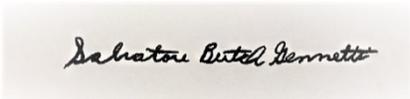


MALDEN POLICE DEPARTMENT HANDLING EMOTIONALLY DISTURBED PERSON (EDP)		
Massachusetts police accreditation standards referenced: 1.1.12; 33.5.2; 41.2.7; 41.4.4; 42.2.10; 70.1.1; 70.1.6; 70.1.7; 70.3.1; 70.3.2; 70.4.1; 71.3.3; 72.5.2; 72.5.4; 72.6.1; 72.8.1		GENERAL ORDER GEN 2022-006 POLICY NUMBER: OPE-005
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I. POLICY

It is the policy of the Malden Police Department (MPD) to protect the constitutional and civil rights of all citizens. Allegations of discriminatory practices, real or perceived, are detrimental to the relationship between the police and the community they serve. This trust is essential to effective community based policing and building community and social values.

II. DEFINITION

Mental Health Issues or Emotionally Disturbed Person (EDP):

Any condition characterized by impairment of an individual’s normal cognitive, emotional, or behavioral functioning, and caused by social, psychological, biochemical, genetic, or other factors, such as infection or head trauma

III. GENERAL CONSIDERATIONS

Reaction to the mentally ill or an Emotionally Disturbed Person (EDP) covers a wide range of human response. People afflicted with mental health issues are ignored, laughed at, feared, pitied and often mistreated. Unlike the general public, however, a police officer cannot permit personal feelings to dictate his/her reaction to the mentally ill. His/her conduct must reflect a professional attitude and be guided by the fact that mental health issues, standing alone, does not permit or require any particular police activity. Individual rights are not lost or diminished merely by virtue of a person's mental

condition. These principles, as well as the following procedures, must guide an officer when his/her duties bring him/her in contact with a mentally ill person or an EDP. **41.2.7**

IV. EDP RECOGNITION AND HANDLING GUIDELINES

A. Officers must be able to recognize an EDP if he/she is to handle a situation properly. Newly hired officers shall receive documented entry level training at the academy and throughout the Field Training Officer Program outlining their interaction with an EDP. All agency personnel shall receive refresher training at in-service or shift briefings at least one every two years. **1.1.12 (1 a, b, 2 a, b, c 3 a, b, c, 4 a, b, c), 33.5.2, 41.2.7 (2 a, d, e, f)**

1. Factors that may aid in determining if an individual is an EDP are:
 - a. significant changes in behavioral patterns and attitudes;
 - b. unusual or bizarre mannerisms;
 - c. loss of memory;
 - d. auditory/visual hallucinations or delusions;
 - e. paranoia;
 - f. hostility and/or distrust of others;
 - g. marked increase or decrease in efficiency;
 - h. lack of cooperation and tendency to argue;
 - i. one-sided conversations or responding to internal stimuli.
2. These factors alone are not necessarily conclusive. They are intended only as a guideline and recognition factors for proper police response. It should be noted that an individual exhibiting signs of an excessive intake of alcohol or drugs may also be an EDP. **41.2.7 a**

B. If an officer believes he is faced with a situation involving an EDP, he should not proceed in haste unless circumstances require otherwise. **47.2.7 c**

1. An officer should be deliberate and take the time required for an overall assessment of the situation.
2. An officer should ask questions and gather collateral information from persons available to learn as much as possible about the individual. It is especially important to learn whether any person, agency or institution presently has lawful custody of the individual, and whether the individual has a history of criminal, violent or self-destructive behavior.
3. Officers should understand that the sight of uniformed officer(s), or EMS personnel may cause resentment and fear of authority or confusion for an EDP.
4. Officers should call for and await assistance. It is advisable to seek the assistance of professionals such as the department's mental health clinician, doctors, psychologists, psychiatric nurses and clergy, if available.

5. Officers should utilize de-escalation strategies, when possible, to prevent an individual from emotionally escalating. Use of de-escalation techniques can reduce levels of stress and frustration. Most communication in a crisis is nonverbal. Techniques for de-escalation include maintaining non-threatening body language, standing back a safe distance, staying calm and professional, showing empathy, accepting slow responses, engaging in active listening, limiting crowds and allowing one person to speak with the individual at a time, using reflective responses, and giving simple and clear instructions.
 6. It is not necessarily true that an EDP will be armed or resort to violence. However, this possibility should never be ruled out and because of the potential dangers, the officer should take all precautions to protect everyone involved.
- C. It is not unusual for such individuals to employ abusive language against others. An officer must ignore verbal abuse when handling such a situation. **47.2.7 c**
- D. Avoid excitement. Crowds may excite or frighten the EDP, groups of people should not be permitted to form and should be dispersed as quickly as possible. **47.2.7 c**
- E. Reassurance is essential. An officer should attempt to keep the individual calm and quiet. He/she should attempt to show that he/she is a friend and that he/she will protect and help them. It is best to avoid lies and not to resort to trickery. **47.2.7 c**
- F. An officer should at all times act with respect towards the EDP. Do not "talk down to" the individual or treat such a person as "child-like." Mental health issues, because of human attitudes, carries with it a serious stigma. An officer's response should not increase the likelihood that an EDP person will be subjected to offensive or improper treatment. **41.2.7 c**

V. OFFICER SAFETY AND CUSTODY CONSIDERATIONS

- The transporting officer is legally responsible for the safety and custody of a detainee being transported. A suspected EDP shall be completely searched for contraband and weapons prior to transporting according to department standard operating procedures, no exceptions. **70.1.1, 72.5.1, 71.5.1 b**
- Upon arrival at the Malden Police Department officers shall secure their firearm and advise the booking officer of any potential medical or security risks involving a suspected EDP prior to the removal of restraints from the detainee. **70.1.6 b, d, 72.4.1,**
- Booking officers shall obtain and record all "receiving screening or booking" information when the detainee is processed at the Malden Police Department and prior to transfer to another facility. Receiving screening or booking information must include at a minimum, current health of the detainee, medications taken by

the detainee, behavior, including state of consciousness and mental status, and any trauma markings, bruises, lesions, jaundice, difficulty of movement. **72.5.2 (1, 2, 3, 4 a, b, c, d, e, f, g)**

- If an EDP is held in a cell, the following security concerns shall be maintained providing safety and security of an EDP detainee due to the potential threat to themselves, officers, or civilian personnel. Face-to-face visual observation of unattended detainees at least every thirty minutes if practical or within a reasonable period of time; and use of audio and video devices to monitor detainees between the thirty minute face-to-face visual observations. Detainees who are in a temporary detention area or in an interview room and are considered security risks should be under constant monitoring which require more frequent observation. This includes not only detainees who are violent but also those who are suicidal, self-destructive or mentally ill EDP or demonstrate unusual or bizarre behavior. **42.2.10 b 71.3.3 e, f, 72.8.1, 72.5.4, 71.5.1 a, c, d**
- Special precautions and security measures should be stipulated and employed when transporting an EDP to any facility preventing unauthorized personal contact, escape, or inflicting injury to himself/herself, or others. **70.3.2, 71.5.1 d**
- When transporting an EDP to a medical facility for treatment, a court, or other location special procedures should be considered such as utilizing an ambulance or a cruiser with a safety barrier. **70.3.1, 70.4.1, 71.5.1 c**
- Prior to transporting an EDP to a medical facility, a court or other facility the OIC or transporting officer shall notify the appropriate facility when a detainee is considered an unusual security risk. Information relating to the detainee's escape or suicide potential or other personal traits of a security nature shall be recorded and included in the documentation that accompanies the detainee during transport. **70.1.7, 70.5.1 c, 71.3.3 d**

VI. TAKING A MENTALLY ILL (EDP) PERSON INTO CUSTODY

A. An EDP may be taken into custody if:

1. He/She has committed a crime.
2. He/She has escaped or eluded the custody of those lawfully required to care for him/her.
3. He/She poses a substantial danger of physical harm to other persons by exhibition of homicidal or other violent behavior or he/she poses a very substantial risk of physical impairment or injury to himself/herself (for example, by threats or attempts at suicide) or he/she is unable to protect himself/herself and the health issues should never be treated lightly.
4. In August of 2002, the Administrative Office of the Trial Court issued a new protocol for Pre-Arrestment Emergency Psychiatric Hospitalization for use when a person has been **arrested and denied bail** and is being detained in a police lock-up facility awaiting arraignment,

or appearance before the court but whose behavior suggests s/he may need temporary emergency hospitalization by reason of mental health issues. Protocol is only to be used when the arrested person has not been released on bail and a Probable Cause Jenkins Hearing* has been made by the Clerk. The detainee shall be examined at Police Headquarters by a licensed medical professional or psychologist, designated by the Department of Mental Health (DMH). To facilitate this purpose **the DMH on call hotline number for Malden is 1-800-988-1111. 41.2.7 b, 72.5.4 (1f, 2f), 72.6.1**

After such examination, a telephone call should be placed by the police to the Judicial Response System and, in addition to the report and opinion of the licensed medical professional or psychologist, the police should provide the on-call judge with the following:

* Jenkins v. Chief Justice of the District Court Department, 416 Mass. 221 (1993) and Trial Court Rule XI and Administrative Order 94-5.

- a. the current charges on which the detainee is being held;
- b. the current condition of the detainee;
- c. the Board of Probation Record and Warrant Management System information regarding the detainee, including any defaults or warrants outstanding; and
- d. any other pertinent information.

If the on-call Judge determines that the detainee requires temporary emergency hospitalization at a DMH facility, the police will contact the DMH executive on-call who will then determine which facility has an available bed to receive the detainee. The police will transport the detainee to the facility. If the on-call judge determines that the detainee should be hospitalized at a state hospital, the police will contact the state hospital and then transport the detainee there. When transporting a detainee to the state hospital or a DMH facility, the police shall also provide to the facility a copy of the court's order, the report of the licensed medical professional or psychologist if available, and the current charges on which the detainee is being held. **70.1.6 c**

At the next court day specified in the on-call judge's order, the police shall transport the detainee from the DMH facility to court for arraignment, unless the Middlesex County Sheriff's Department agrees to transport the detainee.

- B. In an emergency situation, if a medical licensed medical professional or qualified psychologist is not available, a police officer, who believes that failure to hospitalize an EDP would create a likelihood of serious harm by reason of mental health issues, may as an alternative to arrest restrain such individual and apply for the hospitalization of such individual for a three day period at a public facility or a private facility authorized for such purpose by the Massachusetts Department of Mental Health.ⁱ **41.4.4**

- C. Although "any person," including a police officer, may petition a district court to commit an EDP to a facility for a three-day period if failure to confine that individual would cause a likelihood of serious harmⁱⁱ, generally, a police officer should be the last person to initiate such proceedings. Three-day commitment proceedings under section 12(e) of Chapter 123 should be initiated by a police officer only if all of the following procedures have been observed:
1. determination has been made that there are no outstanding commitment orders pertaining to the individual; and
 2. every effort has been made to enlist an appropriate licensed medical professional, psychiatrist, psychologist or social worker to initiate the commitment proceedings; and
 3. the officer has received authority from the appropriate commanding officer of the department. **41.4.4**
- D. If a patient or resident of a facility of the Massachusetts Department of Mental Health is absent without authorization, the superintendent of the facility is required to notify the state and local police, the local district attorney and the next of kin of such patient or resident. Such persons who are absent for less than six months may be returned by the police. This six-month limitation does not apply to persons who have been found not guilty of a criminal charge by reason of insanity nor to persons who have been found incompetent to stand trial on a criminal charge.ⁱⁱⁱ
- E. Whenever police take an EDP, DMH patient or resident into custody the appropriate mental health officials should be contacted. They should be informed of the individual's condition and seek instructions on how to properly handle and, if necessary, restrain the individual and what facility he/she should be taken. Police officers are immune from civil suits for damages for restraining, transporting, applying for the admission of or admitting any individual to a facility if the officer acts pursuant to the provisions of Chapter 123.^{iv}
- F. If an officer makes application to a hospital or facility and is refused, or if he transports an EDP with a commitment paper (section 12 paper) signed by a licensed medical professional, and that individual is refused treatment or admission, he should ask to see the administrative officer on duty to have him/her evaluate the individual. If refusal to treat or accept the EDP continues, the officer shall not abandon the individual, but shall take measures in the best interests of that individual and, if necessary, take the EDP to the Malden Police Department. Notification of such action shall immediately be given to the Officer-in-Charge who can notify the Department of Mental Health and the officer shall always document his/her actions in such cases. **70.3.2, 71.5.1 a**
- G. If an individual makes statements regarding harm to self or harm to others and is willing to go to a hospital voluntarily, a Section 12 is not required.

- H. At all times, an officer should attempt to gain voluntary cooperation from the EDP.
- I. Any officer having contact with an EDP shall keep such matter confidential except to the extent that revelation is necessary for conformance with departmental procedures regarding incident reports or is necessary during the course of official proceedings.
- J. Whenever an EDP or mentally deficient individual is a suspect and is taken into custody for **interviewing** or questioning, police officers must be particularly careful in advising the subject of his/her Miranda rights and eliciting any decision as to whether he will exercise or waive those rights. The Departmental Policy and Procedure, *Interrogating Suspects and Arrestees* should be consulted. In addition, it may be very useful to incorporate the procedures established for interrogating juveniles when an officer seeks to interrogate a suspect who is an EDP or mentally deficient. Those procedures are set out in the Departmental Policy and Procedure, *Handling Juveniles*. Before interrogating a suspect who has a known or apparent mental condition or disability, police should make every effort to determine the nature and severity of that condition or disability, the extent to which it impairs the subject's capacity to understand basic rights and legal concepts such as those contained in the Miranda warnings and whether there is an appropriate "interested adult," such as a legal guardian or legal custodian of the subject, who could act on behalf of the subject and assist the subject in understanding his/her Miranda rights and in deciding whether or not to waive any of those rights in a knowing, intelligent and voluntary manner. **41.2.7 c**
- K. If an EDP or deficient individual is reported lost or missing, police should consult the Departmental Policy and Procedure, *Missing Persons*.
- L. An officer who receives a complaint from a family member of an allegedly EDP who is not an immediate threat or is not likely to cause harm to himself/herself, or others, should advise such family member to consult a licensed medical professional or mental health professional.
- M. Once an officer takes custody of an EDP who is likely to cause serious harm to himself/herself, or others, he should only release that person to a proper mental health facility for treatment or admission. Occasionally, the facility to which an officer transports an EDP will either refuse to treat or admit an EDP or will direct the officer to another mental health facility. The officer should contact the Officer-in-Charge for specific instructions and the officer shall always document his/her actions in such cases. **70.3.2**
- N. The Malden Police Department has entered into a partnership with Eliot Services to provide a co-response mental health clinician within the department to assist with crisis intervention for mental health and substance abuse concerns. The co-response clinician will ride along with officers to mental health related calls. The department's co-response clinician can provide mental health evaluations on scene or in the holding cells to determine risk, safety, and level of care needs. If

the department's clinician is unavailable, Eliot will send a clinician to any location, including one of our holding cells, to respond to adults and youths in need of crisis intervention for mental health and substance abuse concerns. The Eliot team can be activated by calling **1-800-988-1111 (DMH Hotline)** and a mental health professional will respond within 1 hour. This service is available 24/7/365. These are the same people who respond to the hospital emergency room after a subject is restrained using M.G.L. c. 123 s 12 (Involuntary Commitments) by the police. 41.2.7 (2b)

- If an officer is sent to a call or encounters a subject who is in some form of mental distress, *but is not an immediate emergency* (i.e., injured, an immediate threat of suicide or harm to another, etc), the officer or OIC can call the Eliot team who will respond directly to the subject's location to make an evaluation.
- If an arrestee demonstrates mental distress, makes suicidal statements, etc., the OIC can notify the Eliot team who will respond directly to the station to make an evaluation. (Q5 procedures still apply)
- This is the exact same assessment they would make at the hospital and is consistent with this policy.
- In either case, the clinician may stabilize the subject or arrange for a "Section 18(a)" commitment to a secure DMH facility.
- **No police security will be necessary once the EDP has been transported to the secure facility.**
- Police will have to pick up the subject on the next available Court Day assuming he/she is medically cleared.

Nothing in this procedure prohibits the officer or OIC from taking some other reasonable action, including filling out a "Section 12" form and calling an ambulance. This is simply another option that is available to you.

Protocol for Emergency Psychiatric Hospitalization of Persons Detained in Police Lock Up for Arraignment or Appearance in Court

When a person(s) is arrested and thereafter detained in police lock-up prior to arraignment or appearance in court¹, but is in need of hospitalization by reason of mental illness at a public facility of the Department of Mental Health or at the Bridgewater State Hospital, the following procedure should be followed:

1. This Protocol should be utilized only in cases where the detainee is not released on bail and probable cause determination has been made by a clerk-magistrate or assistant clerk-magistrate as required by Jenkins².
2. The detainee should be examined at such place of detention by a physician or a psychologist, designated by the Department of Mental Health as qualified to perform such examination³.
3. The physician or psychologist who performs the examination shall report the results of the examination to the on-call judge, who has been designated to act on behalf of any court of the Commonwealth. The report may be read to the on-call judge over the telephone. Such report shall include an opinion, with reasons therefore, as to whether such hospitalization is actually required.
4. The police should provide the judge with the following information:
 - the current charges on which the detainee is being held;
 - the current condition of the detainee;
 - the Board of Probation record and Warrant Management System information regarding the detainee, including any defaults or warrants that the detainee has outstanding; and
 - any other pertinent information
5. The on-call judge who receives the report may order the detainee to be taken to a public facility of the Department of Mental Health or, preferably to the Bridgewater State Hospital, to be received for examination and observation pursuant to M.G.L.c. 123 s 18(a). The detainee will be held at the public facility or Bridgewater State Hospital until the next business day of the court where the detainee is scheduled to appear.
6. The on-call judge's order shall include the following provision:

Pursuant to M.G.L.c. 123 s 18(a), this Court order _____ (name of detainee) to be taken to _____ (Bridgewater State Hospital or Department of Mental Health Facility) by _____ (police department). On _____ (next court date), officers of the police department which made the arrest if practical, shall appear at such public facility of the Department of Mental Health or Bridgewater State Hospital at 8:30 a.m. At such time the Superintendent of the public facility or the Bridgewater State Hospital shall return custody of the detainee to officers of that police department. No evaluation report shall be required of the facility receiving the detainee pursuant to this order. Upon custody transfer to the police department, this

court order under M.G.L.c. 123 s 18(a) shall terminate. The detainee shall than be transported to court by the police. Release at any time of the detainee from the public facility or Bridgewater State Hospital shall be made **only** to the custody of the police.

7. On the designated court day, the detainee will be returned to court by the police, at which time he/she will be arraigned and the court will address any outstanding warrants and/or mental health issues.

ⁱM.G.L. c. 123, s. 12(a)

ⁱⁱM.G.L. c. 123, s. 12(e)

ⁱⁱⁱM.G.L. c. 123, s. 30

^{iv}M.G.L. c. 123, s. 22

^v M.G.L. c. 123, s. 18

1. If the detainee is granted bail but appears to be in need of hospitalization by reason of mental illness, the detainee may be transported pursuant to a police officer's authority under G.L.c. 123 s 12(a) to an emergency room for evaluation of the need for such hospitalization pursuant to G.L.c. 123 s 12(b)

2. Jenkins v. Chief Justice of the District Court Department, et. Al., 416 Mass. 221 (1993); Trial Court Rule XI and Administrative Order 94-5

3. In some cases it will not be possible for the psychiatrist or psychologist to determine whether the detainee(s) behavior is due to mental illness, or some other cause, such as alcohol or drug intoxication. In such cases it may be necessary for the police to transport the detainee to a medical emergency room for medical clearance and examination.