicted of a violation of section 43, shall be punished by imprisonment in a house of correction for not more than two and one-half years or by imprisonment in the state prison for not more than ten years.

Attachment A: **ABUSED PERSON'S NOTICE OF RIGHTS**

**Directions to Police Officer:** *Give a victim of domestic violence immediate and adequate notice of his/her rights. The notice shall consist of handing said person a copy of the statement which follows below and reading the same to the victim. Where the victim's native language is not English, the statement shall be then provided in the victim's native language whenever possible.*

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

"For an emergency on weekends, holidays, or week nights the police will refer you to a justice of the Superior, Probate and Family, District or Boston Municipal Court Departments."

"You have the right to go to the appropriate District Court or Boston Municipal Court and seek a criminal complaint for threats, assault and battery, assault with a deadly weapon, assault with intent to kill or other related offenses."

"If you are in need of medical treatment, you have the right to request that an officer present drive you to the nearest hospital or otherwise assist you in obtaining medical treatment."

"If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and your children can leave or until your safety is otherwise ensured. You may also request that the officer assist you in locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter or a family member's or a friend's residence, or a similar place of safety."

"You may request a copy of the police incident report at no cost from the police department."



Added August 14, 2014:

Because of recent changes in the Domestic Violence Laws:

**Domestic Violence calls and Arrests are no longer considered Public Information.** Information pertaining to responses to reports of Domestic Violence, Rape or Sexual Assault, Arrest of person for Domestic Abuse or Violation of a Protective Order where victim family or household member, or entries pertaining to a handicapped individual who is physically or mentally incapacitated so as to be bedridden or requiring device to provide mobility, to be kept in separate daily log by police and **not subject to disclosure to public or anyone not authorized by S 97D.**

Simply stated: Do not give out Domestic Violence Information to the public and papers.

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<sup>1</sup> M.G.L. c. 209A §1.

<sup>2</sup> M.G.L. c. 209A §1.

<sup>3</sup> M.G.L. c. 209A § 6.

<sup>4</sup> M.G.L. c. 209A §2.

<sup>5</sup> M.G.L. c. 209A § 6(7).

<sup>6</sup> M.G.L. c. 209A § 6.

<sup>7</sup> M.G.L. c. 41 §98, "...may enter any building to suppress a riot or breach of peace therein."

<sup>8</sup> M.G.L. c. 209A § 6(1).

<sup>9</sup> M.G.L. c. 209A § 6(2).

<sup>10</sup> M.G.L. c. 209A § 6.

<sup>11</sup> *Davis v. Washington*, 126 S. Ct. 2266.

<sup>12</sup> *Commonwealth v. Santiago*, 437 Mass. 620

<sup>13</sup> M.G.L. c. 209A §6(7).

<sup>14</sup> M.G.L. c. 209A § 6.

<sup>15</sup> M.G.L. c. 209A § 6.

<sup>16</sup> M.G.L. c. 209A §6.

<sup>17</sup> M.G.L. c. 209A §5A.

<sup>18</sup> M.G.L. c. 209A §6.

<sup>19</sup> M.G.L. c. 209A §6.

<sup>20</sup> M.G.L. c. 209A §8.

Chief Charles E. Dodge III

# DOMESTIC VIOLENCE INVOLVING POLICE OFFICERS

|                                       |                             |
|---------------------------------------|-----------------------------|
| POLICY & PROCEDURE NO.<br><b>3.09</b> | ISSUE<br>DATE: 5/9/2014     |
|                                       | EFFECTIVE<br>DATE: 5/9/2014 |
|                                       | REVISION<br>DATE: 6/1/2020  |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

As part of our commitment to earning the trust of the citizenry so essential to policing our community, it is essential that police professionals hold themselves to an exemplary standard in the area of domestic violence.

A pro-active approach must focus on victim safety. The touchstone must be a policy of “zero tolerance” of acts of domestic violence by members of this department.

While prioritizing the safety of victims, this policy is designed to address prevention through hiring and training practices, provide direction to supervisors for intervention when warning signs of domestic violence are evident, institutionalize a structured response to reported incidents of domestic violence involving employees, and offer direction for conducting the subsequent administrative and criminal investigations. Components of the policy include:

1. Prevention and Training;
2. Early Warning and Intervention;
3. Incident Response Protocols;
4. Victim Safety and Protection; and
5. Post-Incident Administrative and Criminal Decisions.

## II. POLICY

It is the policy of this department:

- A. Not to hire or retain individuals that have a history or a documented propensity for domestic violence, elder abuse, child abuse, sexual assault or stalking;
- B. To provide on-going training to every member on all forms of domestic violence and the department's zero tolerance policy;
- C. To thoroughly investigate all complaints of domestic violence allegedly committed by members of this department; and
- D. To take disciplinary and criminal action for violations of this policy by department members where appropriate.

## III. DEFINITIONS

- A. *Domestic violence*: An act or pattern of violence perpetrated by a police officer or other department employee, upon his or her intimate partner not done in defense of self or others, including but not limited to the following:
  - 1. Bodily injury or threat of imminent bodily injury or death;
  - 2. Sexual battery;
  - 3. Physical restraint;
  - 4. Property crime directed at the victim;
  - 5. Stalking; and
  - 6. Violation of a court order of protection or similar injunction.
- B. *Intimate Partner*: Any person who meets one or more of the following criteria:
  - 1. Is or was legally married to the employee;
  - 2. Has a child in common with the employee;
  - 3. Has or had a dating relationship with the employee;
  - 4. Is specified as an intimate partner by state law; and
  - 5. Is cohabitating or has cohabitated romantically with the employee.
- C. *Protection Order*: Usually referred to as a restraining order, any injunction or other order issued by a court, including criminal or civil orders of protection, regardless of form, content, length, layout, or name (such as stay away, restraining, criminal, and emergency or temporary protection orders or injunctions), issued for the purpose of preventing the following:

1. Violent or threatening acts against another person;
2. Stalking or harassment of another person;
3. Contact or communication with another person; and
4. Physical proximity to another person.

## **IV. PROCEDURES**

### ***A. Prevention and Training***

1. PREVENTION THROUGH COLLABORATION
  - a. The department shall train employees in order to enhance this agency's response to the needs of victims.
2. ONGOING TRAINING: This department may use a variety of training techniques including in-service, roll-call, FTO, ride-alongs, and training bulletins to regularly reinforce standards of effective response protocol.
3. PROGRAM EVALUATION: To enhance the effectiveness of the training, this department may work with internal or external research resources to evaluate the training and its impact.

### ***B. Early Warning and Intervention***

1. PRE-HIRE SCREENING AND INVESTIGATION: This department shall conduct thorough background investigations of all employee candidates.
2. POST-HIRE INTERVENTION
  - a. When new employees are hired, the department shall reach out to their intimate partners and/or family members to introduce this policy and other relevant department policies.
  - b. This department will engage in periodic outreach to employees and their intimate partners and/or family members with information on this policy, the point of contact within the department and referrals for local support services. The message will include assurances that we take all complaints of domestic violence seriously, that we will investigate and take appropriate action, and that no special treatment or privilege will be extended to offenders that happen to be employed as law enforcement employees.
1. DEPARTMENT RESPONSIBILITIES
  - a. The department shall provide timely notification of a domestic violence incident involving a police employee and shall attempt to develop cross-jurisdictional protocols or even MOUs (Memoranda of Understanding) with area police departments to this end.

- b. The department shall, either in response to observed warning signs or at the request of an employee, intimate partner, or other family member, provide non-punitive avenues of assistance before an act of domestic violence occurs.
- c. The department shall inform employees of the procedure for seeking confidential referrals, either internally or externally, to confidential counseling services.
- d. A disclosure on the part of any employee, intimate partner or family member to any member of the department that an employee has personally engaged in domestic violence will be treated as an admission or report of a crime, shall be reported to the appropriate department official, and shall be investigated both administratively and criminally.

## 2. SUPERVISOR RESPONSIBILITIES

- a. Supervisors shall be cognizant of and document any pattern of abusive behavior potentially indicative of domestic violence including but not limited to the following:
  - 1) Aggressiveness:
    - a) Excessive and/or increased use of force on the job;
    - b) Stalking and inappropriate surveillance activities;
    - c) Unusually high incidences of physical altercations and verbal disputes;
    - d) Citizen and fellow employee complaints of unwarranted aggression and verbal abuse;
    - e) Inappropriate treatment of animals; and
    - f) On or off-duty injuries.
  - 2) Domestic violence-related issues:
    - a) Monitoring and controlling any family member or intimate partner through such means as excessive phone calling;
    - b) Stalking any intimate partner or family member; and
    - c) Discrediting and/or disparaging an intimate partner.
  - 3) Deteriorating work performance:
    - a) Tardiness;
    - b) Excessive absences; and
    - c) Alcohol and drug abuse.
  - 4) When the supervisor notes a pattern of problematic behavior (as detailed above), the supervisor shall:

- a) Address the behaviors through a review or other contact with the employee and document all contacts;
- b) Forward written reports capturing the behaviors to the chief through the chain of command in a timely manner to determine if intervention or discipline is warranted;
- c) Prepare and submit to the chief a written request for a psychological exam/ counseling by a psychologist/psychiatrist who is knowledgeable about domestic violence; and,
- d) When warranted, request the chief order an employee to seek assistance from a certified program for batterers, or a counselor knowledgeable about domestic violence, as determined by the Chief of Police.

### 3. POLICE EMPLOYEE RESPONSIBILITIES

- a. Employees are encouraged to take personal responsibility in seeking confidential referrals and assistance from the department to prevent a problem from escalating to the level of criminal conduct against an intimate partner.
- b. Employees who engage in the following actions will be subject to severe discipline up to and including dismissal:
  - 1) Failure to report knowledge of abuse or domestic violence involving a fellow employee;
  - 2) Failure to cooperate with the investigation of a police employee domestic violence case;
  - 3) Interference with the investigation or prosecution of domestic violence cases involving themselves or fellow employees; and,
  - 4) Intimidation/coercion of witnesses or victims (e.g., surveillance, harassment, stalking, threatening, or falsely reporting).
- c. Employees who learn they are the subject of a criminal investigation, regardless of jurisdiction, are required to immediately make a report to their supervisor and provide notice of the court dates, times, appearances, and proceedings. Failure to do so may result in severe discipline up to and including dismissal.
- d. Employees who learn they are the subject of any protective order proceeding, whether or not the order is issued and regardless of jurisdiction, shall immediately notify their supervisor and provide a copy of the order, if issued. If subject to a protection order that includes an order that firearms and licenses be surrendered, the employee shall surrender all firearms and licenses immediately. Failure to do so may result in severe discipline up to and including

dismissal. (Note: This will not preclude the department from adopting a policy allows for possession of the primary service weapon under certain conditions, subject to court approval.)

## ***B. INCIDENT RESPONSE PROTOCOLS***

### **1. DEPARTMENT-WIDE RESPONSE**

- a. The department shall accept, document, and preserve all calls or reports regarding domestic violence involving police employees, including those made anonymously, as “on-the-record” information.
- b. All reports of possible criminal activity implicating police employees in domestic violence shall be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.
- c. The on-scene supervisor shall forward a copy of the report alleging domestic violence by the employee to the chief through the chain of command.
- d. All such incident reports shall be made available by the department to the victim without cost as required by law.<sup>1</sup>

### **2. COMMUNICATIONS RESPONSE**

- a. Communications officers/dispatchers shall be instructed to assign a high priority to all domestic violence calls, including those that involve or appear to involve a police employee of any department.
- b. Communications officers/dispatchers shall immediately notify the supervisor on duty and the dispatch supervisor of any domestic violence call received that involves, or appears to involve, a police employee, regardless of the involved employee's jurisdiction.
- c. Communications officers/dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 tape, for use in potential administrative or criminal investigations.
- d. Communications officers/dispatchers shall have available current contact information of local domestic violence victim advocacy organizations for on-scene supervisors to provide to victims.

### **3. PATROL RESPONSE**

- a. Upon arrival on the scene of a domestic violence call or incident involving a police employee, the primary patrol unit shall immediately notify dispatch and request a supervisor of higher rank than the involved employee report to the scene, regardless of the involved employee's jurisdiction.

- 
- b. The responding officers shall perform the following actions:
    - 1) Obtain any needed medical assistance for any parties involved;
    - 2) Address the immediate safety of all parties involved;
    - 3) Secure the scene and preserve evidence;
    - 4) Note all excited utterances, admissions and/or incriminating statements; and,
    - 5) Make an arrest if probable cause exists.
  - 4. ON-SCENE SUPERVISOR RESPONSE
    - a. A supervisor of higher rank shall report to the scene of all police employee domestic violence incidents including a police officer, regardless of the involved employee's jurisdiction.
    - b. The on-scene supervisor shall assume command and ensure that the crime scene is secured and that all evidence is collected. Photographic and/or video documentation of the parties involved and scene shall be recorded where such resources are available.
    - c. The supervisor shall inquire as to the safety of all children present at the time of the incident and all children in the household. As appropriate and necessary, the children should be interviewed separately from other parties.
    - d. In cases where probable cause exists, the on-scene supervisor shall ensure an arrest is made.
    - e. If the alleged offender has left the scene and probable cause exists, the supervisor shall perform the following actions:
      - 1) Exhaust all reasonable means to locate the alleged offender;
      - 2) Ensure that an arrest warrant is sought, if unable to locate the alleged offender; and,
      - 3) Document all subsequent actions in a timely manner.
    - f. In the event that the victim has left the scene, the supervisor shall make every effort to follow through on the investigation and attempt to locate the victim.
    - g. Arrest of both parties involved in a domestic violence incident should be avoided. The supervisor shall ensure that a thorough investigation is conducted and an arrest of the dominant aggressor is made in accordance with state law.
    - h. Whenever an officer is arrested, the supervisor shall relieve the accused officer of all service weapons regardless of whether the officer is a member of the responding department.
-



- i. The accused employee will be required to surrender all other firearms owned or at the disposal of employee for safety reasons. If the employee refuses to do so, available legal action should be undertaken, where appropriate.
  - j. The on-scene supervisor shall inquire whether the victim wants any firearms removed from the home for safekeeping by the department and make arrangements as necessary.
  - k. The on-scene supervisor shall ensure the victim is informed of the following:
    - 1) The judicial process and victim rights;
    - 2) The department's policy on police employee domestic violence, procedures and cross-jurisdictional responsibilities as they apply;
    - 3) The standard of probable cause for arrest;
    - 4) Procedures for obtaining protective orders;
    - 5) Victim compensation;
    - 6) The availability of an on-scene advocate;
    - 7) The availability of confidential transportation to a location that can provide improved victim safety;
    - 8) Community resources and local domestic violence victim service; and,
    - 9) The option to remove firearms for safekeeping.
  - l. Whenever a police employee involved domestic violence call does not result in an arrest or a warrant is not sought, the on-scene supervisor shall explain in a written report.
  - m. The on-scene supervisor shall notify the chief and the accused employee's immediate supervisor as soon as possible. In the event that the employee is from another jurisdiction, the supervisor shall ensure that the accused employee's chief is notified as well. All notifications, and attempts to notify, shall be fully documented.
5. ADDITIONAL CRITICAL CONSIDERATIONS
- a. When responding to a domestic violence complaint involving a police employee from another jurisdiction, all responding officers, investigators, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an employee from this department.
  - b. In the event that the reported incident involves the chief of police, the supervisor shall immediately notify the District Attorney and

the Town Administrator or chair of the board of selectmen, who has direct oversight for the chief.

- c. In responding to domestic violence incidents where the victim is a police employee, standard domestic violence response and investigation procedures should be followed.
- d. In responding to domestic violence incidents where the parties involved are both police employees, standard domestic violence response and investigation procedures should be followed. After probable cause and dominant aggressor are determined, an arrest should be made and all service weapons of any accused officer confiscated. ***If a protective order is issued against an officer, additional firearm seizure may be required under c.209A.***

#### 6. DEPARTMENT FOLLOW-UP

- a. In a timely manner, the chief shall ensure that all officers who responded to a police employee domestic violence call are debriefed. The debriefing shall include the following:
  - 1) A review of department confidentiality guidelines;
  - 2) A direct order prohibiting discussion of the incident outside of the official inquiry; and,
  - 3) A clear delineation of assignments.
- b. Follow-up investigators shall proactively seek out information on existing protective orders and, if found, shall enforce them and any applicable state and federal firearms laws and determine whether the employee violated department policy by failing to report the protective order.
- c. Arrest warrants charging police employees with domestic violence and protective orders issued at a later time shall be served by no fewer than two officers, where possible, with at least one being of senior rank to the employee being served. In cases where firearms have not previously been seized, firearms shall be seized as allowed or required by law.
- d. In the event the protection order expires or the victim asks that it be discontinued, the department shall still conduct a thorough administrative investigation. The voluntariness of any such request will be strictly scrutinized.
- e. Following the reported incident, the department shall designate a member of the command staff to perform the following duties:
  - 1) Conduct a danger assessment of the accused employee to determine the potential for further violence and inform the

victim of the possibility of danger regardless of the outcome of the assessment;

- 2) Act as a principal point of contact to keep the victim apprised of all developments;
- 3) Ensure that safety planning and danger assessment is made available to the victim; and
- 4) Report the findings of the danger assessment to the chief who will make decisions concerning appropriate sanctions, administrative actions, and referrals for the accused employee.

### ***C. VICTIM SAFETY AND PROTECTION***

1. The department shall work with community resources and advocacy agencies to connect victims and their children with appropriate services.
2. The command staff member designated as the principal contact for the victim shall inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.
3. All employees shall be aware of possible victim/witness intimidation or coercion and the increased danger when the victim leaves an abusive partner. The designated principal contact shall assist the victim and children in safety planning and caution the victim to be alert to stalking activities.
4. If an officer suspects that intimidation or coercion of the victim/witness is occurring, the officer shall prepare a written report to be delivered immediately to the investigator in charge of the case through the chain of command.
  - a. In order to determine whether the victim/witness is being intimidated or coerced, the investigator in charge shall seek out secondary sources of information.
  - b. Given the possibility that a victim will recant or choose not to participate in court proceedings, supplemental evidence shall be sought out and preserved.

### ***D. POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS***

1. PARALLEL CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS
  - a. When possible, the department shall conduct separate parallel administrative and criminal investigations of alleged incidents of police employee domestic violence in a manner that maintains the integrity of both investigations and promotes zero tolerance.

- b. Regardless of the outcome of the criminal case, if the facts of the case indicate that domestic violence has occurred or any department policies have been violated, administrative action shall be taken independent of any criminal proceedings as soon as practicable.
- c. The department will adhere to and observe all necessary protocols to ensure an accused employee's departmental, union, and legal rights are upheld during the administrative and criminal investigations.

## 2. ADMINISTRATIVE INVESTIGATION

- a. The responsibility to complete the administrative investigation of a police employee domestic violence incident shall rest with the Chief of Police.
  - b. The chief may ask an outside law enforcement agency to conduct the administrative investigation.
  - c. Regardless of whether an arrest was made on scene, the investigating official shall conduct an independent, comprehensive administrative investigation using standard elements of criminal investigations.
  - d. Victims and witnesses shall be re-interviewed and their statements recorded; crime scene evidence, photographs, and medical records accessed; and 911 tapes requested.
3. Where sufficient information/evidence exists, the department shall take immediate administrative action against the accused employee that may include removal of badge and service weapons, reassignment, sanctions, suspension, or termination. Placing an employee on administrative leave with pay is not disciplinary and is often appropriate while conducting an investigation.
- a. When an investigation of an incident uncovers employees who had knowledge of violence on the part of another employee but failed to notify the department or engaged in actions intended to interfere with the investigation, the department shall investigate those employees and take disciplinary action and criminally charge as warranted.
  - b. The chief shall determine whether and when the accused employee should be issued an administrative order of protection.
  - c. If administrative policies and/or administrative orders of protection are violated or sufficient concern exists regarding a violation, the department shall initiate an independent administrative investigation, seize firearms as allowed under department policy as

soon as practicable, and take disciplinary action up to and including dismissal.

- d. In determining the proper course of administrative action, a department shall consider factors including the level of danger an employee poses as indicated by the outcome of the danger assessment of the employee, the employee's history of compliance with departmental rules, prior written or verbal threats, history of aggressive behaviors, and existence of an alcohol or substance abuse problem.
- e. If the department determines through an administrative investigation that the employee violated department policy, regardless of how the employee pleads in response to criminal charges, the department may employ the full range of administrative sanctions.
- f. Any employee determined through an administrative investigation to have committed domestic violence may be terminated from the department.

#### 4. CRIMINAL INVESTIGATIONS AND DECISIONS

- a. The responsibility to complete a criminal investigation of an incident of police employee domestic violence shall rest with the detective division.
- b. The chief may ask an outside law enforcement agency to conduct the criminal investigation.
- c. The investigating official shall conduct criminal investigations as would be the case for any other criminal violation.
- d. In accordance with the employee's and victim's privacy rights, the investigating official or agency shall conduct sufficient interviews (preferably taped) of family members, friends, neighbors, colleagues, and others who may have information regarding criminal charges.
- e. Even though an initial report may already exist concerning a police employee, reports of any subsequent or additional criminal or non-criminal incidents, which may include fellow employees engaging in surveillance or intimidation of the victim, shall be documented in separate incident reports, assigned a case number, cross-referenced with the original case number and investigated thoroughly.
- f. The department shall completely investigate the charges and, where warranted, seek prosecution even in cases where the victim recants.

- g. The department shall establish a liaison to work with the prosecuting attorney for each case. This officer shall present all the information to the prosecuting attorney for action and ask that decisions about the adjudication of the case be made in a timely manner.
- h. As with any other case for criminal prosecution, the investigating officer shall request filing of court papers/complaints.
- i. Any employee convicted through criminal proceedings of a domestic violence crime shall be terminated from the department.

### ***E. Termination Procedures***

1. Upon the decision by the appointing authority to terminate an employee, the chief shall follow in accordance with department policy and state law.
  - a. Notify the employee, in writing, of the effective date of termination;
  - b. Inform the employee of available support services, to include counseling; and,
  - c. Ensure that the victim is notified in a timely manner and offered available assistance, to include safety planning.
2. Federal law prohibits anyone convicted of a misdemeanor domestic violence crime from possessing firearms. All sworn officers must, as a condition of employment, be able to lawfully carry a firearm. The department shall ensure compliance with federal law. Termination is required if an officer becomes barred from carrying a firearm.

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<sup>1</sup> M.G.L. c. 209A s. 6.

# ELECTRICAL WEAPONS

|                                       |  |
|---------------------------------------|--|
| POLICY & PROCEDURE NO.<br><b>3.11</b> | ISSUE: With TY 2017<br>Taser Certification<br>Training |
|                                       | EFFECTIVE<br>DATE: 6/7/17                              |
|                                       | REVISION<br>DATE: <u>6/1/2020</u>                      |
|                                       |  |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

Conducted Electrical Weapons (CEW), often referred to by a common brand name – “TASER” – are electro-muscular disruptors that override the central nervous system. Such weapons provide officers with another control option.

This department has decided to make CEWs available to certain authorized officers who obtain the training specified by the Commonwealth of Massachusetts, consistent with the policies and recommendations of respected law enforcement agencies, such as the International Association of Chiefs of Police.

## II. POLICY

It is the policy of this department that:

- A. Conducted Electrical weapons shall be made available as a less lethal use of force option to police officers of this agency who are authorized to carry this weapon; and
- B. Conducted Electrical Weapons may be used by authorized and trained personnel in accordance with 501 CMR 8.00, and consistent with additional guidelines established herein.

## III. DEFINITIONS

- A. *Conducted Electrical Weapon or Device*: Also referred to as an electronic weapon or “TASER”: a portable device or weapon from which an electrical current, impulse, wave or beam may be directed where such current, impulse, wave or beam is designed to incapacitate temporarily.

- B. *AFIDs* (Anti-felon Identification Tags): Confetti-like pieces of paper that are expelled from the cartridge when fired. Each AFID tag contains an alpha-numeric identifier unique to the cartridge used.
- C. *Drive Stun Mode*: The CEW is used without deploying the cartridge. The device is pressed against the suspect, and an electrical shock is delivered.

## **IV. PROCEDURES**

### ***A. Authorization***

1. The department policies regarding ***Use of Force 3.02***, and ***Use of Force Reporting 3.03*** apply to CEWs. For further information, refer to these policies.
2. Only officers who have been trained and authorized may carry this device.
3. Except for training purposes, an officer shall not possess or carry a CEW until successfully completing an approved training program in the use of CEWs.<sup>1</sup>

### ***B. Special Regulation Regarding CEWs***

1. 501 CMR 8.04 establishes a training requirement for the use of CEWs.
2. In order to qualify for admission into an approved training program for the use of CEWs, an authorized officer must:
  - a. Be currently employed as a state or municipal law enforcement officer;
  - b. Have successfully completed a firearms training course conducted by the Municipal Police Training Committee or approved by the Colonel of the Massachusetts State Police; and
  - c. Be authorized by the officer's department to carry a firearm in the performance of the officer's duty.

### ***C. Weapon Readiness***

1. PRE CARRYING
  - a. CEW's will be assigned to specific officers as determined by the OIC of Defensive Tactics.
  - b. Confirm that the CEW is functioning properly by performing all tests as defined in training.



## 2. CARRYING

- a. The device will be carried in an approved holster in a cross draw configuration on the side of the body opposite the service handgun.
- b. The device will be carried fully armed with the safety on in preparation for immediate use when authorized.

## 3. ACCESSORIES

- a. Only agency-approved cartridges and battery power sources shall be used in the CEW.

### ***D. Deployment***

#### 1. USE OF FORCE MODEL

##### a. Drive Stun Mode:

- 1) In drive stun mode the device is a pain compliance tool rather than an electro-muscular disruptor.
- 2) It may be deployed as a pain compliance technique in response to an active resistant person.
- 3) It is minimally effective compared to conventional cartridge-type deployments. The effect of drive stun is not as long-lasting as fired probes.

Note: Pain compliance may not be effective against someone in a state of “mind-body disconnect,” as in a mental health crisis state, under the influence of a mind altering substance, or extremely focused.

##### b. Firing the device:

- 1) Firing the device cartridge to deploy electrodes is a defensive tactic.
- 2) It may be used in response to an assaultive person.

##### c. Lethal Force

- 1) Intentionally firing the device at the head or neck is a deadly force countermeasure in response to a lethal threat.
- 2) CONDUCTIVE ELECTRONIC WEAPONS ARE NOT A SUBSTITUTE FOR LETHAL FORCE. Officers are not expected to respond to a lethal force or serious bodily injury threat with a less lethal force option such as an electrical weapon.
- 3) An electrical weapon may be used in response to a lethal force threat under exigent circumstance as a weapon of available means.

## 2. DEPLOYMENT OF DEVICE

- a. A full five second cycle deployment should be applied without interruption unless circumstances dictate otherwise.
  - 1) The five second cycle is a potential “window of opportunity” for an officer to immobilize, control, or handcuff a suspect.
  - 2) Suspect shall be secured as quickly as possible during or immediately following the period of incapacitation.
- b. The officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective.
- c. Officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.

## 3. TARGET AREAS

- a. Much of the body is a target area, including:
  - 1) Below the neck area for back shots; and
  - 2) The lower center mass (below chest or heart area) for frontal shots; and
  - 3) The legs.
- b. Avoid intentional aiming at sensitive areas such as the head, neck, throat, breast, chest, or genitals unless the encounter justifies a deadly force or serious bodily injury response.

## 4. PROHIBITED

- a. Deployment of the device in a punitive manner.
- b. Use on a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in a less intrusive fashion.
- c. Use in any environment where an officer knows that a flammable, volatile, or explosive material is present (including but not limited to OC spray with volatile propellant and/or potentially volatile, combustible material).
- d. In any environment where the subject’s fall could reasonably result in death (such as in water or on an elevated structure).
- e. Use on individuals in physical control of a vehicle in motion (e.g., automobiles, trucks, motorcycles, ATVs, bicycles, scooters) unless exigent circumstances exist.

## 5. SUSCEPTIBLE POPULATION

- a. Officers should be aware of the greater potential for injury when

using a CEW against certain individuals. Use of CEWs should be avoided whenever possible against:

- 1) Children under the age of eighteen (18);
  - 2) Adults over the age of seventy (70);
  - 3) Women believed to be pregnant;
  - 4) Those known to be suffering from severe mental illness;
  - 5) Persons in wheel chairs;
  - 6) Persons known to be equipped with a pacemaker or a history of cardiac issues; or
  - 7) Persons in obvious ill health or known neuromuscular disorders (i.e. multiple sclerosis, muscular dystrophy, or epilepsy)
- b. CEWs should only be deployed on these vulnerable groups if the officer's assessment at the time is that the individuals have or will cause immediate serious bodily harm to themselves and/or others but could be subdued by an electronic weapon.

### ***E. Aftercare***

#### **1. PROBES**

- a. Probes may be removed from the subject after the subject is restrained.
- b. Probes may be removed by trained officers and/or medical personnel.

#### **2. MEDICAL CARE**

- a. Seek medical attention for:
  - 1) Any individual requiring medical attention as outlined in department policy **Use of Force 3.02, Section 4, Sub-section F.**
  - 2) A person who does not appear to recover properly after being engaged with the electronic device.
  - 3) A person who is in a potentially susceptible population category. See "Susceptible Population" in this policy.
  - 4) A person who has been subjected to more than three CEW cycles.<sup>2</sup>
  - 5) A person who has had more than one CEW effectively used against him or her in any given incident.
  - 6) A person who has been subjected to a continuous energy cycle of fifteen (15) seconds or more.<sup>3</sup>

- b. If the suspect displayed signs of extreme uncontrolled signs of extreme uncontrolled agitation or hyperactivity prior to exposure to a CEW, or displays Impaired thinking, disorientation, hallucinations and/or delusions, intense paranoia, violent and/or bizarre behavior AND during the arrest exhibits great strength, a diminished sensitivity to pain, the individual may be showing signs of Excited Delirium. During the arrest or immediately after the struggle sudden death may ensue. This is a serious medical emergency. Arrestees displaying these symptoms should be checked by medical personnel. **See Use of Force 3.02, subsection F, section 2(a).**
- c. Transport the following to a medical facility:
  - 1) A person who is struck by a probe in the neck, throat, face, female breasts, groin;
  - 2) A person from whom personnel have difficulty removing the probes; and
  - 3) A case in which the barb separates from the probe upon removal.

## ***F. Reporting***

### **1. OFFICER RESPONSIBILITY**

- a. The deploying officer shall notify his or her supervisor as soon as practical after deploying the device and complete the appropriate use-of-force report.
- b. Officers shall specifically articulate the rationale in their use-of-force report for each individual instance of the following, even if said incidents occur in the same encounter:
  - 1) An electrical weapon is energized more than three times on a single subject.
  - 2) An energy cycle longer than fifteen (15) seconds in duration is used against a subject.
  - 3) More than one electrical weapon is used against a subject in any given incident.
  - 4) An electrical weapon is used against an individual designated to be in a “susceptible population.”

### **2. SUPERVISOR RESPONSIBILITY**

- a. Ensure that photographs of the area impacted by the probes are taken after the probes are removed, if possible.
- b. Ensure that the subject has received the proper medical attention as appropriate.

- c. If the device has been fired, the officer shall collect the cartridge, wire leads, darts, and at least one AFID as evidence whenever practically possible. Darts are to be treated as a biohazard material and appropriately handled as directed in training.

### 3. ADMINISTRATIVE RESPONSIBILITIES

- a. Report all electronic weapons deployment to the Executive Office of Public Safety. The report must include:
  - 1) The number of officers in the department;
  - 2) The number of electrical weapons purchased by the department;
  - 3) The number of incidents involving electrical weapons; and
  - 4) Gender and race of targets.
- b. Data from electrical weapons must be supplied to the Department of Public Safety.
- c. There will be an administrative review of each report of the discharge of an electronic weapon. This will be conducted by the Chief or other command staff officer as directed by the Chief.
- d. The department will conduct an annual analysis of reported uses of electronic weapons. Where indicated, training needs, equipment upgrades, and/or policy modifications will be considered.

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<sup>1</sup> 501CMR8.04(b).

<sup>2</sup> IACP National Law Enforcement Policy Center, *Electronic Control Weapons*, Concept and Issues Paper, Revised August 2005, H: Probe Removal and Medical Attention.

<sup>3</sup> IACP National Law Enforcement Policy Center, *Electronic Control Weapons*, Concept and Issues Paper, Revised August 2005, H: Probe Removal and Medical Attention.

# BODY ARMOR POLICY

|                                       |                                    |
|---------------------------------------|------------------------------------|
| POLICY & PROCEDURE NO.<br><b>3.12</b> | ISSUE<br>DATE: <u>3/1/2019</u>     |
|                                       | EFFECTIVE<br>DATE: <u>3/1/2019</u> |
|                                       | REVISION<br>DATE: <u>6/1/2020</u>  |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

Based on the inherent danger involved in the profession of policing, the Montague Police Department places the utmost importance on matters of officer safety. To that end, this policy focuses on maximizing officer protection and safety through the effective and appropriate use of various forms of body armor.

## II. POLICY

It is the policy of the Montague Police Department that current, effective body armor shall be issued to every officer for daily wear on patrol, and that additional, enhanced protection armor shall be made as readily available as possible to officers for situations involving elevated threats of harm from firearms. All officers shall familiarize, utilize, maintain, and care for all forms of authorized body armor in accordance with departmental procedure and manufacturers specifications to facilitate the highest level of protection.

## III. DEFINITIONS

- A. Field Activities:** Duty assignments and/or tasks that could reasonably be expected to place officers in situations where they would be required to act in enforcement rather than administrative or support capacities
- B. Active Shooter Event:** While an active shooter event is often defined as one or more persons engaged in killing or attempting to kill multiple

people, for the purposes of this policy an active shooter event shall include any situation in which a firearm is being actively discharged in a manner or location that is abnormal and/or a danger to an officer or citizen

- C. Soft Body Armor:** The day to day body armor issued by the department that is worn concealed under the duty shirt or in an external carrier
- D. Tactical Body Armor:** Ballistic Plate Body Armor used to protect against ammunition with a higher ballistic threat than can be mitigated by typical soft body armor
- E. Authorized Body Armor:** Body armor of any kind that has been issued by the department, or, if not issued by the department, specifically authorized by command staff for use while acting under color of an officer's official duties. All authorized body armor shall comply with protective and related requirements prescribed under current standards of the National Institute of Justice. For the purposes of this policy, all uses of the term "Body Armor" shall be understood to mean "Authorized Body Armor"
- F. Command Staff:** The Chief or Lieutenant of the Police Department

## IV. PROCEDURES

### ***A. Issuance of Body Armor***

1. All sworn officers shall be issued soft body armor
2. If body armor is not available to be individually issued, suitable body armor will be provided for use prior to any time in the field

### ***B. Re-Issuance of Body Armor***

1. All issued body armor shall be replaced by the department as promptly as possible based upon manufacturer's specifications
2. Body armor that is no longer serviceable due to wear or service connected damage shall be replaced by the department
3. Individuals are responsible for being aware of and immediately notifying command staff if their body armor is expired, damaged, or in any way not fit for use, including anything which could affect the level of protection provided by the body armor

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### ***C. Use of Body Armor***

#### **1. Uniformed Officers**

- a. Officers who are assigned to a uniformed function are required to wear soft body armor while engaged in field activities unless specifically exempt from doing so through one of the following:
  - 1) In a situation specifically exempted by policy; or
  - 2) In an instance specifically approved by Command Staff, on a case by case basis

#### **2. Plain Clothed Officers**

- a. Officers who are assigned to a non-uniformed function are strongly recommended to wear soft body armor while engaged in anticipated field activities, unless exempted by one of the following:
  - 1) When the officer is involved in undercover or plain clothes work that could be compromised by wearing body armor; or
  - 2) When Command Staff determines that circumstances make it inappropriate to mandate wearing body armor
- b. In such instances when body armor is not worn while the officer is engaged in field activities, the body armor must be immediately available to the officer, generally carried in the officer's vehicle with other equipment

#### **3. Administrative Officers**

- a. Officers assigned to administrative duties are generally not required to wear body armor while performing those administrative duties. Officers recognized as administrative include:
  - 1) Chief, Lieutenant, Court Officers and School Resource Officers
  - 2) Any other assignment designated as such by command staff
- b. When administrative officers perform anticipated uniformed or non-uniformed field activities, they should comply with body armor wear requirements for officers involved in those activities when appropriate and/or practical
- c. When not being used, body armor must be readily available to the employee. Body armor may be stored in:
  - 1) The officers work area, locker or vehicle
- d. School Resource Officers will store their Body Armor in their locked-office at their designated school, unless an alternate location is approved by command staff

#### **4. Firearms Training**



- a. All employees involved in training which involves handling of loaded firearms shall wear soft body armor during such training

5. High Risk Situations

- a. The wearing of both soft and/or tactical body armor shall be mandated by a supervisor during pre-planned, high risk situations.
- b. Any sworn officer of this department that responds to an Active Shooter Event shall, if available, utilize Tactical Body Armor
- c. Tactical body armor shall be donned:
  - 1) Prior to engaging a potential firearm threat unless tactically impossible or when doing so would further endanger any human life; and
  - 2) Prior to even arriving on a high risk scene whenever possible

6. Traffic Details

- a. Unless directed to do so by a superior officer, officers hired on outside traffic details may, but are not required, to wear body armor

7. School Functions

- a. Unless directed to do so by a superior officer, officers may, but are not required, to wear body armor while working school functions or sporting events

8. Other Outside Details

- a. Body armor wear on protection details, private details, or any other scheduled type of activity where an officer would be expected to act in an official capacity shall be determined on a case by case basis by command staff

***D. Care and Maintenance of Body Armor***

- 1. Officers shall routinely inspect personal body armor for signs of damage or wear and for general cleanliness. Unserviceable body armor shall be reported to the wearer's supervisor
- 2. As dirt and perspiration may erode ballistic panels, each officer shall be responsible for cleaning personal body armor in accordance with the manufacturer's instructions
- 3. Officers are responsible for the proper storage, maintenance and care of body armor in accordance with manufacturer's instructions and department direction
- 4. External carriers, while often received in combination with initial issue of soft body armor, are not considered to be "body armor" for the

purposes of care and maintenance. External carriers are considered part of the uniform, and shall be cared for, cleaned, replaced, and kept in appropriate condition and appearance in conjunction with department uniform and appearance policy

### ***E. Inspections of Body Armor***

1. Supervisors Shall be responsible for ensuring that body armor is worn as required by this policy through routine observation and periodic inspections
2. The Staff Sergeant will inspect all Tactical Body Armor during the first week of January and the first week of July during each calendar year and make a report in writing to command staff on the condition of said body armor. The Staff Sergeant will make arraignments to ensure the maintenance and cleaning of the Tactical Body Armor

# EYEWITNESS IDENTIFICATION

|  |                             |
|--|-----------------------------|
| <b>POLICY &amp; PROCEDURE NO.</b><br><b>3.13</b> | ISSUE<br>DATE: 5/9/2014     |
|  | EFFECTIVE<br>DATE: 5/9/2014 |
|  | REVISION<br>DATE: 6/1/2020  |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

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

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

## II. POLICY

It is the policy of this department that:

- A. Persons subjected to procedures which are intended to lead to the identification of persons who are suspected of or charged with criminal offenses are afforded their Sixth Amendment right to counsel, when required.
- B. The Due Process provisions of the Fifth and Fourteenth Amendments, which require identification procedures utilized by the police to comply

with standards of fairness so as not to be unduly suggestive, are observed.

### **III. DEFINITIONS**

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

### **IV. PROCEDURES**

#### ***A. Right to Counsel During Identification Procedure***

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

- 3) If counsel fails to object to certain aspects of the identification when it is conducted, the suspect may be held to have waived any objection later at a court proceeding.

### ***B. Due Process Considerations***

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

### ***C. Show-up Identification***

1. PROMPTNESS
  - a. Show-up identification procedures are a common police tool and should be used:
    - 1) Promptly after a crime has been committed where it is essential to an on-going police investigation; or
    - 2) Under exigent circumstances, such as the near death of the only available witness.

- b. Show-ups allow a witness to view a suspect while the memory is fresh.
- c. A show-up may be as likely to clear an innocent person as it is to identify a guilty one.

## 2. FAIRNESS

- a. Every field show-up or other one-on-one confrontation between a suspect and a witness that is arranged by the police must be as fair and non-suggestive as possible.<sup>4</sup>
- b. There is no requirement that an attorney be present.<sup>5</sup>

## 3. DETAINING THE SUSPECT

- a. A suspect may consent to a show-up.
- b. A person may be stopped and detained pursuant to a valid threshold inquiry.
- c. A suspect may be brought back to the scene of a crime or detained while a witness is brought to the suspect for the purpose of a show-up.<sup>6</sup>

## 4. LOCATION OF THE SHOW-UP

- 1) Bringing the Suspect to the Victim
- 2) The suspect may be transported to the victim's location.<sup>7</sup>
- 3) Although more intrusive than bringing the witness to the suspect, it is permissible if reasonable for the circumstances.
  - a) It is recommended that the suspect not be brought back to a crime scene. The crime scene may be contaminated by the suspect's presence.
  - b) DNA, hairs, or other trace evidence may be left at the scene by the suspect being brought there by police.
- 4) A suspect should not be brought to the residence of a victim or witness.
- b. Bringing the Witness to the Suspect
  - 1) Transporting the witness to the suspect's location is the preferred method.
  - 2) Detention for a threshold inquiry is less intrusive and suggestive than detention and transportation.
- c. Field Views: Officers may transport victims or witnesses in police vehicles to cruise the area where a crime has just occurred in order for them to attempt to point out the perpetrator.<sup>8</sup>

- d. Emergencies: When a show-up identification is arranged in an emergency situation, where a witness or a victim is in imminent danger of death or in critical condition in a hospital, and the circumstances are such that an immediate confrontation is imperative, the emergency identification procedure shall be conducted in an appropriate manner consistent with the following:
  - 1) Seek the permission of the hospital authorities or the patient's own physician to conduct the identification.
  - 2) Emergency identifications are subject to the fundamental requirements of fairness and must not be tainted by any suggestive remarks or gestures by the police.

## 5. SHOW-UP

### a. Police Actions

- 1) Police officers must not do or say anything that might convey to the witnesses that:
  - a) The suspect has admitted guilt;
  - b) Stolen property has been recovered;
  - c) Physical evidence has been seized; or
  - d) Officers believe that the suspect is guilty.
- 2) Officers should caution the witness that the subject may not be the offender.

### b. Viewing the Suspect

- 1) The suspect should be viewed by one witness at a time and out of the presence or hearing of other witnesses.
  - a) Witnesses who have viewed the suspect should not be permitted to communicate with those who have not.
  - b) The same suspect should not be presented to any witness more than once.
- 2) Where multiple witnesses are available to identify the subject, officers should permit the subject to be identified by only one or two witnesses. Once one or two witnesses have identified the subject, further identifications should be attempted by means of a photo array or lineup. The multiple methods of identification will provide corroboration.

- c. Caution: Clothing or articles found at the crime scene should not be placed on or in contact with a suspect.

## 6. REPORTS

- a. A report of every attempted show-up, whether an identification is made or not, shall be submitted.
- b. Officers shall make written notes of any identification and any statements made by witnesses at the time of show-up with the suspect. Officers should be particularly alert to note any spontaneous exclamations.
- c. Once a witness has indicated his/her opinion regarding the identity of the subject, the officer should ask the witness how certain [s]he is of the identification.
  - 1) Officers should not ask the witness to use a numerical scale, but rather encourage him/her to indicate certainty in his/her own words.
  - 2) All statements by the witnesses should be incorporated into the officer's report.
- d. All significant circumstances should be reported, including the time, place, and all persons present at the scene of the show-up.

### ***D. Photographic Identification***

#### 1. GENERALLY

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

#### 2. CREATING A PHOTO ARRAY

- a. Place the suspect's photograph in a group of at least six other similar type photographs of individuals (commonly referred to as "fillers").
  - 1) Fillers should be reasonably similar in age, weight, and general appearance.
  - 2) The goal in building the array is not to select filler photographs that look like the suspect, but rather ones that fit the description given by witnesses.



- 
- 3) Avoid using fillers that so closely match the suspect that a person familiar with the suspect would have difficulty distinguishing the fillers.
  - 4) If the subject has an unusual feature, such as a facial scar or disfiguration, attempt to select some fillers with the same type of feature, or artificially add or conceal the feature.
  - 5) Do not include more than one photograph of the same person.
  - b. Try to use photographs of the same size and basic composition.
    - 1) It is preferable to avoid mixing color and black and white photographs.
    - 2) Avoid mixing mug shots with other images.
  3. INSTRUCTIONS TO VICTIM/WITNESS
    - a. The officer should carefully instruct the witness prior to showing him/her the array.
    - b. Preferably, the instructions should be read from a departmental form (Photo Array Instruction Form, Appendix B), and the witness should be asked to sign the form indicating that [s]he understands the instructions.
    - c. The officer should also sign and date the form.
  4. SHOWING A PHOTO ARRAY
    - a. When possible, Another officer should actually show the photographs.
    - b. If possible, the officer should be unaware of which photograph depicts the suspect.
      - 1) This technique, called blind administration, has been recommended by the National Institute for Justice, and is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect.
      - 2) The technique also allows the prosecution to demonstrate to the judge or jury at trial that it was impossible for the officer showing the photographs to indicate to the witness, intentionally or unintentionally, which photograph [s]he should select.
      - 3) The investigating officer should either leave the room while the array is being shown by the second officer, or should stand back where the witness will not see him/her.
      - 4) If an investigating officer is present when a second officer is showing an array, [s]he must remain completely silent.
-

- c. When showing photographs to a witness:
    - 1) The officer should show them one at a time to the witness.
    - 2) The officer should ask the witness simply whether or not [s]he recognizes the person, and tell the witness to take his/her time.
    - 3) When the witness signals for the next photograph, the officer should move the first photograph so that it is out of sight and ask the witness whether [s]he recognizes the next photograph.
    - 4) The procedure should be repeated until the witness has viewed each photograph, or until the witness identifies a subject.
    - 5) If the witness identifies a subject before all the photographs have been viewed, the officer should ask the witness whether [s]he wishes to view more photographs.
  - d. If a witness asks to view the array a second time, the officer administering the identification should ask the witness if [s]he was able to make an identification from the original viewing.
    - 1) If the witness is unable to make an identification, but feels that it would be helpful to repeat the procedure, then it is permissible to show the photographs a second time.
      - a) In such a case, the photographs should be shown to the witness in a different order.
  - e. Once a witness has identified a suspect, the officer should ask the witness how certain [s]he is of the identification.
    - 1) Officers should not ask the witness to use a numerical scale, but rather encourage him/her to indicate certainty in his/her own words.
    - 2) All statements by the witnesses should be incorporated into the officer's report.
    - 3) The witness should be asked to initial and date the back of the photograph selected.
  - f. In order to ensure the fairness of the procedure and to enhance the reliability of in-court identification, the photo array should be preserved in the same configuration as when the identification was made, together with full information about the identification process.
5. REPORTING
- a. A report of every photo array, whether an identification is made or not, shall be submitted. The report shall include:
    - 1) A summary of the procedure;

- 2) The persons who were present;
  - 3) Instructions given to the witness by the officer (this should be accomplished by attaching the Photo Array Instruction Form to the report);
  - 4) Any statement or reaction by the witness; and
  - 5) Any comments made by the witness regarding the identification procedure.
- b. When an investigation has failed to identify a suspect, it may be advisable to have those eyewitnesses who had a good opportunity to clearly observe the criminal offender come to the police station to look through photographic files. However, officers should not resort to this procedure until other investigative avenues have been exhausted.
- 1) Remove or hide any information on the photographs that might in any way influence the witness.
  - 2) Ensure that the files contain only one photograph of each individual and that the photographs are reasonably current.
  - 3) Do not refer to the photographs as “mug shots.”
  - 4) If photographs of various formats are used, ensure that several of each format are used.
  - 5) Permit the witness to look at a number of photographs before making his/her selection.
  - 6) Do not call to the attention of the witness any particular photograph.
  - 7) A report shall be filed following the procedure, regardless of whether an identification is made. The report should describe the photographs viewed by the witness(es).
  - 8) Officers should be extremely cautious before charging a subject based on this type of identification alone.

### ***E. Lineup Identification***

#### **1. GENERALLY**

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

## 2. SUSPECT RIGHTS

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

## 3. REFUSAL TO PARTICIPATE IN A LINEUP

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

- c) In serious criminal cases, the District Attorney's office may be asked to apply for a court order to compel the suspect to participate in a lineup.

#### 4. PREPARING THE LINEUP

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

#### 5. SUSPECT'S ATTORNEY

- a. When an attorney for the suspect is present, the attorney should be permitted to make reasonable suggestions regarding the composition of the lineup and the manner in which it is to be conducted. Any suggestions made by the suspect's attorney should be included as part of the lineup report.

- b. Allow counsel representing the accused sufficient time to confer with his/her client prior to the lineup.
- c. Once the lineup is commenced, the suspect's attorney should function primarily as an observer and [s]he should not be permitted to converse with the lineup participants, or with the witnesses, while the lineup is underway.
- d. The suspect's attorney at a lineup is not entitled to hear any discussions between a witness and the police.
- e. The suspect's attorney is not legally entitled to the names or addresses of the witnesses attending a lineup if the suspect has not yet been arraigned or indicted.<sup>13</sup> If an attorney in such a situation insists on having information about lineup witnesses, advise him/her to direct his/her request to the District Attorney's office.

#### 6. INSTRUCTIONS FOR THE WITNESS

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

#### 7. CONDUCTING THE LINEUP

- a. Ensure that witnesses are not permitted to see the accused or shown any photographs of the accused immediately prior to the lineup.
- b. Ensure that only one witness views the lineup at a time and that witnesses are not permitted to speak with one another during the proceedings.
- c. Scrupulously avoid using statements, clues, casual comments, or providing unnecessary or irrelevant information that in any manner may influence the witness' decision-making process or perception.
- d. If possible, the officer should be unaware of which person in the lineup is the suspect.
  - 1) This technique, called blind administration, has been recommended by the National Institute for Justice, and is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect.

- 
- 2) The technique also allows the prosecution to demonstrate to the judge or jury at trial that it was impossible for the officer showing the lineup to indicate to the witness, intentionally or unintentionally, which person [s]he should select.
    - a) The investigating officers may be present during the line-up, but must position themselves in such a way that they cannot be seen by the witness(s).
    - b) If an investigating officer is present, [s]he must remain completely silent while the witness is viewing the lineup.
  - e. The witness shall view the suspect and fillers one at a time. The participants who are not being viewed by the witness should be out of sight.
  - f. Make a written notation of any identification made (or any failure to make an identification), including any spontaneous exclamation or reaction by a witness, and any comments made by the witness regarding the identification procedure.
    - 1) Once a witness has indicated his/her opinion regarding the identity of the subject, the officer should ask the witness how certain [s]he is of the identification.
    - 2) Officers should not ask the witness to use a numerical scale, but rather encourage him/her to indicate certainty in his/her own words.
    - 3) All statements by the witnesses should be incorporated into the officer's report.
  - g. During a lineup, each participant may be directed to wear certain clothing, to put on or take off certain clothing, to take certain positions or to walk or move in a certain way.<sup>14</sup>
    - 1) If officers are to ask the participants to wear an article of clothing, they must guard against circumstances where the article only fits the suspect.
    - 2) All lineup participants shall be asked to perform the same actions.
    - 3) Each lineup participant may also be directed to speak for voice identification purposes.
8. REPORTING
- a. A report of every lineup, whether an identification is made or not, shall be submitted.
  - b. The report shall include a summary of the procedure, the persons who were present for it, instructions given to the witness by the officer (this should be accomplished by attaching the Lineup
-

Instruction Form to the report), any statement or reaction by the witness, and any comments made by the witness regarding the identification procedure.

## ***F. Voice Identification***

### **1. GENERALLY**

- a. Although considerably less common than visual identifications, voice identification lineups may be helpful to criminal investigations where the victim or other witness was blind, the crime took place in the dark, the subject was masked, the witness' eyes were covered by the perpetrator, or the witness was never in the same room with the perpetrator but did hear his/her voice.
- b. If officers wish to conduct a voice identification lineup procedure with a witness who also saw the subject, the officer must first consult with the District Attorney's Office.

### **2. SUSPECT RIGHTS: As with any in-person identification or confrontation, if the suspect has been arraigned or indicted, [s]he has a right to the presence of counsel at the voice identification procedure.**

### **3. PREPARATIONS**

- a. Where a voice identification is attempted, the following procedures should be employed to the fullest extent possible:<sup>15</sup>
  - 1) At least six persons whose voices will be listened to by the witness should participate in the voice identification lineup. One-on-one confrontations should be avoided.
  - 2) The suspect and other participants shall not be visible to the witness. This may be accomplished by using a partition, or similar means.
  - 3) All participants, including the suspect, shall be instructed to speak the same words in the same order.
  - 4) If the victim or witness recalls hearing the perpetrator use specific words, those words shall not be ones the suspect and other participants are instructed to speak; the lineup participants should speak neutral words in a normal tone of voice.<sup>16</sup>
  - 5) When both a visual and voice lineup are done, the lineup participants shall be called in a different order and by different numbers.<sup>17</sup>
  - 6) If there are two or more suspects of a particular crime, present each suspect to witnesses in separate lineups. Different fillers should be used to compose each lineup.



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#### 4. CONDUCTING THE VOICE IDENTIFICATION LINEUP

- a. If possible, the officer should be unaware of which person in the lineup is the suspect.
  - 1) This technique, called blind administration, has been recommended by the National Institute for Justice, and is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect.
  - 2) The technique also allows the prosecution to demonstrate to the judge or jury at trial that it was impossible for the officer showing the lineup to indicate to the witness, intentionally or unintentionally, which person [s]he should select.
    - a) The investigating officers may be present during the line-up, but must position themselves in such a way that they cannot be seen by the witness(s).
    - b) If an investigating officer is present, [s]he must remain completely silent while the witness is viewing the lineup.
- b. Officers should avoid any words or actions that suggest to the voice witness that a positive identification is expected or whom they expect the witness to identify.

#### 5. INSTRUCTIONS TO THE WITNESS

- a. The officer should carefully instruct the witness prior to conducting the voice identification lineup.
- b. Preferably, the instructions should be read from a departmental form (Voice Identification Instruction Form, Appendix D), and the witness should be asked to sign the form indicating that [s]he understands the instructions.
- c. The officer should also sign and date the form.

#### 6. REPORTING

- a. The result of any voice identification lineup procedure shall be detailed in the officer's report.
- b. The report shall include a summary of the procedure, the persons who were present for it, instructions given to the witness by the officer, any statement or reaction by the witness, and any comments made by the witness regarding the identification procedure.

### ***G. Drawings and Identi-Kit Composites***

1. An artist's sketch, computerized drawing, composite, or other depiction should be considered in a major crime investigation when a

witness displays a good recollection of the physical appearance and features of the criminal offender but has not been able to identify a suspect from available photographs.

2. Due process principles applicable to all identification procedures apply to artist's sketches, computerized drawings and composites.
3. Two or more witnesses may collaborate in preparing the drawing or sketch, provided that officers do not use procedures that are unnecessarily or unduly suggestive.
4. Prior to doing so, officers should first separate the witnesses and take a detailed statement and description from each one.

### ***H. Police Station and Courtroom Identification***

1. Prior to conducting any courthouse identification procedure, police may consult the District Attorney's office.
  - a. The same right to an attorney and the same due process suggestiveness considerations that apply to all other identification procedures also apply to station house and courtroom identifications.
  - b. If the suspect has been arraigned or indicted, [s]he has a right to have counsel present at any in-person identification/confrontation.
  - c. Prior to arraignment or indictment, no right to counsel exists.<sup>18</sup>
2. Live confrontations and informal viewings of the suspects by witnesses must be done in such a manner as to minimize any undue suggestiveness.
  - a. Officers shall not state or suggest that the suspect has been arrested or booked or that [s]he has made any confession or incriminating statement or that any incriminating evidence has been uncovered.
  - b. The witness' identification, particularly if it takes place in a police station or courtroom, must be a result of his/her recollection of the appearance of the perpetrator and must not be unduly influenced by information or suggestions originating from the police.

### ***I. Hypnotically Aided Identification***

1. Hypnotically aided testimony is not admissible at trial. Memory recalled prior to hypnosis which was the subject of a hypnotic session may be excluded as hypnotically aided.<sup>19</sup>
2. In light of the serious consequences which could result from asking or permitting a witness to undergo a hypnotic session, such a procedure shall not be undertaken until the entire matter has been reviewed by

the Chief of Police [or the Deputy Chief], the District Attorney's office, and appropriate hypnosis experts.

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

<sup>2</sup> *Com. v. Lopes*, 362 Mass. 448, 287 N.E.2d 118 (1972).

<sup>3</sup> *Com. v. Ellis*, 432 Mass. 746 (2000); *Com. v. Odware*, 429 Mass. 231, 235 (1999).

<sup>4</sup> *Com. v. Storey*, 391 N.E.2d 898, 378 Mass. 312 (1979).

<sup>5</sup> *Com. v. Bumpus*, 238 N.E.2d 343, 354 Mass. 494 (1968).

<sup>6</sup> *Com. v. Crowley*, 29 Mass. App. Ct. 1, 566 N.E. 2d 1043.

<sup>7</sup> *Com. v. Crowley*, 29 Mass. App. Ct. 1, 566 N.E. 2d 1043.

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

<sup>9</sup> *U.S. v. Ash*, 413 U.S. 300 (1973).

<sup>10</sup> *Com. v. Bumpus*, 209 N.E.2d 167, 362 Mass. 672 (1972).

<sup>11</sup> *Com. v. Torres*, 442 Mass. 554 (2004).

<sup>12</sup> *U.S. v. Wade*, 388 U.S. 218 (1967).

<sup>13</sup> *U.S. v. Wade*, 388 U.S. 218 (1967).

<sup>14</sup> *U.S. v. Wade*, 388 U.S. 218 (1967).

<sup>15</sup> *Com. v. Marini*, 378 N.E.2d 51, 375 Mass. 510 (1978).

<sup>16</sup> *U.S. v. Wade*, 388 U.S. 218 (1967).

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

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

<sup>19</sup> *Com. v. Kater*, 447 N.E.2d 1190, 388 Mass. 519 (1983).

Chief Charles E. Dodge III

## Appendix A

### Lineup Instruction Form

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

Witness Signature \_\_\_\_\_ Date \_\_\_\_\_

Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

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## Appendix B

### Photo Array Instruction Form

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

Witness Signature \_\_\_\_\_ Date \_\_\_\_\_

Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

## **Appendix C**

### **Instruction Card for Show-up Identification Attempt**

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

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## Appendix D

### Voice Identification Lineup Instruction Form

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

Witness Signature \_\_\_\_\_ Date \_\_\_\_\_

Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

# SAFETY BELT USE

|   |  |
|---|--|
| <b>POLICY &amp; PROCEDURE NO.</b><br><br><b>#3.15</b> | <b>ISSUE</b><br><b>DATE: <u>6/1/2010</u></b> |
|   | <b>EFFECTIVE</b><br><b>DATE: 6/1/2010</b>    |
|   | <b>REVISION</b><br><b>DATE: 6/1/2020</b>     |
|   |  |

To assure the safety of all personnel, drivers and passengers shall wear safety belts in all vehicles owned, leased or rented by the Department at all times. This applies to the operation of privately owned or other vehicles if used on duty.

## PROCEDURE:

- A. Department personnel shall use the safety belts installed by the vehicle manufacturer, properly adjusted and securely fastened. while operating or riding in any vehicle so equipped if used while on duty.
- B. Lap belts shall be properly secured that in those vehicles equipped with automatic belt systems require the lap portion of the belt to be manually secured
- C. The driver of the vehicle is responsible for ensuring compliance by all occupants of the vehicle they are operating. All children of age, size or weight for which the restraints are prescribed by law shall use approved child safety restraints
- D. No person shall operate a Departmental vehicle in which any safety belt in the drivers seating position is inoperable. No person shall be transported in a seating position in which the safety restraint is inoperable.
- E. No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts except for vehicle maintenance and repair and not without express authorization of the Chief of Police.
- F. Personnel discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.
- G. Any person(s) under arrest and being transported in Department vehicle(s) are required to be secured in the vehicle by a safety belt in all seating positions for which the vehicle manufacturer provides safety belts. Caution: Prisoners that are handcuffed in front have the ability to release the safety belt using the safety restraint latch plate. If an Officer encounters an unruly prisoner or if the application of the safety belt would jeopardize the safety of the Officer, prisoners may be transported without the use of a safety belt
- H. An Officer operating in an undercover capacity may be exempt only if the Officer believes the use of the safety belt will compromise his/her identity.
- I. When arriving at an emergency call or making a vehicle stop, the operator may remove the safety restraint just prior to stopping for a quick exit. Caution should be exercised to insure that during the traffic stop the violator is in fact going to stop. This prevents becoming involved in a pursuit without the use of a safety belt.
- J. If negligence or non compliance with the requirements of this policy is displayed



appropriate Department authorities may initiate corrective or disciplinary action.

# MONTAGUE POLICE DEPARTMENT

## DEATH REPORT POLICY

|                                |                              |
|--------------------------------|------------------------------|
| POLICY & PROCEDURE<br>NO. 3.16 | ISSUE<br>DATE: 10/9/2013     |
|                                | EFFECTIVE<br>DATE: 10/9/2013 |
|                                | REVISION<br>DATE: 6/1/2020   |
|                                |                              |

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It is the policy of the Montague Police Department that anytime a death is reported to this agency that occurred within the Town of Montague and an officer is involved in the investigation in any way, an incident or arrest report will be completed and submitted without delay. This includes but is not limited to both attended and unattended deaths, suicides, vehicle accidents, accidental deaths and homicides. The incident report will be in addition to any other state or department forms that also require completion.

**Without delay** is defined as being completed before an officer leaves the police department at the end of their shift or investigation.

All information that is known to the officer will be documented in the incident or arrest report. The report shall contain enough information so that any officer, dispatcher or administrative personnel can read the report and be able to clearly understand the status of the investigation and if the report is complete or not. If the report is not complete, it will be

noted in the narrative. This will protect the report from being distributed prior to the completion of it.

If you are assisting another agency, the Officer in Charge, or the designee, will be responsible for collecting enough information from the other agency to complete an accurate report.

This policy takes effect immediately and will remain in effect until changed or updated by the Chief of Police.

# AIRCRAFT ACCIDENTS

|  |                                |
|--|--------------------------------|
| POLICY & PROCEDURE NO.<br><br><b>#3.17</b> | ISSUE<br>DATE: <u>6/6/2011</u> |
|  | EFFECTIVE<br>DATE: 6/6/2011    |
|  | REVISION<br>DATE: 6/1/2020     |
|  |                                |

Note: This written directive is for the internal governance of the Montague Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action that would otherwise be applicable under existing law.

It is the policy of the Montague Police Department to assist and cooperate with other municipal agencies. In compliance with this policy, the following procedures shall be adhered to when responding to aircraft-related emergencies within and outside of the Turners Falls Municipal Airport.

## I. RESPONSIBILITIES:

A. Upon notification of an aircraft-related emergency within the Turners Falls Municipal Airport, the prompt dispatch of emergency personnel and equipment is the joint responsibility of the Turners Falls Municipal Airport Authority and the Turners Falls Fire Department.

B. The number of personnel and the amount of equipment responding to the emergency will be determined by the Turners Falls Fire Department's Officer-in-Charge.

## II. INFORMATION PROVIDED:

The Turners Falls Municipal Airport Authority shall provide the following information to the Officer-in-Charge of the Turners Falls Fire Department:

- A. Aircraft Identification Number;
- B. Type and size of the aircraft;
- C. Number of occupants on the aircraft, if known;
- D. Amount and type of fuel on board the aircraft;
- E. Nature of the difficulty;
- F. Location, if applicable;
- G. Estimated time of arrival and runway the aircraft will be using to make an emergency landing, if applicable.

## III. NOTIFICATIONS:

A. The Montague Police Dispatch will notify the Turners Falls Fire Department and both agencies will be responsible for determining and requesting appropriate assistance.

B. At the direction of the on-duty Sergeant or appropriate on-duty supervisor and in

coordination with the Turners Falls Fire Department, the following additional notifications shall be made:

1. a. After hours, weekends, holidays, call Massachusetts State Police and ask them to notify the "MASS DOT/Aeronautics Division (AD)." Weekdays, contact MASS DOT/AD, 617-412-3680, Logan Office Center, One Harborside Dr, Ste 205N, East Boston, MA 02128.

b. The following information will be helpful during the first telephone contact, but DO NOT DELAY notification if the information is not readily available; i.e., aircraft "N" number, number of occupants on board, extent of injuries sustained by on-board occupants, and the aircraft pilot's name/address.

2. Contact the Federal Aviation Administration New England Region ANE-600  
12 New England Executive Park Burlington, MA 01803  
Phone Number: (781) 238-7001 Fax Number: (781) 238-7005

3. The Town of Montague's Emergency Preparedness Director (Bob Escott) shall be notified of any aircraft accident or incident, except for lost or overdue aircraft.

4. Michael S. Longo, Airport Manager/TFMA, home# (413) 772-3788,  
cell# (413) 325-7005

#### **IV. E:EMERGENCIES WITHIN AND OUTSIDE TURNERS FALLS MUNICIPAL AIRPORT:**

A. The first Montague Police Department unit arriving at the Airport will stage adjacent to Turners Falls Fire Rescue and will exclude all traffic except emergency vehicles from entering that gate. No Montague Police units are to proceed onto the airport property unless directed to do so by the on-scene 1st Line Supervisor. \*\*Access through gate #2 & gate #3 -use "YELP" siren to open gates. \*\*

B. Subsequent units may be directed to other airport gates at the discretion of the on-scene 1st Line Supervisor.

C. the Montague Police Department 1st Line Supervisor responding to the scene shall establish a communications protocol with emergency responders.

D. the Montague Police Department 1st Line Supervisor responding to the scene will make sure notifications are made to the Chief of Police.

E. The 1st Line Supervisor shall establish communication and cooperation with the Turners Falls Fire Rescue and the Airport Authority personnel.

F. MPD personnel shall park their cruisers in such a manner that will not hamper emergency operations, well away from the actual emergency scene, but still useful for

traffic and/or crowd control.

G. MPD personnel shall direct, detour, and control pedestrian and vehicular traffic as necessary ensuring vehicles, including those of firefighters and/or other emergency personnel, do not obstruct emergency operations.

H. MPD personnel shall assist the Turners Falls Fire Department personnel as requested.

## **V. RESPONSIBILITY FOR CLOSING AND OPENING THE AIRPORT:**

In the event of an aircraft accident and/or emergency, the Airport shall be closed until reopened by the Airport Management after consultation with, Aviation, Police and Fire Officials.

## **VI. EVIDENCE OF INTOXICANTS:**

A. If there is reason to believe that alcohol consumption is involved in an aircraft accident/incident, a law enforcement officer MAY REQUEST that any crew member submit to a test to determine the percentage by weight of alcohol in that person's blood. A Montague Police Department street supervisor may order such testing if applicable. Aviation has an "Implied Consent" law, which is similar to the motor vehicle law. Under Federal and State Law, no person may act as a crew member:

1. Within eight (8) hours after consuming any alcoholic beverage;
2. While under the influence of alcohol; or,
3. While having .04 percent by weight or more alcohol in the blood.

B. If use of alcohol is suspected, initiate test procedures as soon as it is practicable and retain all test evidence for federal investigators.

The job of First Responders is to help the injured, notify proper authorities, and secure the area until further help arrives. In other words: Rescue, Advise, and Guard. Since aircraft accidents are handled and investigated differently than other types of accidents, the following basic procedures will provide the best chances to save lives, prevent further injury, protect property, and preserve valuable evidence.

### **Step I - Rescue**

- Use caution in approaching the wreckage by vehicle, particularly if the approach is along the crash path as survivors may have been thrown out and valuable evidence could be destroyed.
- Render standard first-aid to survivors until you are relieved by medical personnel.
- If there is a post-crash fire or indications of the possibility of fire or explosion from fuel

vapor, move survivors a safe distance away; otherwise do not disturb them except as necessary for first aid.

\* AV gas is notably more dangerous than gasoline

- Verify that medical aid has been requested and is in route.

Points to consider during rescue:

If passengers are trapped inside, try to rescue them through an escape hatch on larger aircraft or through the main door on smaller aircraft. Door handles vary. Many are similar to an automotive door handle. Others may have a double-latch system. For this type, rotate the main latch in the top, center part of the door. Then pull the secondary latch outward like a car door handle. If doors are jammed, it may be necessary to break windows, which are usually plexi-glass and very tough to break. Do so cautiously.

Many aircraft carry fire extinguishers. These are usually located behind or under the front seat. First-aid kits are often carried there too.

Beware of the propeller! Even if the master switch and magneto switches are off, the engine may start if the propeller is moved.

For agricultural accidents or other types of aircraft crashes where hazardous materials may be present, delay approaching the site until help arrives. Self Contained Breathing Apparatus must be utilized if rescuing passengers. The local law enforcement agency or fire department should notify appropriate agencies for handling or clean-up procedures.

For safety from electrical hazards or fire danger, turn off the aircraft's master or battery switch. It is usually located within the pilot's reach-on the left bottom side of the instrument panel or the left bulkhead of the aircraft.

The master switch is usually red and a little larger than other electrical switches.

The battery switch may be a simple toggle switch. Avoid moving any other instruments.

## **Step II- Advise**

**Federal Aviation Administration  
New England Region  
ANE-600  
12 New England Executive Park  
Burlington, MA 01803  
Phone Number: (781) 238-7001  
Fax Number: (781) 238-7005**



- Contact the Medical Examiners Office if there are any fatalities. Caution them not to embalm any bodies. FAA will provide a kit called a "Tox Box" for pathological and toxicological tests.
- If the crash is a large-scale accident, alert area hospitals, the Red Cross, and any other community service organization in your area.
- Contact the Flight Standards District Office (FSDO) for your area. The number can be obtained from Federal Aviation Administration (FAA). They will also have a toll-free number for the Automated Flight Service Station or Regional Duty Officer for after hours calls. The FSDO will notify the National Transportation Safety Board (NTSB) and any other necessary federal agencies.

The FSDO will need the following information, but contact them immediately even if all the information is not available.

- The "N" number Of the aircraft-located on the tail
- The location of the accident
- A local contact name and telephone number-for obtaining further information and directions
- The aircraft type-i.e. single engine or mufti-engine, Cessna or Piper
- The number of injuries or fatalities
- When the crash was discovered or reported

### **Step III - Guard**

- Secure the accident area. Treat the area as you would a crime scene-nothing should be moved or disturbed. No one should be allowed inside the wreckage area other than those necessary for rescue and fire fighting.
- Establish a "no smoking" policy because of potential fire danger.
- The only thing that should be removed besides occupants is mail or other cargo to protect it from further damage. Log books and certificates can be removed if there is a danger of damage before the FAA and NTSB investigators arrive. Anything removed must be held and protected locally for examination by investigators.
- If it is necessary to disturb or move the aircraft or victims, first photograph, videotape, or sketch their positions as they were found. Be sure to indicate any impact marks.

- Give the news media only necessary information like the type of aircraft, it's "N" number, and the number of people involved. Do not release names of victims or any identifiable markings.

The operator of the aircraft is responsible for preserving (to the extent possible), any aircraft wreckage, cargo, mail, and records pertaining to the operation and maintenance of the aircraft. When the operator is not available, this function must be assumed until a representative of the FAA or NTSB arrives.

# MUTUAL AID RESPONSE

|                                |                               |
|--------------------------------|-------------------------------|
| POLICY & PROCEDURE<br>NO. 3.26 | ISSUE<br>DATE: 10/22/2013     |
|                                | EFFECTIVE<br>DATE: 10/22/2013 |
|                                | REVISION<br>DATE: 6/1/2020    |
|                                |                               |

The Town of Montague has entered into a Mutual Aid agreement with many towns in Franklin County. The purpose of the agreement is to assist our officers with their investigations and to allow us to carry out our duties without interruption outside of our community borders. It also allows us to assist other communities when they need our help, provide better help and protection to the community, and to protect our officers from civil lawsuits.

As of October 15, 2013 sixteen (16) of the twenty seven (27) Franklin County communities listed on the agreement have signed on and accepted the terms of the Mutual Aid agreement. More communities are signing on daily.

Each Officer has been provided with a copy of the mutual aid agreement and is responsible for reading the entire agreement and understanding it. If you have any questions it is your responsibility to speak with your supervisor to get your questions answered.

### **Article 1 – Purpose and Intent**

This agreement is adopted pursuant to the provision of Massachusetts General Law chapter 40, Section 8G, and is intended to supplement but not contradict the provisions of MGL Chapter 41, Section 99 and Chapter 37, § 13, as well as all other statutory and common law authorizing police officers of one community to exercise police powers in another community, in order to provide mutual aid for the protection of public safety. The purpose of this agreement is to set forth the circumstances and procedures for the provision of law enforcement mutual aid across jurisdictional lines, and to address the command and control, liability, compensation, and reimbursement associated with mutual aid events. The parties intend that, subject to the terms, conditions, and limitations of this agreement, police officers from one community shall have the rights, privileges, and immunities of police officers when in the course of providing mutual aid in another community. This agreement is not intended to substitute for or preclude any other agreements that may now or hereafter be in effect among any of the parties to this agreement. Nothing contained in this agreement shall be construed as limiting the lawful authority of police officers to make arrests or to exercise their police powers or to engage in fresh and continued pursuit under Massachusetts General Laws Chapter 41, Section 98A.

### **Article 5 – Police Authority**

Any officer from a member community may exercise police powers in any other signatory community so long as the officer has knowledge of facts and circumstances that would amount to probable cause that a motor vehicle violation has occurred or the officer has reasonable suspicion or probable cause to believe that a violation of the law has occurred and said officer makes notification, in a timely manner, to the police department in the community in which the motor vehicle violation or violation of the law occurred.

In addition, Police Officers who are on-duty and operating a police vehicle equipped with emergency warning lights and audible sirens or other similar devices may enforce the motor vehicle laws of the Commonwealth of Massachusetts while in the jurisdiction of another participating community under the following circumstances:

1. Upon signaling a motorist to stop or otherwise exercising police powers with respect to the enforcement of motor vehicle laws, the Police Officer shall (a) notify his/her dispatcher of the situation warranting a law enforcement or policing response including the pertinent details and (b) instruct his/her dispatcher to notify the dispatch center of the community in which he/she is located including the location, type of situation and whether assistance is needed from that agency.
2. All paperwork, including citations, citation audit sheets, complaint applications, booking procedures, crash reports, incident reports and any other documents required pursuant to law or policy, shall be completed in accordance with the agency in whose jurisdiction the motor vehicle enforcement action occurred. The officer and agency that initiated the police action shall ensure that all paperwork required by the court having jurisdiction is served upon the court. All court activity resulting from such police action, including but not limited to clerks hearings, show cause hearings, arraignments and any other proceedings, shall be the responsibility of the officer and/or agency that initiated the police action.

3. While engaged in such activities, should the need arise for EMS, Fire Department and/or other assistance, the officer shall request such assistance through the agency in whose jurisdiction the enforcement action was taken and in accordance with Massachusetts General Laws Chapter 111C as it relates to EMS Service Zones. This shall also include any requests for tow services.

NOTE: Unless Police Officers have received the authorization of their department commanding officer or the commanding officer of the agency from the community in which they are contemplating taking a police action or activity, off-duty officers shall not activate themselves to an on-duty status. For the purpose of this agreement, Police Chiefs shall be the only officers considered on duty at all times.

**Articles 1 and 5 are attached to this policy for information purposes.**

**It is the policy of the Montague Police Department that in order to take police action outside of the Town of Montague, authorization must be obtained from a commanding Montague Police Officer (Chief, Sergeant or OIC) and the officer requesting to take action must be on duty at the time and have the tools necessary to safely carry out the action.**

**Off Duty Officers shall not activate themselves to an on-duty status without permission from a Commanding Montague Police Officer.**

**An Officer can activate themselves to an on duty status outside of the Town of Montague without a Commanding Officers permission only if they are preventing a loss of life or to save someone from injury and they are unable or do not have the time to contact a Commanding Officer from the Montague Police Department. The Officer must however have the tools necessary to safely take action before activating themselves to an on duty status. Officer Safety is our main priority. There is no crime so great as to put an officer or member of the community's life in jeopardy.**

# OVERDOSE REPORTING POLICY

|                                |                              |
|--------------------------------|------------------------------|
| POLICY & PROCEDURE<br>NO. 3.20 | ISSUE<br>DATE: 4/16/2014     |
|                                | EFFECTIVE<br>DATE: 4/16/2014 |
|                                | REVISION<br>DATE: 6/1/2020   |
|                                |                              |

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It is the policy of the Montague Police Department that anytime an officer responds to or investigates an **Overdose call for service**, an incident report will be completed and filed before the end of the officer's shift. The patient does not have to have been transported to a medical facility to put this policy into effect. If it is reported or suspected that an overdose has taken place then a report must be completed listing the victim information and explaining the facts. All Overdose investigations that involve a death require that we contact CPAC (State Police Crime Prevention and Control) immediately so they can assist in the investigation if they deem necessary. If the victim is transported to a medical facility and they are not conscious or able to speak or they are in a real bad medical condition, a report must be written and left for Detective Dobosz, or whomever has the court officer responsibilities, so he/she can contact CPAC and give them a copy of the Overdose incident report by the next day. This includes all suspected overdoses no matter what the cause may be.

All deaths, with the exception of Hospice patients, must be reported right away to CPAC.

# ANIMAL CONTROL OFFICER POLICY

|                                |                               |
|--------------------------------|-------------------------------|
| POLICY & PROCEDURE<br>NO. 3.22 | ISSUE<br>DATE: 10/15/2013     |
|                                | EFFECTIVE<br>DATE: 10/15/2013 |
|                                | REVISION<br>DATE: 6/1/2020    |
|                                |                               |

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The Town of Montague has entered into an agreement with the Towns of Greenfield and Deerfield to fund and hire a fulltime Animal Control Officer (aka ACO). **Calin Giurgiu** has been hired as our Animal Control Officer.

The Animal Control Officer's normal work schedule will be **Monday through Friday 8:00am-4:00pm.**

**\*\* Calin can be called out for after hour emergencies. See emergency list, page 3.**

The ACO office is located at 20 Sanderson Street in Greenfield,MA. The office is part of the Board of Health Office.

From this date on the Animal Control Officer will be contacted for all animal complaints.

If you need to contact Calin, he can be reached by calling the following options:

*Office Phone: 413-772-1404 ext.104*

*His Business Cell: 413-522-3564*

*His Personal Cell: 413-475-0637(\*only use if he is not answering his work phones)*

*Email: [animalcontrol@greenfield-ma.gov](mailto:animalcontrol@greenfield-ma.gov)*

Calin will check in daily with the police dispatcher to notify them that he is around. The dispatcher is to review the log and see if he is needed for any outstanding animal complaints.

During normal business hours Calin will handle all animal complaints (ie. Barking dogs, etc). If he is busy and unavailable at the time then an officer will be dispatched to handle the complaint.

### **Animal Control Officer's Duties:**

- Picks up stray and unlicensed pets, determining the owner and enforcing licensing regulations, collects the bodies of dead dogs/animals found within the municipality or on roadways and disposes of them (please call the DPW first to dispose of the non-Domestic animal if they are working there regular hours).
- Humanely euthanizes or causes to be euthanized any dog or other animal that is injured, maimed, or diseased in accordance with state law. May transport injured dogs/animals to emergency facilities for treatment and may assist in locating the owner of the injured or captured dog/animal.
- Works with the Board of Health Director, Director of Public Health, The MSPCA, local police, humane societies, veterinarians, animal shelter, volunteer organizations, and the general public to place unclaimed animals, or the investigation and prosecution of animal cruelty cases.
- Enforces licensing requirements by follow-up with listed owners on delinquent or unlicensed dogs as provided by the Office of the Town Clerk.
- Completes all forms, letters, reports, etc. associated with the impoundment of dogs, the issuance of removal orders and the assessment of fines in accordance with state and local law.
- Keeps records of the number of animals killed, their owners, number of complaints, and any other information required by state or local law.
- Patrols streets and captures stray dogs and animals to secure/transport and found to be in violation. Impound such dogs/animals whenever necessary.
- Investigates emergency calls such as a vicious animal that is threatening humans or other domestic animals: animals that have actually bitten a human or another domestic animal: sick or injured wild animals in domestic areas that present a danger to inhabitants.
- Will follow up on barking dog complaints that are a disturbance of the peace.
- Reports all dog bites, to a human or other dog, to the Board of Health for quarantine purposes.
- Investigates and may request hearings before the Board of Selectmen for the purpose of issuing a removal or destroy order against a dog as prescribed by law; may file complaints, and assist the Town and the Court Officer in the prosecution of criminal cases.
- Makes and refers complaints against owners of dogs not properly licensed and collared; handles all matters and complaints pertaining to dogs.
- Maintain a log within IMC of calls and actions taken.
- Work cooperatively with the Board of Health with regard to rabies control and education efforts.
- Participates in training and drills to ICS protocols pertaining to Animal Control.



## **Animal Control Officer Emergency Call Out List:**

- 1) When a Dog or Domestic animal is hit by a vehicle and the owner can't be located
- 2) Large wild animal is hit by a vehicle and you are awaiting the Environmental Police to cover or respond
- 3) A Bat that has to be removed from a home
- 4) If a motorist has an accident and there is an animal in the vehicle that needs placing/assistance
- 5) Reported sick animals, appear to be rabid (raccoons, skunks, etc)
- 6) Mutual Aid assistance call out

**\*\* If you are unsure if a situation qualifies as an emergency, please call Calin and he will let you know. It is likely you will have to call him on his personal cell if it is outside of business hours.**

**Additional narrative from ACO into an IMC call:** Calin is familiar with our in house IMC (Tri-Tech) record system. Once he finishes handling a call, he will come to our police department and add all necessary information to the call log. He may not do this daily. He will enter this information when he has time so please make sure to put all of the information you have into your report of call.

**The previous Dog Shelter Housing Policy still stands as it was written and dated September 5, 2013 for dog sheltering purposes. In a situation where an officer has to take possession of a dog after hours and places it in the shelter, please follow the guidelines in this policy.**

# DOG SHELTER PROCEDURES

|                                |                             |
|--------------------------------|-----------------------------|
| POLICY & PROCEDURE<br>NO. 3.23 | ISSUE<br>DATE: 9/5/2013     |
|                                | EFFECTIVE<br>DATE: 6/5/2013 |
|                                | REVISION<br>DATE: 6/1/2020  |
|                                |                             |

If an officer picks up a dog and brings it to the Regional Dog Control and Adoption Center, located on Sandy lane in Turners Falls, for safe keeping until the owner is located and we are unable to contact the ACO, **you will:**

- 1) Bring the dog to the shelter and secure it in the proper pen.
- 2) The dispatcher will open a call and put in as much information in the call narrative and involved party sections as they can. This will include a description of the dog, will list any tags the dog may have on, the reporting party's information, dog owner information once located, and the location of the pickup.
- 3) There is a clip board in the first dog bay inside the shelter that needs to be filled out by the officer dropping the dog off. Put in as much information as possible about the dog. Please attach a copy of the call to the clip board as well so when the shelter staff arrives the next business day they will know all they need to about the dog.
- 4) If someone calls the police department to claim their dog after the dog has been secured in the shelter, they must wait until the next business day to get their dog back. They have to go to the shelter during normal business hours to retrieve their dog and pay the fee. We will not release the dog to them. See exception to this below.
- 5) The fee for housing a dog will be \$20.00 per day. This is only payable by check or money order. No cash will be accepted. They can also pay by credit card at the shelter if they choose. The check or money order must be made out to "**FCSO-Shelter**".

#### **Exception to Rule #4**

- 1) If the dog is going to be stored for more than two days, such as in the case of a long weekend, the police dispatcher can collect the check or money order from the dog owner and an officer can release the dog to the owner. The shift supervisor must be made aware of this and approve of this before the dog is released. If approved, an officer will escort the dog owner to the shelter and turn the dog back over to the owner. The officer must attach a new call to the clipboard explaining why the dog was released. The check or money order will also be attached to the clip board.
- 2) The dispatcher must make sure the dog owner has a copy of the dogs vet paperwork showing it is up to date on its shots and is properly licensed in the Town where the owner resides.
- 3) The officer must attach the dogs paperwork, showing it is up to date on its shots and is properly licensed, to the clipboard at the shelter.
- 4) **An officer can release an unlicensed dog back to the owner**, however the owner must be told that if they fail to license their dog within 3 business days of pick up then this will result in a criminal application being filed against them in District Court. They must bring proof of the registration to the police department.
- 5) **An officer can release a dog if the owner is unable to produce its shot records**, however the owner must be advised that they need to get the dog vaccinated right away or criminal charges will follow. They must bring proof of a vet appointment to the police department if it is going to take longer than 3 days from pick up to get the shots. Once the shots are administered the owner must then bring a copy of the vaccination record to the police department.

**All information and reports will be given to the ACO as soon as we are able to contact him or the next time he/she checks in with our agency. Whichever occurs first.**

# DEATH OR INJURY NOTIFICATION

|                                       |                             |
|---------------------------------------|-----------------------------|
| POLICY & PROCEDURE NO.<br><b>3.24</b> | ISSUE<br>DATE: 3/5/2014     |
|                                       | EFFECTIVE<br>DATE: 3/5/2014 |
|                                       | REVISION<br>DATE: 6/1/2020  |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy applies to notifications made to non-police department employees of a death, serious injury, or serious illness.

One of the most unpleasant duties for a police officer is making a notification that a loved one has been killed or seriously injured. The presence of a police officer arriving in the middle of the night to make a notification is every parent's nightmare.

Upon hearing such terrible news, people react in many different ways. Often, the persons receiving the news are in disbelief and have trouble comprehending what they are being told. Reactions include denial, anger, hysteria, and silence.

Police officers may provide comfort and help the recipients obtain the support of other friends, family and clergy. Persons with medical conditions may need the support of family members or paramedics.

Death notifications involving young children or teenagers can be particularly traumatic, not only for the parents, but for the officers as well. Police officers may be haunted for years with the memories of delivering such terrible news. A debriefing with a counselor may be appropriate in some cases and should be sought, if needed.

## II. POLICY

It is the policy of this department that the next-of-kin of deceased, seriously injured, or seriously ill persons shall be promptly and considerately notified.

### III. PROCEDURE

#### A. Preparing for Notification

##### 1. RECEIVING THE REQUEST

- a. These procedures should be followed whenever possible.
  - 1) Positive identification of the victim must be confirmed prior to making a notification.
  - 2) If the request is made by an outside agency or person unknown to the department, the legitimacy of the request **must be confirmed**.
  - 3) The employee taking the request should obtain the name of the agency, as well as the name of the person making the request.
  - 4) The following information should be recorded:
    - a) The identity and address or location of the person(s) to be notified;
    - b) The identity of the deceased, injured or sick person;
    - c) Any other information or instructions from the requesting agency; and
    - d) The nature of the notification:
      - i. Instruction to call a hospital or police department;
      - ii. Death;
      - iii. Injury; or
      - iv. Sickness.

##### 2. OTHER CONSIDERATIONS

- a. Should the media obtain the deceased or injured person's name prematurely, the ranking officer may request that the information be withheld until proper notification of survivors can be made.
- b. If members of the family are in poor health and may require medical attention, a paramedic should be alerted to stand by in case of an emergency.
- c. If time permits, a family friend, family member or clergy member may be asked to accompany the notification party.

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## **B. Making a Notification**

### **1. GENERALLY**

- a. The immediate family must be contacted before the name is released to the media.
- b. Death or serious injury notifications should never be given over the telephone. Notification should be made in person whenever possible.

### **2. LOCATING THE PERSONS TO BE NOTIFIED**

- a. The address of the family should be identified.
- b. If the family is not immediately available, an attempt should be made to identify where they are located.
  - 1) If the family is out of the area, the local police with jurisdiction in the family's area should be contacted and requested to make the notification.
  - 2) If the request was made by another police agency and the family is not presently in this department's jurisdiction, the requesting agency should be advised of the family's location, if known, so that arrangements for notification can be made with another department.

### **3. MAKING A NOTIFICATION TO CALL OR GO TO A HOSPITAL**

- a. A request of the immediate family to call or to go to a hospital should be made as soon as possible.
- b. If the person is deceased, the officer should advise the persons being notified that their loved one was in an accident, or is sick or injured, as appropriate, but offer no more information.
- c. If the person is still alive, the family should be told the extent of injuries as known.
- d. The family should be advised as to which hospital their loved one was taken.
- e. The name of the hospital should be written down and given to the persons being notified, along with the telephone number for the hospital and police station.
- f. Transportation may be offered with the authorization of a supervisor, if the hospital is close by.

### **4. MAKING A DEATH NOTIFICATION**

- a. Notification of a death should be made to the immediate family as soon as possible.

- b. The actual notification should be made by at least two officers if two officers are available.
- c. Notification should not be made on the doorstep. The notifying officers should attempt to gain admission to the home, gather the appropriate persons together, and inform them slowly and clearly of the situation.
- d. In giving notification, officers should be as straightforward as possible about the condition of the loved one and not make statements or use language that is ambiguous or gives false hope.
- e. The survivors should be told that the person is dead rather than using euphemistic expressions such as “passed on” or “passed away.”
- f. While notifying officers should attempt to maintain composure in order to better provide assistance to members of the surviving family, they should recognize that a show of emotion on their part is simply a natural expression of anguish and empathy and is not a sign of weakness.
- g. Notifying officers should be aware of and prepared for a range of possible reactions from surviving family members. Hysteria, shock, physical violence, anger and rage, silence or stoicism, fainting or screaming are some of the more common reactions.
- h. Notifying officers should be prepared to give whatever solace and comfort that may seem appropriate, but should avoid trite phrases or clichés that, although intended to provide comfort, may be counterproductive.
- i. In many cases, the best reaction of the notifying team is simply to stand by quietly until members of the family have regained some composure and are prepared to ask additional questions.
- j. Officers should be prepared to:
  - 1) Provide information regarding the circumstances surrounding the person’s death, as appropriate.
  - 2) Give instructions to the family as to where the deceased person was taken.
  - 3) Provide contact information for other agencies as appropriate.

# **FIREARM DISCHARGE REPORTING AND AMMUNITION REPLACEMENT**

|  |  |
|--|--|
| <b>POLICY &amp; PROCEDURE<br/>NO. 3.25</b> | <b>ISSUE</b><br><br>DATE: 10/22/2013     |
|  | <b>EFFECTIVE</b><br><br>DATE: 10/22/2013 |
|  | <b>REVISION</b><br><br>DATE: 6/1/2020    |
|  |  |

## **There will be a new system in place for reporting firearms discharges and Ammo Replacement**

There are a couple of components to this. First of course is the new form. Second is ammo replacement. Third is an incident report.

**First, the form.** ANYTIME a firearm is discharged a Report of Discharge form must be filled out. The form is in the patrol room and there are a couple of samples on the table to review. The form is pretty self explanatory and asks who fired the firearm, how many rounds, what weapon, the weapons assignment, was the shift commander notified, etc. If you are the shift commander, just fill out your name in each applicable spot.

**Second, Ammo replacement.** No more replacing ammo out of your (or someone else's) locker supply. On the bottom of the form, you will see a box regarding ammo replacement. When you have a discharge and your ammunition needs to be replaced you need to see The Chief, Lieutenant, or Sgt. with your completed form to get the replacement ammo. Fill out the bottom of the form then turn the form in to Lt. Bonnett. It will then get filed with the Chief. NO ONE replenishes their own ammo.

The only exception to this of course would be in some severe emergency.

Any discharges with the M-4 (Ar-15) or Shotgun must be reported to Lt. Bonnett for replenishment as these cases will be reviewed based on the weapon and situation. No one else will replenish M4 or Shotgun ammo.



Discharges with a .22 must still be documented the same, but you can replenish your own ammo from the box in the cruiser. Fill out the form the same way (see example), and at the bottom, fill in your name with the number of rounds YOU re-loaded the .22 magazine with. This certifies that you reloaded what you shot. Turn form in as normal. Let Lee or I know if a box of .22 is getting low in any particular cruiser.

**Third, the incident report. One will be done ANYTIME a firearm is discharged.**

There is a selection under "No Crime Involved" for firearms discharge. Simply select this option and write a quick narrative. The report attaches something to the call in the system to reference against our paperwork. Turn the Incident report as usual.

# POLICE CANINE OPERATIONS

|                                       |                             |
|---------------------------------------|-----------------------------|
| POLICY & PROCEDURE NO.<br><b>3.30</b> | ISSUE<br>DATE: 7/1/2020     |
|                                       | EFFECTIVE<br>DATE: 7/1/2020 |
|                                       | REVISION<br>DATE: N/A       |
|                                       |                             |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

Because of their superior senses of smell and hearing, physical stamina and agility, trained law enforcement canines are a valuable supplement to police manpower. However, utilization of canines requires adherence to procedures that properly control their use-of-force potential and channel their specialized capabilities into legally-acceptable crime prevention and control activities.

Police dogs are not infallible. Their effectiveness depends largely upon the intelligent application of their capabilities. Police dogs react as trained to situations. Anyone making a sudden or threatening move toward the dog or handler risks the chance of the dog's engaging and causing injury.

The purpose of this policy is to establish a set of guidelines for the proper management and control of the department's canine team(s), as well as the use of police canine team(s) from other police agencies during daily and specialized operations.

This policy will familiarize department personnel with canine operating procedure and policy to ensure the best use of canine teams; the policy will also educate department supervisors on the appropriate uses of canine teams to ensure effective utilization and management in deployment situations.

## II. POLICY

It is the policy of the department to:

- A. Provide support for canine teams requested under mutual aid;

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- B. Keep crime scenes and areas in which the canines are to deploy as free from contamination as possible; and
  - C. Keep innocents, bystanders, and distractions away from canine teams while they work.
  - D. It is the policy of this department to staff, train, deploy, and maintain a canine unit within the department to serve as a support unit in the field to enhance basic patrol and investigative functions.
  - E. This department shall utilize regional police agencies' canine team(s) when it is felt that their use will aid in the apprehension of wanted or escaped persons, tracking, search and rescue operations, seizure of contraband, discovery of explosives, crowd control, locating articles, arson investigation, public relations demonstrations, and other needs of the department.

### **III. DEFINITIONS**

- A. *Canine Team*: A police officer/handler and a specially trained working dog working as a team.
- B. *Passive Alert Dog*: A canine which, when alerting to the presence of controlled substances or other material for which it is trained to search, sits, stands or lies down passively.
- C. *Aggressive Alert*: A canine which, when alerting to the presence of a controlled substance or other material for which it is trained to search, will dig at the source of odor.

### **IV. PROCEDURES**

#### ***A. Canine Team Utilization***

##### **1. CANINE HANDLING**

Only officers trained to handle a police canine and authorized by the Chief of Police may handle a canine.

The handler shall maintain control of the canine to avoid injury to persons as well as to the dog.

##### **2. AVAILABILITY**

The teams may engage in assignments not listed here with the approval of the shift supervisor.

##### **3. CANINE TEAM DEPLOYMENT**

The decision to deploy a canine team is the decision of the on-scene/shift supervisor. ALL requests must be approved by a supervisor/officer in charge

and all requests must come through the Montague PD dispatch center. The K-9 Handler **shall not** dispatch him/her self and the K-9.

The canine handler is responsible for determining whether a situation justifies canine use. The decision on how to deploy the canine team is a decision of the handler. The responsibility for the evaluation of risk and safety of the team lies with the team commander.

If an on-scene supervisor disagrees with the handler's tactical assessment to deploy a canine, he may instruct the handler not to deploy the canine. When the handler disagrees with an on-scene supervisor's tactical assessment to deploy a canine, the handler may choose not to deploy the canine.

If there are only (2) officers working and the K-9 Handler is the OIC he/she will not respond to a mutual aid incident without permission from the Staff Sergeant, Lieutenant, or the Chief of Police.

When there are (3) officers working the K-9 Handler may respond to a mutual aid incident with the permission from the on duty Sergeant or OIC.

Arrestees shall not be transported in a vehicle with a police canine unless alternative transportation is not available and immediate transport is essential for safety or security reasons.

#### 4. MUTUAL AID REQUESTS:

When another agency requests the use of the department's canine team:

The dispatcher shall notify the shift supervisor of the request and a brief description of the nature of the incident.

If the request is approved by the shift supervisor/OIC, an on-duty canine team will be assigned to respond to the requesting agency. If no team is on duty, or the team is involved in another incident another K-9 may be called in if available

#### 5. RESPONSIBILITIES OF OFFICERS REQUESTING K9:

##### ***Generally:***

Minimize noise and confusion at the scene to avoid exciting or distracting the canine.

Do not follow or get close to a dog that is working, unless instructed to do so by the handler.

Shut off vehicles in the area if feasible to minimize scent contamination by engine exhaust.

In the event that a resident has a pet at the scene, request that the owner remove the pet completely away from the area.

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***Building Search:***

Attempt to determine if anyone may be lawfully in the building.

Secure the building to prevent entry by others and to prevent escape.

***Tracking/Area Search:***

Determine the last known location of the suspect. Secure the area from any further scent contamination.

Set up a perimeter to prevent the escape of the suspect. Secure the area from any further scent contamination.

***Article Searches:***

Secure the area where the articles are to be searched for to avoid any further scent contamination.

Leave items in plain view, undisturbed and in place, if possible, and point them out to the handler.

If articles must be recovered, advise the handler of what was recovered and where.

***Approaching Canines:***

Personnel shall not provoke, tease or abuse the canine.

Employees shall not approach the canine without the consent of the handler.

Employees shall not feed the canine without consent of the handler.

Employees shall not provide any commands to the canine.

Employees shall not show the canine to any person(s) without the consent of the handler.

Employees shall refrain from making any threatening gestures, engaging in horse play, or making any motions toward the handler while in the presence of the canine. Such actions may trigger a protective response from the canine.

The handler shall share in the responsibility of keeping personnel aware of these rules and shall report any violations.

***B. Canine Operations******1. CROWD CONTROL***

Canine team(s) shall be deployed under department guidelines.

Canine teams shall not be used for crowd control at peaceful demonstrations.

The canine team shall allow open avenues of escape to the crowd.

Canines shall be restrained on a leash no longer than six-feet attached to a collar.

Canines shall not be unleashed and sent into a crowd.

## 2. DRUG DETECTION CANINES

The canine officer shall maintain records that document the use and the proficiency of individual canines in drug detection. This documentation shall be readily available to officers and others who may need it when seeking warrants.

### ***Sniffing in Public Places:***

Random exploratory sniffing of luggage, packages or other inanimate objects may be conducted in public facilities such as airports or train stations, as authorized by the shift supervisor or other authorized command officer.

Exploratory sniffing in these facilities shall be confined solely to those areas open to the general public and, whenever possible, with the advance knowledge and consent of the appropriate facility manager.

Exploratory sniffing shall be conducted without interference or annoyance to the public or interruption of facility operations.

***Sniffing in Areas Restricted to the Public:*** Canine sniffs conducted in areas restricted to the public, such as baggage staging areas, are considered searches and may be conducted only with reasonable suspicion or probable cause to believe that specific items contain illegal narcotics.

***Sniffing at Shipping Facilities:*** Exploratory sniffing may be conducted on the premises of private shipping companies at the request of the facility manager and with the consent of the Chief of Police.

***Sniffing of Persons:*** Sniffing of an individual's person is permitted only when there is reasonable suspicion to believe that the individual is in possession of illegal narcotics. Sniffing may be conducted using a passive alert dog only.

***Use of Drug Detection Canines in Schools:*** The use of drug detection canines in public schools is permitted only when:

The school's principal or designated authority requests or approves use of the canines;

There is reasonable suspicion to believe that illegal narcotics are being possessed, distributed and/or consumed on the premises, such that the interests of the school are being unacceptably compromised; and

The search is limited to inanimate objects in public areas and the exterior of student lockers unless reasonable suspicion exists to gain admission to lockers and related areas where there is a reasonable expectation of privacy.

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Sniffs of the exterior of residences, either individual dwellings or the common areas of multiple unit dwellings, are not permitted without a search warrant.

Drug-sniffing canines may be used to sniff motor vehicles when:

Reasonable suspicion exists to believe the operator or passengers are in possession of illegal narcotics.

During a valid vehicle stop, the use of a canine to sniff the vehicle's exterior in an exploratory manner is not a search.<sup>1</sup> Unless the canine alerts to the vehicle, the operator may not be detained longer than necessary to conclude the business associated with the initial stop.

Canines may be used in consent searches.

Canines may assist in the execution of search warrants.

### 3. BUILDING SEARCHES

When the responding officer believes an unauthorized person is in a building, no preliminary building search should be conducted. The officer's responsibility is to secure the building, permitting no one to enter, and to call a canine team, which will enter and search the building.

Evacuate all tenants, workers and others from the facility.

Request that all air conditioning, heating, or other air-blowing systems be shut off so as not to interfere with the canine's scent.

Upon entrance to the building, all exits should be kept secured, and communications limited to those of a tactical nature.

It will be the responsibility of the handler to determine whether or not the canine should be unleashed during a building search. Consideration will be given to the imminent risk of injury to innocent persons within the facility.

Prior to the building search, the handler will verbally announce a warning to anyone inside the building that a K-9 will be released to conduct a search. The handler will urge anyone inside the building to surrender at that time. If there is no response, the Canine Team will then conduct the initial search. This warning shall be repeated on each level of all multilevel structures.

If, in the opinion of the handler, it is tactically unsafe to announce the presence of the canine team, and if the on-scene supervisor approves, the canine team may enter the building unannounced.

When apprehending suspects, canines shall be commanded to disengage as soon as it is safe to do so.

Note: When a building has been closed for the night, the odors in the building tend to dissipate. When a person enters the building or opens a door or window, this allows a draft or wind to enter, disturbing the suspect's odor trail and spoiling the scene.

#### 4. TRACKING

Humid, early morning hours with no wind offer ideal tracking conditions.

Tracking on paved streets is difficult because of the odor of the pavement itself.

Wind of twenty miles per hour or more, or heavy rain, makes tracking difficult. Light rainfall frequently provides ideal tracking conditions.

If officers are pursuing or searching for a suspect and contact with the suspect is lost, prior to summoning a canine team the officers should try to pinpoint the location where the suspect was last seen, and avoid vehicle or foot movement in that area.

Back up officers should not respond to the scene, but position themselves around the perimeter of the incident to contain the suspect in the search area.

It is important that the responding officer make certain that no person enters the area used by the suspect to make his departure. Since the subject's odor will be predominant, the entire scene must be free of other contamination. Generally, dogs may be capable of detecting a scent several hours after the suspect has left the area if the scene has not been contaminated.

If material has been dropped by the fleeing suspect, such material and the surrounding area must not be contaminated, since a dog may detect the suspect's odor from the material.

Canines used for tracking persons should remain on a leash of sufficient length to provide a reasonable measure of safety to the subject of the search without compromising the canine's tracking abilities. The canine handler may decide to track "off-lead" where the threat level to police officers is high.

#### 5. ROLE OF BACK-UP OFFICERS

The canine team handler may request a back-up officer.

A back-up officer's primary responsibilities include but are not limited to the following:

The back-up officer(s) should remain close to the handler in a position determined by the handler.

The back-up officer(s) shall be responsible for all communication between the canine team, on-scene supervisor, and the perimeter officers.

The back-up officer(s) should not go ahead of the canine team unless directed to do so by the handler.

The back-up officer(s) may not become physically involved with any suspect(s) unless requested to do so by the police officer/handler.

The back-up officer(s) shall respond to the police officer/handler's request and instructions while involved in the operation. The police officer/handler is in charge of the canine team(s) during the operation.



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Once instructed to do so, it shall be the responsibility of the back-up officer(s) to search the suspect, and remove the suspect from the scene.

In case of injury to the police officer/handler, the back-up officer is responsible for obtaining help, and being aware of the canine.

## 6. CANINE WARNING

A "Canine Warning" should be given prior to releasing the dog unless, in the opinion of the handler, doing so would cause undue risk to the canine team, its presence or intention.

The canine warning should consist of the following or similar announcement, "This is the police canine team, speak to me now/stop now, or I will send the dog."

The police officer should deliver more than one warning to ensure that the suspect has received ample warning that the canine will be used to apprehend him/her.

A warning not only allows a suspect time to surrender; it also alerts any innocent persons of the canine team's presence and intention.

At NO time shall the canine team use the canine to effect the arrest of a person who cannot escape or resist the officer, nor to intimidate, coerce or frighten the suspect(s).

## ***C. Canine Program Administration***

### 1. CANINE BITES

Whenever a canine bites an individual, whether or not the canine was acting in the line of duty, the handler shall:

Examine the injury to determine the seriousness of the bite(s).

Obtain medical treatment for the injured person.

Notify the shift supervisor.

Ensure that color photographs are taken of the injured person showing the injury, affected body areas, and face (for identification purposes).

Reports shall be made for all canine bites regardless of the severity or circumstances surrounding the bite(s).

The handler is responsible for completing a supplementary report to the original incident report.

A Use of Force report shall be completed if the canine was used for a track or apprehension.

A supervisor shall conduct an investigation and submit the findings to the Chief of Police.

## 2. AFTER INCIDENT REPORT

Following the completion of each incident where a canine is deployed, the handler will complete a utilization report detailing the significant events of the deployment as they relate to the use of the canine.

Such records shall be maintained to document the canine's reliability as well as the handler's experience.

## 3. REQUIREMENTS FOR CANINE HANDLER INCLUDE: [41.1.4(B)]

A minimum of three years of full time law enforcement experience with satisfactory work performance, disciplinary and medical leave records.

Being physically capable of performing the rigorous duties of a dog handler.

Being able to work with a minimum of supervision and being willing to take on the responsibilities and risks that the position entails.

Having the ability to provide the proper motivation for the K-9, both verbally and physically.

Commitment to devote some personal time to maintenance, training, care and socialization of the K-9.

Ability to be on call when a canine team is needed, thereby being available to assist, support and cooperate with other departments and personnel.

Having family support to have a police working dog with a secure outdoor area for the canine that conforms to accepted K-9 requirements at the home.

Making a commitment to remain the handler of the canine for at least five years, preferably for the remainder of the dog's working life.

Possessing a strong desire to work with canines and willingness to care for and train the animal; and

Being able to put the working dog's well being and physical comfort above his/her own.

## 4. TRAINING FOR CANINE HANDLER

Officers assigned as canine handlers shall attend and successfully complete a prescribed training program for handling and caring for the police working dog, with specialized training in the dog's specific discipline (patrol, narcotics detection, tracking, etc.).

The canine team supervisor shall ensure that the teams receive at least the minimum training necessary to perform their duties and to maintain current certification.

Canine handlers shall have at least one day of training per month in each specialty and on legal updates.

Handlers shall earn annual certification in each specialty from an independent, nationally recognized organization.

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They shall participate in other training programs as appropriate.

The supervisor should also be familiar with canine procedures, receive training on legal updates and attend canine-related training programs as appropriate.

## 5. TRAINING FOR CANINE

The canine must be properly trained and certified prior to being officially assigned to patrol duty and must maintain such certification to remain on duty. All training shall be documented on a department-approved form.

In order to maintain the canine's proficiency and certification in detector dogs, it shall be necessary that the handlers have access to appropriate training aids (controlled substances, explosives, etc.). Canine handlers shall be permitted to possess the types of substances the canines are trained to detect in the performance of their duties.

Training aids should be obtained from an appropriate source (DEA, etc.). They shall be stored in an approved container and in a manner that will prevent odor cross contamination and ensure the safety and security of the training aid.

The canine team supervisor shall maintain a logbook for the purposes of logging the controlled substances in and out.

The canine team supervisor shall conduct a monthly inspection and inventory of all training aids stored by the canine teams for training purposes.

The Chief or his/her designee may conduct unannounced inspections of the controlled substances stored by the canine teams for training purposes at any time.

In the event any controlled training aid used by the canine team is lost or destroyed during training or while in the possession of the handler, the handler shall notify the canine team supervisor or his/her designee as soon as possible.

A report shall be completed by the handler. A copy of the case report shall be forwarded to the Chief and the Office of Professional Standards for further review or investigation as determined by the Chief.

Controlled training aids shall not be destroyed or disposed of by the canine handlers. They shall be returned to the issuing agency, where they can be replaced.

## 6. USE OF DECOYS

No person shall act as a decoy for training patrol canines unless that person is approved by the Chief or his/her designee. This shall not apply to decoys provided by outside training vendors or agencies.

Decoys shall wear the appropriate safety equipment for the training task at hand, as determined by the handler.

Persons may be used to assist in training tracking dogs at the discretion of the handler.

## 7. REQUIREMENTS FOR CANINES

The dog(s) assigned to the canine unit are the property of the police department.

No dog will be used for breeding purposes, participation in shows, field trials, exhibitions or other demonstrations unless authorized by the Chief.

Department canines shall not be used for off-duty employment or police details without approval of the Chief.

No dog that has been trained as a "guard dog" (one that will attack on detection of intrusion, or will attack a human being without command) will be acceptable for utilization by this agency.

Any dog utilized by this department that exhibits a tendency to not be controllable by the handler, or when unprovoked, attacks or bites another person, or poses a threat to an individual or public safety shall be removed from service.

Should the handler retire; be promoted, reassigned, or relieved from the program for any reason; or should the canine be retired, injured or relieved of duty for any reason, the canine may be reassigned to another handler, removed from duty, or ownership may be transferred to the handler or otherwise disposed of at the discretion of the Chief.

## 8. CANINE CARE

Police canines shall not be used for breeding, participation in shows, field trials, exhibitions or other demonstrations, or for off-duty employment unless authorized by the Chief or his/her designee.

Canine handlers are personally responsible for the daily care and feeding of their animal including:

Maintenance and cleaning of the kennel and yard area where the canine is housed;

Provision of food, water and general diet maintenance as prescribed by the department-authorized veterinarian;

Grooming on a daily basis, or more often as required by weather, working conditions or other factors;

Daily exercise (police canines are not permitted to run at large); and

General medical attention and maintenance of health care records.

Where the handler is unable to perform these and related duties due to illness, injury or leave, the following may occur:

Another canine handler may be assigned to temporarily care for the dog; or

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The canine may be housed in a department-approved kennel when the handler is unavailable.

Teasing, agitating or roughhousing with a police canine is strictly prohibited unless performed as part of a training exercise.

Handlers shall not permit anyone to pet or hug their canine without their prior permission and immediate supervision. Should a civilian express a desire to do so, [s]he should be informed that police canines are serious working dogs and that they can be dangerous if improperly approached.

A canine handler may apply to take possession of his/her dog under such circumstances as:

The dog is retired from duty or relieved due to injury; or

The handler is transferred, promoted or retires, and a decision is made not to retrain the dog for another handler.

## 9. EQUIPMENT

Specialized canine equipment shall be furnished by the department.

The following list includes but is not limited to equipment needed by the canine team(s):

Canine team cruiser: The interior of the vehicle shall be modified to accommodate the needs of the canine team. The exterior of the vehicle shall be conspicuously marked, "Police K-9."

The following additional equipment shall be provided to each Canine Team:

Six foot leash;

Choke collar;

Flat, correction pinch and/or electronic collars as needed;

Fifteen foot tracking line;

Thirty foot tracking line (optional);

Tacking harness (optional);

Slicker brush and rake comb;

Nail Clippers;

Ear and teeth cleaning supplies;

Water/food bowl;

Food (supplied at the expense of the department); and

Medications and supplements as determined by the department veterinarian.

The handler shall be responsible for maintenance and inspection of this equipment.

#### 10. INJURY TO CANINE

Should a canine be injured, the handler shall provide and arrange for the appropriate emergency medical care for the canine.

The handler shall notify the shift supervisor

The handler shall complete a report to the Chief or his/her designee providing the details of the event and injury.

#### 11. INJURY TO HANDLER: In the event that the handler is injured, incapacitated or killed, the following procedure will be followed:

DO NOT, UNDER ANY CIRCUMSTANCES, approach the dog that is protecting the injured handler or attempt to assist the officer, unless it is apparent that the failure to respond to the officer would result in death or serious bodily injury.

Allow the handler to secure the dog if possible. Follow the instructions of the handler regarding ways to render aid.

The dog may be able to be lured into the K-9 vehicle or secured using snares and safety equipment.

If feasible, make contact with another handler to remove the dog or control its actions.

Perform other reasonable actions which allow aid to the injured handler while minimizing injury to the canine.

In the unlikely event that all other efforts to respond to the emergency needs of the officer fail, if time permits, contact the department's approved veterinarian, and attempt to tranquilize the dog. If those efforts are unsuccessful, and the officer is in imminent danger of losing his/her life or compounding an existing injury, the K-9 should be neutralized. If it becomes necessary to shoot the dog, place the shot carefully in order to reduce the animal's suffering. The dog is dutifully protecting its handler. Although this action may seem heartless, human life comes first.

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<sup>1</sup> Com v. Feyenard, 445 Mass 72, 833 N.E.d 590, 2005.

# TOWING OF MOTOR VEHICLES

|                                  |                                    |
|----------------------------------|------------------------------------|
| POLICY & PROCEDURE NO.<br># 4.01 | ISSUE<br>DATE: <u>1/1/2016</u>     |
|                                  | EFFECTIVE<br>DATE: <u>1/1/2016</u> |
|                                  | REVISION<br>DATE: <u>6/1/2020</u>  |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

**Towing Services** – No officer shall solicit or assist in any way for a towing service. All requests for towing shall be referred to the police station. It shall be the responsibility of the Communications personnel to follow the directions (procedures) set by the Chief of Police.

- A. A common and necessary aspect of the daily operations of the Montague Police Department is the need to have motor vehicles towed for various reasons. Due to implications that may arise considering the commercial aspects of towing, it is imperative that the Montague Police Department establish rigid procedures governing the towing of motor vehicles.

## II. POLICY

- A. It will be the policy of the Montague Police Department to establish standard procedures, whereby each authorized towing company receives an equitable share of the police authorized towing. However, if the motorist is present and requests a particular towing company, he/she will have their request honored if the request can be reasonably arranged. If it is a police requested tow, due to a crime, incident or other event, the officer will have the choice of which tow company will be used.

## III. REQUIREMENTS FOR TOW COMPANIES

- A. Each towing company must submit a written request to the Chief of Police requesting consideration for towing business at police controlled scenes such as motor vehicle

accidents, disabled motor vehicles, and requests from citizens for a tow service. List the full business name and address from which the company will be operating. Describe the business fully, including length of time the company has been operating, new owners and references.

- B. Provide the Montague Police Department with a list of equipment available for service. All equipment must be properly registered, inspected, insured, and have proper Department of Public Utilities Documentation. Proof of same must be presented upon request and all equipment must be in good repair. Each tow company must abide by all federal, state and local laws relative to the recovery, transportation, storage and disposal of motor vehicles, as well as rate structures.
- C. Provide this department with a list of all employees who will respond to Montague Police Department requests. List the name, address, date of birth (DOB), Social Security Number (S.S. #) and home telephone number. List all past towing experience of the employee.
- D. Assure that employees be presentable at all times. For the purpose of these requirements, the term presentable shall include, but not be limited to, neat appearance, no profanity, no alcohol on breath, and all acceptable standards of conduct attributed to a gentleman. Also maintain a respectable place of business.
- E. Agree to remove all large debris, i.e. car moldings, body parts, bumpers, etc., from accident scenes. The tow company will also hand sweep all small debris off the roadway into the gutter for later pickup by the Department of Public Works.
- F. Provide an area with space for at least five (05) motor vehicles. Storage area must be located in Montague or within 5 miles of the town line.
- G. Set up an adequate record keeping system and maintain files on all police tows. All records are to be made available to the Chief of Police upon request.
- H. Provide the Chief of Police with a set of proposed rates before beginning tows.
- I. Provide the Chief of Police with a telephone call list for emergency service to assure the tow company can be reached twenty-four (24) hours a day, seven (7) days a week during their week on call.
- J. The Chief of Police or his or her designee shall maintain a rotating list of tow companies approved. Tow companies assigned will respond to all calls assigned when requested by the department. No tow company will respond unless called by police. The Chief of Police will maintain an adequate number of towing services to meet the needs of the Montague Police Department.



- K. The tow company shall be liable for all injuries, damage or loss resulting from the negligence of its agents, servants or employees. The Town shall not be liable for any damage or loss caused during or as a result of the towing and/or storage, including but not limited to vandalism, fire or theft. The tow company agrees to indemnify and hold harmless the Town from any and all claims made for such damage or loss.
- L. The Chief of Police or his/her designee reserves the right at all reasonable times to inspect the tow companies premises and equipment used to perform the services described in this policy.
- M. The Chief of Police may remove any tow company from the list for failure to meet these guidelines or for any reason deemed not to be in the best interests of the Town or the department.

#### **IV. POLICE TOWING GUIDELINES FOR OFFICERS AND EMPLOYEES**

- A. Rau's Sunoco shall be the designated tow company for the Montague Police Department, unless advised otherwise by the Chief of Police or his/her designee.
- B. Each tow company shall be placed on an available tow company call list. All police authorized tows will be directed to the company on call.
- C. The list shall rotate so that each company is on call every other tow. The tow company on call list shall be posted in the Dispatch Center.
- D. Whenever a Montague Police Officer requests a wrecker, Dispatch shall notify the tow company on call, and then notify the officer requesting the wrecker that the wrecker has been notified. Dispatch personnel shall specify which company was notified. Upon this radio transmission by Dispatch the tow company notified has fifteen (15) minutes to reach the scene. Any tow company taking longer than fifteen (15) minutes after notification shall be reported to the Chief of Police by the Shift Commander, Officer-in-Charge and/or the Communications personnel on duty.

**RULE: Recommending Private Services** – An officer or employee shall not officially or unofficially recommend or suggest to the public, the employment of any commercial service, such as towing services.

- E. Montague Police Department members or employees shall not recommend any particular towing company under any circumstances.

- F. If the on call tow company is not used for a police tow, then the reason for not using the on call company shall be noted in the call narrative.
- G. Any person requesting AAA service shall be granted that request (unless it is a police requested tow due to a crime, incident or other police related event) and the person making the request must be able to provide AAA with the information necessary to have the vehicle towed. The dispatcher may assist in doing this if time allows however they are not required if there are other pending police matters requiring the dispatchers attention.

Dispatch personnel on duty shall call the “800” telephone number for AAA and provide as much information as possible to the AAA dispatcher, and state if necessary, a prompt response is required. If the officer determines that AAA’s response time is too long and/or the vehicle’s location is causing a hazard, then the officer can disregard the motorist’s AAA request and the officer can request the on call tow service for a more rapid response and to alleviate the hazardous condition resulting from the vehicle’s location..

## TOWING OF MOTOR VEHICLE BY OFFICERS

### A. Handling of Abandoned Vehicles

- 1. Abandoned vehicles left unattended on the public ways or property of the Town of Montague can be a hazard to the general public. It is the policy of this department to investigate vehicles, which appear to be abandoned on public ways or property. This inquiry should be patrol initiated and is the responsibility of all officers.
  - a. Abandoned vehicles left on private property will be investigated by an officer at the request of the property owner or person in charge of the property. The owner of the vehicle or property owner is responsible for all costs associated with the tow.
- 2. Officers who determine a motor vehicle has been abandoned shall notify the Shift Commander or Officer-in-Charge.

### B. Removal and Towing of Vehicles from Public and Private Property

- 1. Officers may tow any vehicle that is a hazard to vehicular or pedestrian traffic:

- a. If a vehicle is towed because of a hazard, a parking ticket should be issued, indicating the violation, (IE: blocking a driveway, roadway, crosswalk, etc.).
  - b. Vehicles may be towed because of mechanical malfunction, which creates a hazard, and the operator may have left the vehicle to obtain assistance.
  - c. Vehicles that are leaking fluids, which may be an environmental hazard or safety issue, will be towed.
  - d. Any vehicle that is obstructing emergency vehicles access or operation shall be towed.
  - e. During a snow emergency there is “No Parking” on any roadway or street during the emergency. Vehicles will be towed, at the owner’s expense.
2. **It is not the preferred response for an officer to tow a vehicle from private property without the consent of the owner of the vehicle, owner of the property or person who has legal control of the property if the vehicle is not involved in a police related matter, however the shift commander**

**may authorize the tow if it is necessary or if the vehicle is creating a hazard or for any other justifiable circumstance.**

3. Whenever a vehicle is removed or towed from private property at the direction of an officer, a written record, (Offense and Narrative Report), in the in-house computer should be completed.
- a. The reports should be completed, listing all pertinent information including: reason for the removal or tow, towing service, location of the vehicle and notification or attempted notification of the registered owner.
4. If the owner of the private property has the vehicle towed from their property on their own then they must notify the police department of the removal as well as reason for the removal or tow, towing service used, location of the vehicle and notification or attempted notification of the registered owner.

## **VI. DISPATCH PERSONNEL ROLE AND RESPONSIBILITY**

- A. Upon receiving a request for a tow company, Dispatch personnel will:

1. Notify by telephone, pager, or other arranged means the on-call tow company.
2. Create a call for service in the in-house computer, if not already done, and fill in appropriate information pertaining to the call, including the registration number of the vehicle to be towed.
3. Advise the officer as to which tow company is responding and estimated time of arrival, (ETA).
4. Request information from the officer if he or she is completing a Motor Vehicle Inventory Report Form (MVI), which will then be noted in dispatcher remarks.

# MONTAGUE POLICE DEPARTMENT

## MOTOR VEHICLE INVENTORY

|                                       |                                   |
|---------------------------------------|-----------------------------------|
| POLICY & PROCEDURE NO.<br><b>4.04</b> | ISSUE<br>DATE: 9/22/2017          |
|                                       | EFFECTIVE<br>DATE: 9/22/2017      |
|                                       | REVISION<br>DATE: <u>6/1/2020</u> |

### I. GENERAL CONSIDERATIONS AND GUIDELINES

A motor vehicle inventory is an administrative measure designed to:<sup>1</sup>

- Protect the motor vehicle as well as any personal property contained in such vehicle;
- Protect the police and tow contractor against claims arising from property allegedly lost or stolen while in police custody; and
- Protect department personnel and the public from injury or property damage due to dangerous items or substances that may be contained in the vehicle.

***This policy and procedure does not apply to searches conducted for the purpose of discovering evidence.*** Motor vehicle inventories are conducted for the purposes outlined above, and are not investigatory in nature.<sup>2</sup> Any such searches shall be conducted in accordance with current law.

### II. POLICY

It is the policy of this department that motor vehicles which are towed, removed, impounded or stored at the direction of a police officer or placed in the custody of the police department shall be inspected and inventoried according to the procedures in this policy.<sup>3</sup>

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### III. DEFINITIONS

- A. *Impound*: To take into custody of the law.<sup>4</sup>
- B. *Inspection*: An examination of the exterior and interior of the vehicle for damaged or missing parts.
- C. *Inventory*: An examination of all areas of the vehicle in which personal property may reasonably be found, including but not limited to the passenger compartment, trunk, consoles, compartments, and glove/map box.

### IV. PROCEDURE

#### A. *Inventory Process*

1. RESPONSIBILITY: The officer directing that a vehicle be towed, removed, impounded or stored, or the officer acting on behalf of the department in accepting custody of a vehicle, shall inspect and inventory the vehicle and its contents unless the responsibility for the same has been properly transferred to another officer.
2. WHEN NOT TO INVENTORY: An inventory shall not be conducted in the following situations:
  - a. The vehicle is disabled, either by mechanical failure or as a result of damage resulting from a motor vehicle accident, where the owner and/or operator is present and makes satisfactory arrangements to have the vehicle removed by someone other than the department's on-call tow company.
  - b. The vehicle is towed by the Department's tow contractor and the owner or operator accompanies the tow.
  - c. The vehicle is not to be removed and does not impede traffic flow and is not illegally parked.
3. ALTERNATIVE TO POLICE TOW: When a vehicle is to be towed, and the operator proposes that the vehicle be turned over to an identified person who is not under arrest or otherwise incapacitated, who is properly licensed to operate the vehicle, and who agrees to take charge of the vehicle, and is available to do so without delay, the officer should allow such arrangement as an alternative to police tow.<sup>5</sup> When the officer does not permit the third party to take charge of the vehicle, the reasons for ordering the tow shall be articulated in his/her report.
4. REMOVAL OF PROPERTY BY OWNER: The owner or operator of the vehicle, unless arrested, unable, or unwilling, should be asked to remove all valuables from the vehicle prior to police tow. Items not removed shall be inventoried.

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## 5. LOCATION OF INVENTORY

- a. Whenever the inspection and inventory at the scene are not safe or practical, they may be conducted at an alternate location.
- b. Whether the inspection and inventory are conducted at the scene or at an alternate location, they should be conducted within a reasonably short period of time after the vehicle was taken into custody.
- c. Officers must maintain custody of the vehicle until the inventory is complete. When the inventory is to be conducted at an alternate location, the officer must follow the tow truck to said location.

### ***B. Sequence of Inspection and Inventory***

1. PROCESS: The standard inventory process will consist of an inspection and inventory (*see Definitions*).
2. EXTERIOR SEQUENCE: The exterior of the vehicle shall be inspected for missing or damaged parts. The following order of inspection is recommended:
  - a. Front of the vehicle;
  - b. Right (passenger) side;
  - c. Vehicle rear;
  - d. Left (driver) side;
  - e. Surface of the hood;
  - f. Roof;
  - g. Trunk;
  - h. Undercarriage areas; and
  - i. Tires.
3. INTERIOR
  - a. The interior shall be inventoried according to the major areas of the vehicle. The following sequence is recommended: starting with the left front (driver) to the right front (passenger) areas, inventory the visors, dashboard, unlocked glove/map box/console areas, and under the front seats and mats. Next, the rear seats from left to right, the area under the seat mats and seats, any rear deck above the back seats, and any space behind the seats shall be inventoried. Lastly, the trunk shall be unlocked and inventoried.
  - b. If the glove/map box/console and/or trunk are locked and the officer cannot open them with the key or from within the vehicle, these areas shall not be inventoried and appropriate notations made on the Motor Vehicle Inventory Form.

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- c. In many vehicles, a locked trunk may be opened from within the vehicle. In these vehicles, the trunk shall be opened and inventoried.
  - d. For vehicles where the trunk is locked and no key is available, but the trunk may be accessed by folding down the rear seat, this shall be done and the trunk's contents inventoried.
  - e. When an officer has probable cause that a locked trunk or glove/map box/console contains explosives, weapons, contraband, or other substances that present an immediate danger to the public or the officer, a search warrant should be obtained unless exigent circumstances make the delay impractical.
4. VALUABLE ITEMS: Items which appear to be valuable shall be noted on the Inventory Sheet, and maybe secured and/or removed according to departmental procedures and promptly logged in and brought to the attention of the Evidence/Property Officer.
5. ANIMALS: When there is a live animal in the vehicle, officer's shall make prudent arrangements to safeguard said animal's welfare.
6. DOCUMENTATION
- a. All damaged or missing vehicle parts and items found in the vehicle shall be recorded on the Motor Vehicle Inventory form. The form is in triplicate, with a tow company copy, an operator copy, and a police copy. Tow company and operator copies shall be given to those parties directly whenever possible. If such service is not practical, officer's shall make every effort to ensure said service is made however practically possible. Completed police copies of forms shall be attached to and made a part of an officer's police report. Such report shall document all facts, information and circumstances justifying the towing of the vehicle.
  - b. Property removed from the vehicle and taken into custody by an officer shall be listed on the Motor Vehicle Inventory Form, stating the reason for removal, and shall be immediately turned over to the department's Evidence/Property officer or immediate supervisor.
  - c. Should the list of property removed from the vehicle be so large as to make the use of the Motor Vehicle Inventory Form impractical, the officer may list the items on a separate sheet and attach the same to the Motor Vehicle Inventory Form.
7. DANGEROUS ITEMS: Dangerous items shall be noted on the Motor Vehicle Inventory Form, secured and/or removed according to departmental procedures and promptly logged and brought to the attention of the Evidence/Property Officer.



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**C. Inventory of Containers**

1. DOCUMENTATION: The presence of all containers and packages shall be noted on the Motor Vehicle Inventory Form. The officer shall document whether the container is closed or locked.
2. UNLOCKED CONTAINERS: All unlocked containers shall be opened, and the contents shall be inventoried separately. Containers which are secured but not “locked” (e.g. a zip tie through a padlock hole of a pistol case, a marginally functional lock that would be defeated with minimal effort, etc.) are not to be considered locked, and are to be opened and inventoried as unlocked containers, as such a method of securing would not serve to effectively safeguard the property inside the container once the vehicle left the officer’s custody.
3. LOCKED CONTAINERS: If the operator consents to provide a key or combination, locked containers shall be opened and inventoried. All locked containers which cannot be opened shall be inventoried as an individual item in and of themselves, and be noted on the Motor Vehicle Inventory Form. When there is probable cause that a locked container contains explosives, weapons, contraband, or other substances that present an immediate danger to the public or the officer, a search warrant shall be obtained unless exigent circumstances make the delay impractical.

**D. Discovering Evidence of a Crime**

1. ADMISSIBILITY: While the purpose for an inspection and inventory of a motor vehicle is not to discover evidence of a crime, such evidence may be found inadvertently and is admissible so long as the inventory search is conducted in accordance with this policy and procedure.
2. SEIZURE: Any article discovered as a result of a motor vehicle inventory may be seized if it is deemed to be:
  - a. Contraband;
  - b. Fruits of a crime; or
  - c. Instruments of a crime.

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<sup>1</sup> *Com v. Tisserland*, Mass.App.Ct. 383, 363 N.E.2d 530 (1977)

<sup>2</sup> *Com v White* 469 Mass. 96 (2014)

<sup>3</sup> *Com v. Bishop*, 402 Mass. 449, 523 N.E.2d 779 (1988).

<sup>4</sup> Black’s Law Dictionary, sixth ed.

<sup>5</sup> *Com v Oliveira*, 474 Mass. 10, 13 (2016)

# EMERGENCY DETAILS

|                                       |                               |
|---------------------------------------|-------------------------------|
| POLICY & PROCEDURE NO.<br><b>4.15</b> | ISSUE<br>DATE: 07/01/2020     |
|                                       | EFFECTIVE<br>DATE: 07/01/2020 |
|                                       | REVISION<br>DATE: N/A         |

The purpose of this Policy and Procedure is to provide guidelines for the effective filling of “**Emergency Details**”. The proper procedure for filling details is addressed via “NEPBA” contract, Appendix B “Extra Work Rules”. However these rules do not cover filling of “Emergency Details”.

Work that is done within the Town of Montague and is contracted out to an outside vendor will be considered a “Paid Police Detail”. The rate of pay is \$50.00 an hour and \$75.00 an hour for any work over (8) hours. This policy will cover normal work days/hours, (Monday-Friday) excluding Holidays and Weekends.

Categorized Details:

**Standard:** Advance notice given by a vendor for paid police details. Normal rate applies.

**Urgent:** Detail is requested by a vendor will less than (24) hours advance notice. Normal rate applies.

**Emergency:** Detail is requested by a vendor immediately or with less than (4) hours’ notice. If this is the case the paid detail rate will be (1½) times the normal amount (\$75.00 hr).

**Cancellation:** Detail cancellations made less than (3) hours of the scheduled reporting time will result in a (4) hour minimum.

# PRELIMINARY INVESTIGATIONS

|                                       |                               |
|---------------------------------------|-------------------------------|
| POLICY & PROCEDURE NO.<br><b>5.01</b> | ISSUE<br>DATE: 10/31/2013     |
|                                       | EFFECTIVE<br>DATE: 10/31/2013 |
|                                       | REVISION<br>DATE: 6/1/2020    |
|                                       |                               |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

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

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

## II. POLICY

It is the policy of this department that:

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

## III. PROCEDURES

### ***A. Responding to a Crime Scene***

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

Suspicious activity that may be related to the crime;

Evidence of a fleeing criminal;

Persons acting suspiciously or furtively in the vicinity; or

Objects being thrown from a vehicle leaving the scene.

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

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

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

## ***B. Preliminary Investigation***

### **1. ASSIGNMENT OF INVESTIGATING OFFICER**

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

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

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

### **2. ASSESSMENT**

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

- 1) Assessment of any injured persons, providing or summoning appropriate aid;
- 2) The nature of the crime committed;
- 3) As complete a description of the offender as possible and the direction of his/her flight;

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

### 3. ARRESTING THE PERPETRATOR

If the perpetrator is at the scene, the crime is an arrestable offense, and probable cause to arrest exists, the officer may make an arrest. In determining if an arrest is appropriate, the officers should consider:

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

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

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

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

#### 4. PRESERVING EVIDENCE

A critical task for the first officers at the scene of a crime is to protect the crime scene for the preservation of any physical evidence.

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

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

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

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

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

The location of physical evidence shall be noted, but the evidence itself shall not be moved or touched if detectives or evidence technicians are responding to

the scene to recover evidence. If evidence is to be recovered by officers at the scene, or if it is absolutely necessary to ensure preservation of evidence, follow these procedures:

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

## 5. INTERVIEWING COMPLAINANT, WITNESSES, AND SUSPECTS

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

Officers shall attempt to locate, identify and interview reliable witnesses.

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

### Conducting Interviews

- 1) The officer may ask each witness to write out a statement which describes what occurred.
- 2) Interview each witness separately and in a quiet area if possible.
- 3) When interviewing suspects, be mindful of any obligations to provide the suspect with Miranda warnings or record the interview.

Provide information about victim and witness assistance, including what to do if the suspect or suspect's companions threaten or otherwise intimidate the victim or witness.

## 6. REPORT WRITING

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

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

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

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

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<sup>1</sup> *Illinois v. Wardlow*, 120 S.Ct. 673 (2000).



# DRUG DISPOSAL BOX

|                                |                                   |
|--------------------------------|-----------------------------------|
| POLICY & PROCEDURE<br>NO. 6.20 | ISSUE<br>DATE: _6-28-2016____     |
|                                | EFFECTIVE<br>DATE: _6-28-2016____ |
|                                | REVISION<br>DATE: <u>6/1/2020</u> |
|                                |                                   |

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The Montague Police Department, working with the Northwestern District Attorney's Office, houses a no questions asked Prescription Medication "Med Box" drop box in the front lobby of the police department. The purpose of this box is to allow for the proper and safe disposal of all unwanted and unneeded medications. To ensure the integrity of this process, our agency will strictly adhere to the following procedure.

Two officers will be assigned to be in charge of the Med Box medication disposal system at all times. There will be a primary officer in charge as well as a secondary officer. The primary Officer will be responsible for emptying the contents of the Med Box into the DA's Office supplied cardboard boxes and bags when needed and then delivering it to the evidence room for storage. When the primary officer is not available only the secondary officer will be able to complete this process.

PROCESS FOR EMPTYING MED BOX:

When the Med Box container in the lobby needs to be emptied the primary officer with the assistance of another department employee will complete this task in the following manner:

- 1) The primary Officer will maintain possession of the key to the Med Box
- 2) The Primary Officer will select a random employee to assist him with this process
- 3) The primary officer and random employee will unlock the Med Box door in the lobby with both persons present.
- 4) The card board box (or container) will be removed from the Med Box
- 5) the plastic bag containing the medications will be tied shut immediately without touching any of the medications
- 6) The box and plastic bag will be delivered directly to the evidence room for storage
- 7) Once in the evidence room the primary officer with the assistance of the additional employee will place secure tamper resistant evidence tape around the knot in the plastic bag containing the medications.
- 8) The cardboard box will then be closed by over lapping the flaps to lock the panels shut on each end.
- 9) The cardboard box will then be secured in Evidence Tamper Resistant Tape and the box will be labeled "Montague PD" and a number will be written on the box. Ex "#1". The next full box will be labeled #2 and so on.
- 10) The primary officer and assistant employee will place their initials on the full box once it wrapped with evidence tape
- 11) A Master Log will be maintained in the evidence room listing when the box was taken and secured. The officer and employee's names, time and date will be written in the log as well as the box number.
- 12) The box(s) will be stored in one of the 2 secure evidence rooms until the Sheriff's department arrives to take possession of them.
- 13) When the Sheriff's department arrives to take possession of the medication boxes the primary officer will turn the boxes over to the Sheriff's department for disposal.
- 14) The Master log will be updated listing the date the box or boxes were taken as well as by whom and when. The log will then be signed by the primary officer witnessing the exchange as well as the transporting officer who is taking custody of the medications.
- 15) It is important that a log be maintained at all times to keep a proper Chain of Custody

This policy takes effect immediately and will remain in effect until changed or updated by the Chief of Police.

# DETAINING PRISONERS

|                                       |                                   |
|---------------------------------------|-----------------------------------|
| POLICY & PROCEDURE NO.<br><b>7.02</b> | ISSUE<br>DATE: <u>7-24-17</u>     |
|                                       | EFFECTIVE<br>DATE: <u>7-24-17</u> |
|                                       | REVISION<br>DATE: <u>6/1/2020</u> |

## 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 shall inform the incoming supervisor 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 a Probable Cause Hearing (as detailed ***Detainee Processing, 7.03*** and
  - 5) Detainees at other facilities (hospital, KEY program, etc.).
- d. The incoming supervisor 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

- 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.
  - 1) 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 (preferred method) or by looking at the detainee on the cell video monitor; and
  - 2) If the video is inoperative, or there is any question as to the condition of the detainee, making the checks physically.
- c. Checks of the detainee shall be documented by using the cell check recording system in Dispatch or, if such system is inoperative, by logging the checks on paper.<sup>1</sup>

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### 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 shall be immediately notified.
- b. The supervisor 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.
- e. In-Station Incidents: Whenever any detainee attempts 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.<sup>2</sup>
  - 3) If a detainee attempts or threatens suicide while in police custody and is transferred to another holding facility, the shift supervisor 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.<sup>3</sup>
- 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 thirty minutes; and
  - 3) Periodic audio monitoring of the detainee's cell.
- b. Medium Risk suicide watch may include, at the supervisor's discretion:
  - 1) A more heightened awareness of the detainee's condition and behavior;
  - 2) Checks of the detainee every fifteen minutes; and
  - 3) Periodic audio monitoring of the detainee's cell.
- c. High Risk suicide watch may include, at the supervisor's discretion:
  - 1) Heightened vigilance of the detainee's condition and behavior;
  - 2) Physical checks of the detainee at ten minute intervals; and
  - 3) More frequent audio monitoring of the detainee's cell.
- d. Very High Risk suicide watch may include, at the supervisor'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) When possible, Detainees should be supervised by department staff of the same sex as the detainee.
  - 2) Employees monitoring detainees of the opposite sex shall respect the detainee's privacy rights within the limits of facility security.
- 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:

- a) If possible, 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.

## ***B. Medical Care***

### **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 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.

### **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.
  - 1) Only the quantity of medication specified by the prescribing practitioner and on the prescription 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***

#### **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. 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.
- c. All detainee behavior which requires segregation, restraint, transfer, or police response shall be included in an incident report.
- d. Such detainee shall be continuously monitored. The detainee's behavior should be taped or otherwise captured on video and the recording preserved, if the agency is so equipped.

#### **2. IN-CELL RESTRAINT**

- a. If, in the judgment of a supervisor, 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) Leg Shackles;
  - 3) Ankle Cuffs;
  - 4) Waist chains; and
  - 5) Restraint chair.
- b. Detainees should not be "hogtied" (connecting handcuffs to ankle shackles behind Detainees back) 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 any one of these symptoms should be evaluated immediately 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 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 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.
2. A prisoner held for less than 8 hours is not entitled to a meal unless medically necessary

3. If a morning meal is provided, it should be provided in time to be consumed prior to being transported to court on any day that court is in session, unless the detainee refuses a meal.
4. Detainee meals shall be provided by a source determined by the Officer in Charge.
5. The content of meals shall be designated by the department and should be substantial enough to provide adequate nourishment for the detainee.<sup>4</sup>
6. 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.
7. 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. All meals or food shall be subject to search prior to being allowed into the holding facility.
8. No metal eating utensils or containers, cans or plastic bottles are allowed in the cell block area. All eating utensils shall be flexible, disposable plastic and shall not be re-used.
9. Drinking cups shall be disposable plastic or paper. No common cups shall be shared among detainees. <sup>5</sup> No cups shall be re-used.
10. All containers shall be removed from the cell upon completion of the meal.
11. 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.
  - 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 shall be notified; and
    - 4) The Command Staff shall be notified to make arrangements for repair.
2. OCCUPIED CELLS
  - a. An officer or medic may only enter an occupied cell when:

- 1) the officer is being actively monitored by another employee through visual equipment, or is carrying a panic alarm;
  - 2) A medical or other emergency exists;
  - 3) When releasing a prisoner from custody;
  - 4) Feeding the detainee;
  - 5) Providing blankets to the detainee;
  - 6) Removing refuse;
  - 7) Providing medication;
  - 8) Checking on the status of a sleeping or unconscious detainee;
  - 9) Conducting medical evaluations;
  - 10) Restraining the detainee; and
  - 11) Other necessary law enforcement purposes.
- b. Nonessential personnel
- 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.
  - 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***

### **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.

#### **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.
- 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.

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.
- c. The supervisor 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 if the supervisor allows:
  - 1) Clothing and shoes for court;
  - 2) Medications;
  - 3) Identification;
  - 4) Food (see meals, this policy)

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- 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.
  - e. Items not specifically authorized under this policy or allowed by the supervisor may not be left for or provided to detainees.
  - 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.
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:
    - 1) If approved by a supervisor;
    - 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:
    - 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, 7.03.***

2. RELEASING DETAINEE

- 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.

### ***H. Supervising Detainees at the Hospital***

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. Supervisors should consider rotating staff through hospital posts every few hours to relieve boredom and complacency on the part of the officers.
- c. Supervisors 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.

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.

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#### 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.
- 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 area 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 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 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.



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## 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 may consider bailing the detainee at the hospital.
  - b. The supervisor 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***

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.” <sup>6</sup>
2. Detainees may be held for other agencies. For information on detainee intake, see the department policy on Detainee Processing, #17-4.
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:
  - 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 officer-in-charge and the patrol supervisor. 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.

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<sup>1</sup> M.G.L. c. 40, §36B.

<sup>2</sup> M.G.L. c. 40, §36A.

<sup>3</sup> M.G.L. c. 40, §36A.

<sup>4</sup> M.G.L. c. 40, §34.

<sup>5</sup> 105 CMR 470.150; 151.

<sup>6</sup> 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.<br><b>7.03</b> | ISSUE<br>DATE: <u>7-24-17</u>     |
|                                       | EFFECTIVE<br>DATE: <u>7-24-17</u> |
|                                       | REVISION<br>DATE: <u>6/1/2020</u> |

## 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, 7.02.***

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, supervisors 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**

- 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 supervisors 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 a 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 shall:<sup>1</sup>

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. If a detainee complains of any medical problems, the shift supervisor should follow the department's procedure on **Detaining Prisoners, 7.02.**

### **C. Booking**

1. STAFFING: At least two officers, if available, will conduct detainee booking whenever possible.
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 or restrained to the cuffing bar which is specifically designated for that purpose. Restraints 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 the restraints 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.
  - 1) When the handcuffs or other restraint devices 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 inspected 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 unlocked 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.
- 8) The property form should be signed by the arrestee. If the arrestee refuses to sign the report, the booking officer should insert "REFUSED" on the signature line.

b. STORAGE

- 1) All items removed from the detainee shall be marked with the detainee's identification and placed in the detainee property locker.
- 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 placed in proximity of the detainee property storage area.

c. RETURN OF PROPERTY

- 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, Weapons and Contraband which will not be accepted by the court (House of Corrections, etc.) shall be turned over to the property officer for safe keeping.

- 2) The inventory of property shall be viewed with and signed by the arrestee and witnessed. If the arrestee refuses to sign the inventory form, the booking officer should insert "REFUSED" on the signature line.

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.<sup>2</sup>
- b. All strip searches and visual body cavity searches must be approved by the officer-in-charge.
- 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.
- f. 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.



g. A report shall be made of all incidents where a strip search is conducted, identifying:

- 1) The probable cause for the search;
- 2) The supervisor 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.<sup>3</sup>
- 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).<sup>4</sup>
- c. Manual body cavity searches shall be conducted by medical personnel, in a private and hygienic setting, and in a medically approved manner.<sup>5</sup>
- d. A report shall be made of all incidents where a body cavity search is conducted identifying:
  - 1) The probable cause for the search: this may be accomplished by referencing the search warrant;
  - 2) The supervisor 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.<sup>6</sup>
- 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.
- 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.
- f. When arrested on a warrant, the arrestee shall, upon request, be shown a printed copy of the warrant within six hours of the request.<sup>7</sup>
- 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

- 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.

- 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.
  - 5) CJIS query results.
- d. All bookings shall be printed and the records shall be kept in the Records Room, a secure area with access limited to authorized persons. These forms shall serve as the permanent arrest/detention record of the individual arrested/detained.

#### 11. FINGERPRINTING

- a. All persons arrested by this department shall be fingerprinted each and every time that they are arrested, using the live scan fingerprinting device. The fingerprints shall be downloaded to the state to create or be added to the detainee's fingerprint-based criminal history.<sup>8</sup>
- b. Fingerprints should not be submitted until all charges have been listed in the fingerprinting program.
- 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 I.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 or taken into custody in accordance with current department policy and procedures.<sup>9</sup>

- a. If the arrestee is not photographed during booking, due to intoxication, being combative, etc. then a photograph must be obtained prior to their release (transported to court, released on bail, etc.). The photo must be added to the original arrest report.

### 13. SUICIDE RISK EVALUATIONS

- a. All detainees shall be screened for suicidal tendencies using the suicide evaluation screening form in IMC/TriTech. 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 ***Mental Health Transport, 7.05.***
- d. For further information, see the department policy on ***Detaining Prisoners, 7.02.***

### ***D. Holding Cells***

1. REMOVAL TO CELL: Prior to placing a detainee in a cell within the holding facility, the booking officer shall conduct a security search of the cell, including a search for weapons and contraband.
  - a. If any weapons or contraband are found, the detainee should be placed in another cell and the supervisor notified.
  - b. The officer finding the item shall submit a report regarding the item found.
  - c. The supervisor 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 Command Staff.

### ***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;
- b. Any medications being taken;
- c. Behavioral observations, including consciousness and mental status (also see **Suicide Risk Screening** in this policy); 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.

## 2. TREATMENT

- a. Medical treatment shall be arranged for any detainee in need of medical treatment. See department policy on **Detaining Prisoners 7.02**.
- 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***

### 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.
- 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 in the holding cells.
  - 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 as well as the Franklin County House of Corrections, with the use of this department's personnel to maintain security and control, if requested by the other department or agency.

- 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 eighteen (18) is arrested with or without a warrant, the department policy and procedure ***Juveniles, 3.06*** shall be followed. Persons age eighteen (18) 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:

### ***H. Separation of Detainees***

1. JUVENILES
  - a. Lockup and other detention facilities shall be such as to prevent juveniles who are detained from coming in contact with adult detainees.
  - b. Juveniles shall be separated by sight and sound from adult detainees.
  - c. The facility must be approved in writing by the Commissioner of Youth Services. See department policy on ***Juveniles, 3.06***.
2. FEMALES
  - a. Female detainees shall be separated by sight and sound from male detainees.

### ***I. Bail and Arraignment***

1. COURT BUSINESS HOURS: If the court is in session when the booking process and all related arrest reports are completed, the

officer-in-charge shall make every effort to ensure that the arrestee is transported to the court without delay.<sup>10</sup>

2. COURT NOT IN SESSION: If the court is not in session when the booking process and all related reports are completed, 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.<sup>11</sup>
3. BAIL
  - a. Arrestees shall be informed of the right to bail and afforded the opportunity for bail.<sup>12</sup>
  - 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) The bail clerk shall be provided with the booking paperwork, application for complaint, criminal citation, or served warrant.
    - 2) 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.

- 3) 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, 7.04.***

#### 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.<sup>13</sup>
- b. The arresting officer or shift supervisor 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, 7.02.***

### ***J. 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 the individual shall be requested to sign the form indicating that [s]he has received the property. A refusal to sign shall be noted in writing on the inventory report.
- b. Any items which were held for evidence or as contraband shall be indicated on the inventory report.

2. CHANGE OF MEDICAL CONDITION: It is recommended, but not required, that the medical screening information be rechecked, and any changes from the condition at entry 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.



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## ***K. Receiving Persons from Outside Agencies***

### **1. INTAKE OF DETAINEE**

- a. Upon receiving a detainee from another law enforcement agency, the in-processing officer shall:
  - 1) Ensure the identity of the officer in whose custody the detainee is being held.
    - a) If the officer is known to the receiving officer, no further identification is necessary.
    - b) Obtain and make a photocopy for the file of a government (police, parole, federal government) identification card or document.
  - 2) Verify the authority of the person making the commitment. Commitments must be made under the authority of the individual's employment. The following persons may request that this department accept their prisoner:
    - a) A law enforcement officer;
    - b) A corrections officer;
    - c) A deputy sheriff authorized to serve criminal process;
  - 3) Obtain detainee information from the delivering officer. The information should include:
    - a) A copy of any booking sheet;
    - b) Any court documents if the detainee is to be bailed; and
    - c) A point of contact and telephone number where a responsible member of the delivering agency can be reached at any time during the day or night.
  - 4) The delivering officer shall fill out this department's detainee intake form.
  - 5) The detainee shall be screened for medical issues. See **Medical Screening and Treatment Procedure** in this policy.

### **2. DETAINEE PROPERTY**

- a. Detainee property will not be accepted. It is the responsibility of the agency for which the detainee is being held.
  - b. The detainee shall be searched and then placed in a cell.
- ### **3. SPECIAL DETAINEE HANDLING: Supervision for hospitalization, high level suicide watch, or other special handling shall be the responsibility of the delivering agency.**

4. BAIL: Detainees may be bailed from custody if bail is set by the bail clerk in the jurisdiction of the delivering agency.

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<sup>1</sup> M.G.L. c. 276, §33.

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

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

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

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

<sup>6</sup> M.G.L. c. 276, §33A.

<sup>7</sup> M.G.L. c. 248, §26.

<sup>8</sup> M.G.L. c. 63, §A.

<sup>9</sup> M.G.L. c. 63, §1A.

<sup>10</sup> M.G.L. c. 276, §58.

<sup>11</sup> M.G.L. c. 276, §58; *Com. v. Finelli*, 422 Mass. 860, 666 N.E.2d 144 (1996).

<sup>12</sup> M.G.L. c. 276, §42.

<sup>13</sup> *Jenkins v. Chief Justice of Dist. Court Dept.* 416 Mass. 221, 619 N.E.2d 324 (1993).

# PROTECTIVE CUSTODY

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|--|----------------------------|
| POLICY & PROCEDURE NO.<br><b>#7.04</b> | ISSUE<br>DATE: 5/8/2014    |
|  | EFFECTIVE<br>DATE: 7/24/20 |
|  | REVISION<br>DATE: 7/24/20  |
|  |                            |

## I. GENERAL CONSIDERATIONS AND GUIDELINES

The abuse of alcohol is a serious, nationwide public health problem. 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.

Intoxication, under Massachusetts law, is not a crime. Alcoholism is a disease. By statute, detoxification facilities and related programs are provided for the treatment and rehabilitation of persons suffering from alcoholism.<sup>1</sup> Chapter 111B provides for the protective custody of persons incapacitated from consuming alcohol.<sup>2</sup> 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.

**Non-alcohol incapacitation** from **Section 9A** of **Chapter 111B** shall mean the condition of a person who, by reason of the consumption of a controlled substance or toxic vapor or other substance other than alcohol is considered to be “incapacitated”.

## 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 or non-alcohol incapacitated person who, by reason of the consumption of intoxicating liquor, controlled substances, toxic vapor or other substance 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 is intoxicated by alcohol consumption or non-alcohol incapacitation 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 an intoxicating liquor, or is non-alcohol incapacitated from the consumption of a controlled substance, toxic vapor or any other substance, and is:
  - a) Unconscious;
  - b) In need of medical attention;
  - c) Likely to suffer or cause physical damage or harm; and/or
  - d) Disorderly.
- b. The officer may assist a person who is intoxicated by the consumption of an intoxicating liquor, with or without his/her consent to:

- a) His/her residence;
  - b) A treatment facility; or
  - c) The police station.
- c. The officer may assist a person who is non-alcohol incapacitated from the consumption of a controlled substance, toxic vapor or any other substance **only** to a treatment facility.
2. DETERMINING INTOXICATION or NON-ALCHOL INCAPACITATION
- 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.<sup>3</sup>
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. 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.
  - 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.

#### 4. 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.
- 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: Detainees in protective custody due to intoxication from intoxicating liquor shall be booked, **ALL** non-alcohol incapacitated detainees will be brought to the emergency room of the nearest hospital forthwith
2. RIGHTS<sup>4</sup>
  - 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.
  - 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:<sup>5</sup>
      - 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.<sup>6</sup>
- 4. 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 than twelve hours.

#### ***D. Detaining Persons in Protective Custody***

##### **1. DETAINING**

- a. Persons in protective custody shall be detained as would an arrest.
- 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 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.<sup>7</sup>
  - b. A person who has been in protective custody must not be held for more than twelve hours.

### ***E. Reports***

1. ARREST REPORT: An arrest 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.
3. PROTECTIVE CUSTODY FORM



- a. The department Protective Custody form in IMC shall be completed for all persons placed into protective custody and brought to the station for booking.

### ***F. Commitment of Alcoholics or Substance Abusers***

#### **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.<sup>8</sup>
- 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.

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<sup>1</sup>M.G.L. c. 111B.

<sup>2</sup>M.G.L. c. 111B, §8.

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

<sup>4</sup> M.G.L. c. 111B, §8.

<sup>5</sup> M.G.L. c. 111B, §8.

<sup>6</sup> M.G.L. c.111B, §8.

<sup>7</sup> M.G.L. c.111B, §8.

<sup>8</sup>M.G.L. c. 123, §35.

# MENTAL HEALTH & SECTION 12 TRANSPORT POLICY

|                                |                              |
|--------------------------------|------------------------------|
| POLICY & PROCEDURE<br>NO. 7.05 | ISSUE<br>DATE: 9/12/2013     |
|                                | EFFECTIVE<br>DATE: 9/12/2013 |
|                                | REVISION<br>DATE: 6/1/2020   |
|                                |                              |

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If the mental health patient has no injury or very minor injuries and we are able to safely transport the patient to the hospital in the police cruiser then we may do so.

If the patient has injuries which require immediate medical attention or they would become more combative due to being placed into a police cruiser then they will be transported by ambulance.

If the patient's behavior is so uncooperative and/or combative that it places the ambulance personnel in harms way, then a police cruiser may be used to make the transport to the hospital.

All officers and dispatch must be notified when you are making the transport.

It is the responsibility of the dispatcher to notify the hospital that the transport is taking place.

If a section 12 has not already been filled out by a physician, then the transporting officer will fill out a section 12 at the hospital and bring a copy back for an arrest folder.

If the patient is being transported by ambulance and we are the agency that initiated the section 12, then we will follow the ambulance to the hospital and fill out the section 12. We will bring a copy of the section 12 back to the department and place it with the arrest folder.

An arrest number will be generated for record purposes only and the officer whom filed the section 12 will complete the arrest report.

It will be up to the Shift Supervisor or Officer in Charge when a transport of a mental health patient will take place with a police cruiser.

This policy remains in effect unless changed by the Chief of Police.

# INTERACTIONS WITH TRANSGENDER INDIVIDUALS

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|--------------------------------|-------------------------------|
| POLICY & PROCEDURE<br>NO. 7.06 | ISSUE<br>DATE: 10/25/2013     |
|                                | EFFECTIVE<br>DATE: 10/25/2013 |
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|                                |                               |

## Section 1: General Considerations

The purpose of this policy is to establish guidelines for the appropriate treatment of transgender individuals who come into contact with the Montague Police Department. It is the general policy of the Montague Police Department to treat all individuals with dignity, respect, and professionalism. Therefore, this policy shall be enforced in order to create mutual understanding, prevent discrimination and conflict, and ensure the appropriate treatment of transgender individuals within the community.

## Section 2: Definitions

1. **Adopted Name**: Non-birth name that a transgender individual uses in self-reference (this may or may not be the individual's legal name).
2. **Gender Expression**: Displays of gender identity through dress, demeanor, and language.

3. **Gender Identity**: A person's gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance or behavior differs from that traditionally associated with the person's physiology or assigned gender at birth. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held, as part of a person's core identity; provided, however, that gender-related identity shall not be asserted for any improper purpose.
4. **Gender**: An individual's biological or anatomical identity as male or female.
5. **Transgender Individual**: A person whose gender identity differs from his/her biological or anatomical gender.
  - a. **Female-to-Male ("FTM")**: A person who transitions from "female-to-male," meaning a person who was assigned female at birth, but identifies and lives as a male. A "female-to-male" individual should be addressed using masculine pronouns (i.e. he, him, his), regardless of surgical status.
  - b. **Male-to-Female ("MTF")**: A person who transitions from "male-to-female," meaning a person who was assigned male at birth, but identifies and lives as a female. A "male-to-female" individual should be addressed using feminine pronouns (i.e. she, her, hers), regardless of surgical status.
6. **Transsexual**: A person whose personal sense of gender conflicts with the person's biological or anatomical gender at birth.

### **Section 3: Name Usage and Forms of Address:**

All officers shall address transgender individuals by the individual's adopted name, regardless of whether or not the individual has obtained legal recognition of the adopted name.

Additionally, transgender individuals shall be addressed using the titles and pronouns appropriate to their gender identity. When addressing a male-to-female individual the pronouns her, she, and hers shall be used by police personnel. When addressing a female-to-male individual the pronouns he, him, and his shall be used by police personnel. If there is any uncertainty as to which pronouns or titles are appropriate, then the officer shall respectfully ask the individual.

All behavior and language used when addressing a transgendered individual during the transaction of police duties must be respectful.

#### **Section 4: Calls for Service:**

All calls for service or complaints made by transgender individuals will be investigated in the same manner as all other calls for service or complaints, and in full compliance with Department policies. Officers shall not fail to respond to a call for service based upon the gender identity or expression of the caller.

#### **Section 5: Stop and Frisk:**

Standard procedures and practices shall be used when conducting searches and seizures (i.e. “Field Stops” and “Frisks”) of transgender individuals. These standard procedures and practices include treating a transgender individual in a manner that is appropriate for the individual’s gender expression.

Except when legally necessary, (e.g. issuance of a citation or effectuation of an arrest) officers shall not require proof of an individual’s gender and shall not challenge an individual’s gender identity. Searches or frisks shall not be used as a means of determining an individual’s gender. Additionally, transgender individuals shall not be subjected to more invasive search or frisk procedures than non-transgender individuals.

#### **Section 6: Arrest and Detention**

##### **Section 6.1: Transportation:**

Whenever possible and practical, a transgender individual shall be transported separately from other arrestees. This policy is designed to ensure the transgender individual's privacy, dignity, and safety.

### **Section 6.2: Booking**

Normal booking procedures will be followed, according to Department policies, when booking a transgender individual, including those in protective custody and juveniles held in custody.

During the booking process the Booking Officer shall include the individual's adopted name (i.e. the name that the individual uses in self-reference) either as the primary name or as the "also known as" (a.k.a.) name. However, the individual shall be booked under the name appearing on the individual's government-issued identification, as well as under the a.k.a. name when applicable.

If the individual does not have identification available, the Booking Officer shall use the adopted name as the primary name for booking purposes. The individual's birth name will be used only if it is the individual's legal name or is required by a legitimate law enforcement purpose, including but not limited to, determining whether an arrestee has a prior criminal record.

If during the booking process a transgender individual requests to use the bathroom, an officer of the same gender as the transgender individual's gender expression, if one is available and on duty at the time for the Montague Police Department, shall escort the individual to the appropriate gender-assigned bathroom, otherwise an on duty officer will perform the escort.

### **Section 6.3: Searches:**

A search of a transgender individual will be performed by officers of the gender requested by the transgendered individual if the requested officers are on duty at the time for the Montague Police Department, and if on duty, two officers of the gender requested by the transgendered individual will be present during the search. If two officers of the requested gender are not available, the search shall nonetheless be performed by two available officers. If the transgender individual does not express a preference regarding the gender of the searching officers, then two officers of the same gender as the transgender individual's gender expression



will conduct the search if the officers are available and on duty at the time for the Montague Police Department (e.g. when a female-to-male individual does not express a preference, then two male officers will conduct the search).

**Each transgender individual shall complete a “Statement of Search Preference Form” before a search is conducted.** If a transgender individual refuses to sign the “Form” then the individual will be searched by two officers of the same gender as the transgender individual’s gender expression.

#### **Section 6.4: Conditions during Holding**

Whenever possible and practical, a transgender person shall be held in an individual cell without other prisoners. The Booking Officer and Duty Supervisor shall make reasonable efforts to ensure that the transgender individual is held separately from other prisoners, including inquiring as to availability in any and all other district stations.

Instances in which a transgender individual is in need of medical attention shall be handled in the same manner as any other individual requiring medical attention in accordance with Department policies.

# MPD Statement of Search Preference Form

(To be used when booking transgender individuals)

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## TO BE COMPLETED BY BOOKING OFFICER:

Master Booking Name: \_\_\_\_\_

Legal Name: \_\_\_\_\_

C.R. Number: \_\_\_\_\_

Preferred Name (if different from master/legal name): \_\_\_\_\_

Preferred Pronoun (i.e. he/she): \_\_\_\_\_

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## TO BE COMPLETED BY ARRESTEE:

For the purpose of searches conducted while in the custody of the Montague Police Department, I prefer to be searched by an officer of the gender indicated below. I understand that my preference will be respected unless there is no appropriate individual available and/or failure to conduct a prompt search might jeopardize the safety of other arrestees, officers or persons.

Female \_\_\_\_\_ Male \_\_\_\_\_

Arrestee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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## Witnessing Officer(s) Signature(s) - TO BE COMPLETED BY BOOKING OFFICER

1. Name: \_\_\_\_\_ ID#: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

2. Name: \_\_\_\_\_ ID#: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_