

<b>Anchorage Police Department</b> Regulations and Procedures Manual	<b>Operational Procedures</b> <b>3.02.100</b>	
<b>Policy and Procedure Title</b> Protective Custody-Non-Criminal Commitment	<b>Effective Date</b> January 26, 2021	Page 1 of 3
<b>Replaces Prior Policy:</b> August 10, 2009	<b>Approved by:</b> Chief Justin Doll	

**This policy is the internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.**

### **3.02.100 Protective Custody--Non-Criminal Commitment**

#### **PURPOSE**

To advise all personnel of the laws and procedures affecting non-criminal commitments of all age groups.

#### **POLICY**

It is the policy of the Anchorage Police Department to employ any legal resource to protect its citizenry, including the non-criminal commitment of persons so debilitated by alcohol that they cannot care for themselves.

#### **REFERENCES**

The foundation for non-criminal commitments appears in Alaska Statute 47.37.170, which reads:

"Treatment and services for intoxicated persons and persons incapacitated by alcohol.

(a). An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. A person who appears to be intoxicated in a public place and to be in need of help or a person who appears to be intoxicated in or upon a licensed premise where intoxicating liquors are sold or consumed who refuses to leave upon being requested to leave by the owner, an employee or a peace officer (sic) may be taken into protective custody and assisted by a peace officer or member of the emergency service patrol to the person's home, an approved public treatment facility, an approved private treatment facility, or another appropriate health facility. If all of the preceding facilities, including the person's home, are determined to be unavailable, a person taken into protective custody and assisted under this subsection may be taken to a state or municipal detention facility in the area.

(b). A person who appears to be incapacitated by alcohol in a public place shall be taken into protective custody by a peace officer or a member of the emergency service patrol and immediately brought to an approved public

treatment facility, an approved private treatment facility, or another appropriate health facility of service for emergency medical treatment. If no treatment facility or emergency medical service is available, a person who appears to be incapacitated by alcohol in a public place shall be taken to a state or municipal detention facility in the area, if that appears necessary for the protection of the person's health or safety.

(d). A person who, after medical attention at an appropriate health facility, is found to be incapacitated by alcohol or drugs at the time of admission or to have become incapacitated by alcohol or drugs at any time after admission, may not be detained at a facility after the person is no longer incapacitated by alcohol. A person may not be detained at a facility if the person remains incapacitated by alcohol for more than 48 hours after admission as a patient, unless the person is committed under AS 47.37.180"

## PROCEDURES

### I. TAKING PROTECTIVE CUSTODY

A. **Conditions Required to Take Custody.** AS 47.37.170 provides that anyone meeting one of the following conditions can be subject to protective custody, even if against that person's will:

1. Appears intoxicated in a public place and in need of help; or
2. Appears intoxicated in/upon a premise licensed for sale or consumption of alcohol and refuses to leave when so instructed by the owner or employee, or by a peace officer; or
3. Appears incapacitated by alcohol or drugs in a public place (not just intoxicated).

B. **Age and Gender Sex Applicability.** No distinction is made as to age or sex. Consequently, juveniles and adults, of either sex, are subject to the provisions of this law. The only difference is with regard to age: juveniles in emergency protective custody shall not be placed in a jail or secured facility.

C. **Establishing Incapacitation.** As the statute states, one condition allowing protective custody to be effected is when a person is "incapacitated" in a public place. To establish incapacitation, the officer must consider such elements as:

1. Location--Is help and/or shelter close by? Is a unique danger present (railroad activity; vehicular traffic; open water)?
2. Weather--Recall the cause and symptoms of hypothermia. (See also "Cold Alert 3.10.015").
3. Company--Is a competent friend/relative with the person to help?

D. **Taking Protective Custody.** If officers determine that protective custody is appropriate, they shall adhere to policies and procedures for effecting and maintaining custody. Although not an arrest, protective searches, restraint considerations, transport procedures, and other such issues should be made.

A review of the procedures addressing in-custody transports could assist officers.

**E. Disposition.** AS 47.37.170 mandates a prioritized order of destinations for a person taken into protective custody. That order is:

1. Home, if officers can determine where that is.
2. Approved public treatment facility, which can include a hospital for immediate medical attention.
3. Approved private treatment facility or health care facility, such as a facility on contract with the State, or a private facility at which the subject is a patient, if that information can be determined.
4. State or Municipal detention facility **if** none of the previously mentioned facilities are available.

**F. Field Report.** Division of Corrections maintains a special Non-criminal Commitment Remand Form which officers must complete at the booking facility. Officers may simply fill out the non-criminal remand form and turn it in with all other reports at the end of shift. The event needs no further documentation in the form of a Police Report unless extenuating circumstances, such as force being used by the officer to overcome resistance at a soft empty hand control level or higher, dictate the need for a more detailed explanation.

## **II. JUVENILES**

**A. Special Considerations.** Juveniles are also afforded the protection given in a non-criminal commitment, but two items must be adhered to by officers:

1. Prior to commitment, a juvenile must get a medical clearance. Therefore, officers must transport, or cause such transport of the juvenile, to a hospital.
2. If the juvenile is cooperative and no guardian, family member, or responsible adult can be located, the juvenile shall be transported to Covenant House Intake where they will be cared for.
3. Juveniles are processed into McLaughlin Youth Center if actually committed into detention.

## **III. MEDICAL CONSIDERATIONS**

**Incurring Medical Expenses.** When medical attention is required prior to a non-criminal commitment, that attention shall be at the victim's expense. The officer shall not obligate the Department or Municipality for any medical expenses other than for the collection of evidence.

## **IV. SHARED RESPONSIBILITIES**

**Anchorage Safety Patrol.** Note that many of the protective services discussed can be furnished by "Anchorage Safety Patrol and Center" as well.

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