

New Protocol for PRE-Arrestment Emergency Psychiatric Hospitalization

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The Commonwealth of Massachusetts Trial Court has issued a new protocol, effective immediately, for use by local police departments when a person has been arrested and denied bail and is being detained in a police lockup awaiting arraignment, or appearance before the court, but whose behavior suggests he/she may be in need of temporary emergency hospitalization by reason of mental illness.

What this new protocol does is provide a legal mechanism by which police departments can cause an individual to be examined by a physician or psychologist, who has been deemed qualified to perform such an examination by the Department of Mental Health after it has been determined that the detainee is not to be released on bail and a probable cause determination has been made by a clerk-magistrate or assistant clerk magistrate.

If in the opinion of the examining physician or psychologist, the individual is in need of a temporary emergency hospitalization by reason of mental illness, then the police department should contact the on-call judge to initiate the paperwork for such an admission. Besides the report and opinion of the physician or psychologist, the police will provide the judge with a list of the charges that the individual is being held on, the current condition of the detainee, the Board of Probation file and warrant status of the individual and any other pertinent information necessary.

If the on-call judge determines that the individual requires temporary emergency hospitalization at a DMH approved facility, the police will contact the DMH executive on-call who will then find out which facility has an available bed to receive the detainee. The police will then transport the individual to that facility which may include the Bridgewater State Hospital.

When transporting a detainee to a facility, the police shall also provide a copy of the court's order with a copy of the examination report and a list of the charges the detainee is being held on.

On the next court day specified in the on-call judge's order, the police shall return and transport the detainee to that court for arraignment and the court will address any outstanding warrants and/or mental health issues that may be presented before it for further action which can include further examinations and/or hospital admission.

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 Massachusetts General Law chapter 123, section 12(a) to an emergency room for evaluation of the need for such hospitalization pursuant to Massachusetts General Law chapter 123, section 12(b).

2. 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 before being admitted to the DMH facility.