

Somerville Police Department 		TYPE: GENERAL ORDER		POLICY NUMBER: 301			
		Subject: Protective Custody					
		Issuing Authority: David Fallon Chief of Police		Signature: 		Effective Date: October 27, 2016	
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Purpose

Substance abuse is a serious public health issue. The excessive use of alcohol and/or other substances often results in physical and psychological consequences that have adverse affects not only on the individual, but also on families, employers, and the community.

Police officers confront substance abuse in a very direct way. Substance abuse often results in serious breaches of the public peace, damage to public and private property, assaults, and other serious incidents. Family neglect and ill-treatment requiring police response are often traced directly to substance abuse. The broken homes that often result are considered one of the most common causes of juvenile delinquency. As a result, substance abuse is a common problem placing considerable demand on police resources. Massachusetts law has dictated that substance abuse, alcoholism and public intoxication are not crimes, but instead, a disease.

Policy

It is the policy of the Somerville Police Department to protect those persons at risk of harm from substance abuse.

Definitions

Incapacitation: is the condition of an impaired person, who because of the consumption of alcohol or a substance other than alcohol, can be, or is, one of the following:

1. Unconscious
2. In need of medical attention
3. Likely to suffer or cause physical harm or damage to property
4. Disorderly

Determination of Incapacitation: A police officer may ask a person to consent to reasonable tests that involve coordination, coherency of speech and breath to determine if a person is incapacitated. If a police officer determines that a person is incapacitated based on observations or performance of the tests, the person can be placed in protective custody.

Protective Custody: With or without a person's consent, a police officer may take a person into protective custody for immediate transport, in the case of alcohol intoxication, to his/her residence, to a facility (any public or private place, or portion thereof, providing services especially designed for the detoxification of intoxicated persons or alcoholics), or police station. In the case of intoxication by substances other than alcohol, with or without a person's consent, a police officer may take a person into protective custody for immediate transport to an acute care hospital or satellite emergency facility or to obtain immediate emergency medical treatment.

Procedure

1. Intoxication related to Alcohol.

- A. In the absence of an accompanying crime, an officer shall not arrest an individual who is intoxicated by alcohol. If the situation does not warrant an arrest, but action is necessary, a police officer has the authority to take a person incapacitated by **alcohol** to a residence, to a treatment facility, or to the police station.
- B. Before initiating one of these alternatives, the Shift Commander shall be notified through the dispatcher so that arrangements can be made for assistance. If an incapacitated person is to be transported to a residence or a treatment facility, the Shift Commander may authorize the patrol officer to transport the incapacitated person to that residence or a facility, but in most cases, the person will be transported in the patrol wagon.
- C. The decision to intervene may be made with or without the person's consent; however, officers are urged to obtain consent if at all possible.
- D. If a person, who is incapacitated by alcohol, is assisted to the police station, he/she shall have the right to:
 1. A breathalyzer test
 2. Request field sobriety tests
 3. Make a phone call at his/her own expense
 4. Be informed of the right to field sobriety testing and the right to make a phone call
- E. When an individual, incapacitated by alcohol, is brought to the police station and he/she requests field sobriety tests, these tests may include, but are not limited to, tests of coordination, coherency or breath.
- F. An incapacitated person who registers a blood alcohol level of .05 or less cannot be held in protective custody.
- G. If the person exhibits signs of impairment not consistent with the blood alcohol level registered, call EMS for an immediate evaluation.
- H. If a treatment facility is not available, the incapacitated person may be held in protective custody at the station for the following periods, whichever is **shorter**:

1. Up to 12 hours
 2. Until no longer incapacitated
- I. The Shift Commander, or his/her designee, shall notify the nearest treatment facility established under statute that a person is being held in protective custody. When so requested, the police shall facilitate the transfer of the person to the facility.
 - J. Each officer should be cognizant that this policy shall in no way restrict the enforcement of any laws, ordinances, by-laws or similar resolutions regarding the use of alcohol and the operation of motor vehicles (M.G.L. Chapter 111B, Sec. 2).
2. Intoxication related to substances other than Alcohol.
 - A. In the absence of an accompanying crime, an officer shall not arrest an individual who is intoxicated by substances other than alcohol. If the situation does not warrant an arrest, but action is necessary, a police officer has the authority to take a person incapacitated by substances other than alcohol to an acute care hospital or satellite emergency facility or to obtain immediate emergency medical treatment.
 - B. Before initiating one of these alternatives, the Shift Commander shall be notified through the dispatcher so that arrangements can be made for medical assistance.
 - C. The decision to intervene may be made with or without the person's consent; however, officers are urged to obtain consent if at all possible.
 - D. Each officer should be cognizant that this policy shall in no way restrict the enforcement of any laws, ordinances, by-laws or similar resolutions regarding the use of alcohol and the operation of motor vehicles.
 3. If an officer comes upon, or responds to a call for an incapacitated person, the officer shall be aware of, and immediately consider the possibility of, medical issues.
 4. An incoherent or unsteady or unconscious person may, for example, be suffering from an epileptic seizure, insulin shock, diabetic coma, stroke, heart attack, or brain injury.
 5. If the officer, relying on judgment and experience, believes these or similar conditions may be present, the officer shall immediately call for Emergency Medical Services (EMS) assistance.
 6. Each officer shall extend the same considerations to an incapacitated person that the officer would extend to any person suffering from illness.
 7. If the person being placed in protective custody is under the age of eighteen (18), the parent or guardian shall be notified immediately.
 8. An officer may use force, as is reasonable and necessary, to carry out the procedures to place a person into protective custody.

9. The person placed in protective custody shall be thoroughly searched just like any other detainee would be.
10. For the protection of the person and all involved officers, persons in protective custody who are being transported to the station, whether in a cruiser or the wagon, should be handcuffed until brought to booking window.
11. An incapacitated person held in protective custody at the police station shall be searched at the booking window and have the following articles taken from him/her:
 - A. Dangerous items
 - B. Valuables
 1. All items inventoried shall be kept in a safe place.
12. An unconscious person should **NEVER** be placed in a cell at any time. Every unconscious person needs to be immediately evaluated by EMS and treated.
13. A person placed into protective custody and brought to the police station shall not be considered to have been arrested or charged with any crime. An entry of the custody shall be made indicating the date, time, place of custody, the name of the assisting officer, the name of the officer in charge, whether the person exercised the right to make a phone call, and whether the person exercised the right to a breathalyzer test and the results of the test if taken.
14. If a subject has been revived using naloxone (“Narcan”) and has regained consciousness, it may still be appropriate to place the subject into protective custody and transport that subject for medical attention, if the training and experience of the officer indicate that further medical attention is appropriate. In such a situation, the consent of the subject is not required, as the protective custody authority granted by the statute trumps the desire of the incapacitated subject.