

Rules and Procedures

Rule 318A

September 1, 2004

Rule 318A - CARE AND TREATMENT OF PERSONS IN PROTECTIVE CUSTODY

This rule is issued to provide Boston Police Officers with an outline of the responsibilities and obligations of Police Officers who take persons into protective custody under the Massachusetts Alcoholism Treatment and Rehabilitation Law, [MGL Chapter 111-B](#). Pursuant to Ch. 111-B, incapacitation shall mean, "the condition of an intoxicated person who, by reason of consumption of intoxicating liquor is (1) unconscious, (2) in need of medical attention, (3) likely to suffer or cause physical harm or damage property, or (4) disorderly."

GENERAL CONSIDERATIONS: The Boston Police Department has adopted several measures to ensure that persons taken into custody are afforded all the rights which the law allows them. This section shall deal solely with incapacitation due to alcohol intoxication.

In instances where the incapacitation is due to drugs, the person in custody shall be transported to a hospital or medical facility.

Sec. 1 INCAPACITATED PERSONS' RIGHTS: Every incapacitated person assisted to a police station shall be informed of their right to use the telephone. Such a person also has the right to request to be administered an alcohol breath test. Signs in English and Spanish explaining the right of the person in custody to take an alcohol breath test shall be posted in the area of each department booking desk. Commanding officers shall ensure that these signs are maintained. Whenever a deaf or hearing-impaired person is taken into protective custody arrangements shall be made through the Operations Division to provide a qualified interpreter to assist such person.

Sec. 2 DUTY SUPERVISORS: The Duty Supervisor shall:
Be personally responsible to examine persons held in protective custody for visible injuries. In the event that a person in protective custody is injured, the Duty Supervisor shall abide by the provisions of Rule 318, Section 2, which requires a full report to be made and forwarded to the Chief of the Bureau of Professional Standards and Development.

Ensure that the appropriate department form is completely filled out for each person held in protective custody. This fulfills the record-keeping requirements of the law concerning "entry of custody" for persons held in protective custody. Visible injuries must be noted on such forms and forwarded to the Chief, Bureau of Professional Standards and Development.

Ensure that it is noted on the Protective Custody Form whether the person in custody exercised the right to take an alcohol breath test and the results of the test.

Sec. 3 PROTECTIVE CUSTODY FORM: Persons in custody must be informed, in writing, of their lawful right to have an alcohol breath test. Duty Supervisors shall insure that all persons brought to the district stations as incapacitated persons are given the opportunity to read the written notice of their right to have an alcohol breath test, which is printed on the department's Protective Custody Form (BPD Form 24). The Duty Supervisor shall have the person in custody sign the form where indicated, which notes that he/she has received notice of his right to have a breathalyzer test administered.

ALCOHOL BREATH TEST RESULTS ARE TO BE USED AS FOLLOWS:

A. If the result is a reading of .10 or above, the person shall be presumed to be intoxicated and shall be placed in protective custody at a police station or transferred to a detoxification facility.

B. If the result is a reading of .05 or less, the person shall be presumed not to be intoxicated and shall be released from custody immediately.

C. If the result is a reading that is more than .05 but less than .10, no presumption shall be made. However, a reasonable test of coordination and speech must then be administered and only if this test indicates that the person is intoxicated may he/she be placed in protective custody at a police station or be transferred to a detoxification facility.

Sec. 4 NOTIFICATION OF PARENT OR GUARDIAN: The police must notify immediately the parent or guardian of a person who is under the age of 18 when held in protective custody.

Furthermore, a person under the age of 18 must be released to such parent or guardian, at the request of the parent or guardian. (Formerly, this release upon request applied to juveniles, those under the age of 17.)

Sec. 5 The officer in charge at the district station is required by law to notify the nearest detoxification facility that a person is being held in protective custody. In the event a treatment facility is not available, the person in custody may be held at the station until recovered from the intoxication or for a period not to exceed twelve (12) hours, whichever is sooner.

The Commanding Officer of the district shall insure that a current listing of all such facilities available for his district is maintained near the booking desk. The Duty Supervisor shall ensure that the above notification procedure is completed in all cases and that the appropriate sections of the Protective Custody Form are completed, including the name of the person at the facility who was contacted.

When treatment is available at the facility the incapacitated person shall be transported to that location as promptly as possible.

Sec. 6 Police Officers are reminded that when they are acting in a reasonable manner and pursuant to the provisions of Ch. 111-B, they shall not be criminally or civilly liable for such acts.

Detoxification Facilities (Updated September 1, 2004)

Andrew House Detox
Long Island, Morse Building
Quincy, MA
617-479-9320

Arbour Hospital
49 Robinwood Road
Jamaica Plain
617-522-4400

CAB Detox
784 Mass Avenue
Boston
617-247-1001

Detoxification Facilities

Dimock Detoxification Center
Dimock Community Health Center
55 Dimock Street
Roxbury
617-442-9661

Faulkner Hospital
1153 Centre Street
Jamaica Plain
617-983-7710

St. Elizabeth Hospital
736 Cambridge Street
Brighton
617-789-2574

Kathleen M. O'Toole
Police Commissioner

Notes:

- Amended by SO 07-016, issued April 2, 2007, update the organization names to reflect the new BPD organizational structures. Section 2.