



Lunenburg Police Department

Policy Number: 3.03	Subject: Detainee Processing
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Issuing Authority: <i>Chief Thomas L. Gammel</i>	

I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy addresses processing of detainees from their arrival at the police station to transfer or release. The actual detainment is addressed in the policy **3.04 Detaining Prisoners**.

During this stage the detainee is searched, advised of rights, photographed, and fingerprinted, and the custody is documented. In addition, the presence or lack of injuries is documented, true identity may be validated, and the appropriateness and timing of their release is determined. For those charged with a crime, a criminal history file is created for each arrest.

Processing of detainees is a critical step in the custody process. It is during this stage that officers processing the detainee must take steps to ensure that the rights of the detainee are advised and honored. An omission of this responsibility may result in damage to the ability to prosecute the case, complaints against employees, or civil liability against employees, supervisors and the municipality.

II. POLICY

It is the policy of the Lunenburg Police Department to protect the constitutional rights of detainees during booking while protecting the safety of Department employees and detainees.

III. DEFINITIONS

- A. **Strip Search:** Any search which requires the removal or re-arrangement of any clothing so as to expose or permit the visual observation of a person's buttocks, anus, genitalia or breast area. This generally refers to an inspection of a naked individual, without any scrutiny of his body cavities. **[1.2.8]**

- B. Visual Body Cavity Search: A visual inspection of the anal and genital areas.
- C. Body Cavity Search: Any search involving not only visual inspection of skin surfaces, but that also includes the internal physical examination of body cavities including the anal and genital areas. [1.2.8]

IV. PROCEDURES

A. Arrival at Station

1. Notifications
 - a. When officers transporting a detainee arrive at the police facility, transporting officers shall:
 - i. Request that the sally-port door be opened.
 - ii. Notify the dispatcher, using the police radio, of their arrival and the odometer reading of their vehicle.
 - b. Once inside the officer shall close the sally-port door.
2. Police Firearms [72.4.1]
 - a. The transporting officers shall remove and secure their firearms prior to handling detainees by placing the firearm in one of the firearm lockers and securing the key.
 - b. All persons, including but not limited to assisting officers, booking officers, detectives, and supervisors shall secure their firearms prior to entering the booking area.
 - c. No firearms are allowed in the booking room or holding facility during the processing or detention of detainees.
3. Doors: All doors to the booking area will be secured during the entire booking process.
4. Booking Room Access: Only authorized personnel are allowed in the booking area during processing.
5. Violent Or Uncontrollable Detainees
 - a. Detainees who are violent, intoxicated, or uncontrollable may be placed directly into a holding cell until such time as they are calm enough to process.
 - b. Officers shall not remove restraints if the behavior of the detainee poses an excessive risk of injury to officers or the detainee.

B. Examination by Officer in Charge

*Upon the arrival of a person in custody, the shift supervisor, if one is assigned, shall:*ⁱ

1. Examine the detainee for injuries and note any medical complaints.
2. If any injuries do exist, inquire as to whether these injuries were sustained during or prior to the arrest.

3. Instruct the Booking Officer to make a notation of the injuries on the intake form.
4. If a detainee complains of any medical problems, the shift supervisor should follow the department's procedure on ***Detaining Prisoners***.

C. Booking

1. ***Staffing***: At least two (2) officers, if available, will conduct detainee booking whenever possible.
2. ***Detainee Search For Weapons***
 - a. Prior to the removal of handcuffs, a full and thorough search shall be conducted of the detainee's person for weapons.
 - b. An officer of the same sex as the detainee if available shall conduct the search whenever possible. If an Officer of the same sex is not available then:
 - i. A trained Department employee or an officer from another police agency of the same sex as the detainee may conduct the search, if necessary.
 - ii. If no officer or trained employee of the same sex is available, a search for weapons may be conducted by an officer of the opposite sex.
 - c. Depending upon the circumstances, a search may be able to be conducted without actually touching the detainee. Examples:
 - i. Some portion of clothing may be such that the outline of a weapon may be obvious.
 - ii. Pockets may be turned inside out.
 - iii. The waist band may be exposed and rolled outward to expose the body side.
 - iv. A hand-held metal scanner may detect the presence of metal items.
 - d. At no time will the safety of employees, other detainees or the detainee be placed in jeopardy by a detainee suspected of concealing a weapon. Suggestions:
 - i. The detainee may continue to be restrained until an officer of the detainee's same sex can be located to conduct a search.
 - ii. Detainees of the opposite sex may conduct the search, if necessary. Such search must be witnessed by another employee and conducted in view of booking video cameras, if possible.
3. ***Handcuffs***
 - a. The transportation handcuffs shall remain on detainees until the booking officer instructs that they be removed.
 - b. In making the decision to remove handcuffs from a detainee, the booking officer should consider the conduct of the arrestee, the offense for which the arrest has been made, and the recommendations of the arresting and/or transporting officers.
4. ***Booking Inventory***
 - a. An inventory of the detainee's property shall be conducted. [72.5.1(a)]. When the handcuffs are removed, the detainee shall be directed to remove all articles or items of personal property that [s]he is carrying on his/her person. This will include:
 - i. All items in all pockets;
 - ii. Items secreted on the detainee's person;

- iii. Belts; and
- iv. Jewelry. Note: In the event a piece of jewelry cannot be removed without damaging it, the jewelry may remain with the detainee.
- b. If the detainee is expected to be placed in a holding cell or taken directly to court after booking, the following items shall also be removed and placed with the detainee's property:
 - i. Shoe laces;
 - ii. Draw strings; and
 - iii. Other similar items.
- c. After the arrestee claims to have removed all personal effects from his/her person, [s]he will be subject to a full search of his/her person by an officer of the same sex. If such an officer is not available:
 - i. A trained Department employee or an officer from another police agency, of the same sex as the detainee, may conduct the search, if necessary.
 - ii. If no officer or trained employee of the same sex is available, as a last resort a search may be conducted by having the person:
 - 1) Turn pockets inside out, if possible.
 - 2) Lift the shirt off of the waist band and roll the waist band.
 - 3) Expose the interior of cuffs.
- d. The following items should be searched as part of the inventory:
 - i. All outer clothing worn by the arrestee;
 - ii. Wallets;ⁱⁱ
 - iii. Purses; and
 - iv. Packs, bags, or other containers brought in as personal property.
- e. Any container or article found on the detainee's person or carried by the detainee shall be opened and its contents inventoried.
- f. Papers, documents or other writings found on the detainee's person may be examined only to the extent necessary to check the person's identity, ensure his/her physical safety, ensure the removal of items dangerous to cell administration, and protect the Department from charges of theft. Any search of a detainee's papers or other possessions for investigative purposes may be conducted only upon obtaining either the arrestee's consent, preferably in writing, or a search warrant.ⁱⁱⁱ This may include the following examples:
- g. The officer conducting the inventory shall make an itemized list of the inventoried items under the detainee property section of the booking program. ***The items should be exposed to the view of the booking video camera if possible.*** [72.5.1(b);72.5.2(b)]
- h. The property form should be signed by the arrestee. If the arrestee refuses to sign the report, the booking officer should insert "**REFUSED**" on the signature line.

5. Storage

- a. All items removed from the detainee shall be marked with the detainee's identification and placed in the detainee property locker. [72.5.1(c)]
- b. Large, bulky items which do not fit into the detainee's property locker shall be placed in a large plastic bag, tied shut and tagged with the detainee's identification. The bag shall be placed in proximity of the detainee property storage area in view of the security camera.

6. *Return of Property [72.5.1(d)]*

- a. Items removed from the detainee which are not taken as evidence shall be:
 - i. Returned to the detainee upon release from the facility; or
 - ii. Transported to court or to the receiving agency and turned over to the custody of the receiving officials.
 - iii. Large, bulky items will not be accepted by the Court, or Worcester County Sheriff's Office. These items will be held for 30 days, and if the items are not retrieved by the detainee or his/her designee, the items will be discarded.
- b. The inventory of property shall be viewed with and signed by the arrestee and witnessed. If the arrestee refuses to sign the inventory form, the booking officer should insert "REFUSED" on the signature line.

7. *Strip Search/Visual Body Cavity Searches [1.2.8]*

- a. A strip search or visual body cavity search of an arrestee is warranted only if officers have probable cause to believe that the arrestee is concealing contraband or weapons on his/her body.^{iv}
- b. All strip searches and visual body cavity searches must be approved by the officer-in-charge. [1.2.8]
- c. Strip searches shall be conducted in a professional manner so as not to humiliate the detainee.
- d. All strip searches and visual body cavity searches shall be conducted by an officer/employee of the same sex as the detainee and out of the public view. Only the individual(s) conducting or witnessing the search should be able to see the person being searched. For safety purposes, additional employees may also witness the search in the event that it appears that the detainee may become violent.
- e. A private room shall be used when available. ***Video cameras and recorders, if active in the search area shall be set so as not to display or record the search.*** Audio monitoring recordings are authorized. [1.2.8(b)]
- f. The officer/employee conducting the strip/visual body cavity search shall not touch or prod any body part.
- g. A suspect need not be completely naked to conduct a strip search. The removal of clothing and search of the upper body may be followed by the suspect's replacing the clothing, and the process then followed for the lower body.
- h. ***A report shall be made of all incidents where a strip search is conducted, identifying:*** [1.2.8(c)]
 - i. The probable cause for the search[1.2.8(a)];
 - ii. The supervisor giving authority for the search;
 - iii. The officer conducting the search and assisting officers;
 - iv. The location where the search was conducted; and
 - v. The results of the search.

8. *Manual Body Cavity Searches [1.2.8]*

- a. A body cavity search of an arrestee is warranted only if officers have probable cause to believe that the arrestee is concealing contraband or weapons in his/her body.^v

- b. Body cavity searches shall not be conducted without the express approval of the officer-in-charge and a search warrant signed by a judge (not a Magistrate or Assistant Clerk Magistrate).^{vi} [1.2.8(a)]
- c. Manual body cavity searches shall be conducted by medical personnel, in a private and hygienic setting, and in a medically approved manner.^{vii} [1.2.8(a); 1.2.8(b)]
- d. A report shall be made of all incidents where a body cavity search is conducted identifying: [1.2.8(c)]
 - i. The probable cause for the search: this may be accomplished by referencing the search warrant;
 - ii. The supervisor giving authority to request the search warrant;
 - iii. The names of medical staff conducting the search;
 - iv. The location where the search was conducted; and
 - v. The results of the search.

9. *Detainee Rights*

- a. **During the booking process, the booking officer shall:**
 - i. Inform the detainee of his/her rights pursuant to Miranda by reading the Miranda Warning from a printed card or form.
 - ii. Inform the detainee again of his/her right to the use of the telephone. [S]he shall be allowed to exercise his/her right in order to contact family or friends, to arrange for bail, or to contact an attorney at the completion of the booking process.^{viii}
 - b. The detainee shall be advised of his/her right to use the telephone and afforded the use of a telephone within one hour of being brought into the police station in custody.
 - c. Toll calls will be made at the detainee's expense.
 - d. Officers shall allow calls of a type, number and duration that are reasonable and practical, including access to an attorney. [72.7.1(c)]
 - e. If a detainee is provided a monitored or recorded telephone, [s]he shall be informed of the monitoring (unless by court order), and a sign shall be posted in English and other language(s) prevalent in the community unless an audible signal is given on the telephone after detainees are told they are recorded or monitored. [72.7.1(e)]
 - f. When arrested on a warrant, the arrestee shall, upon request, be provided with a printed copy of the warrant contained in the warrant management system within six hours of the request.^{ix}
 - g. *OUI Arrest Rights:* Any person arrested and held in custody for operating a motor vehicle while under the influence of intoxicating liquor shall be afforded all applicable rights and processed in accordance with department policy. (See department policy on **Impaired Drivers**)

10. *CJIS Checks*

- a. A computer "wanted" check shall be run on all persons arrested or held in protective custody. The printed query sheet produced will be attached to the intake form.
- b. A Board of Probation check shall be run on all persons arrested by this department. The hard copy produced will be attached to the intake form.

- c. A suicide check (Q5) query shall be run on every person to be detained in the department's holding facility, and the hard copy produced shall be attached to the intake form.

11. *Identification*

Any detainee who is unknown to the personnel on duty at the station should be positively identified. Identification may be determined through:

- a. A government photo identification;
- b. An investigative identification (name check, booking or RMV photo, etc.) or;
- c. Fingerprint-based criminal history.

12. *Booking* [[72.5.2\(a\)](#)]

- a. All persons taken into custody under arrest or in protective custody by members of this department shall be booked using the department booking software.
- b. The booking process creates a criminal history and custodial history of each person arrested. An RMS number for internal records and offense base tracking number (OBTN) are created for each arrest. [[82.3.6](#)]
- c. The booking program gathers the following information:
 - i. Biographical data on the arrestee, including name, address, social security number, telephone number, date and place of birth, age, marital status, and names of parents and spouse. Any refusal to answer any of these questions shall be noted on the form.
 - ii. Information about the crime, including the offense(s) with which the individual is charged and the arresting officer's name(s).
 - iii. Physical description of the arrestee, including sex, race, height, weight, color of hair and eyes, complexion, build, scars, marks, tattoos, and physical condition, e.g., body deformities, trauma markings, bruises, lesions, and ease of movement.
 - iv. Property inventory and disposition. [[72.5.2](#)]
 - v. CJIS query results.
- d. All bookings shall be printed and forwarded to the court liaison. The records shall then be kept in the records room, a secure area with access limited to authorized persons. These forms shall serve as the permanent arrest/detention record of the individual arrested/detained. [[72.1.3](#)]

13. *Fingerprinting*

- a. All persons arrested by this department shall be fingerprinted each and every time that they are arrested, using live scan fingerprinting. The fingerprints shall be downloaded to the state to create or be added to the detainee's fingerprint-based criminal history.^x [[1.2.5\(b\)](#)]
- b. Fingerprints should not be submitted until all charges have been listed in the fingerprinting program.
- c. In the event that the live scan fingerprinting equipment is not available or functioning, the arrestee shall be fingerprinted using ink, and the fingerprint card shall be forwarded to the State Police Identification Section for entry into I.A.F.I.S.

- d. The booking officer shall check the message log on the live scan system for fingerprint-based criminal history responses.

14. *Photographing*

All persons arrested by this department shall be photographed each and every time they are arrested in accordance with current department policy and procedures. [1.2.5(c)]

15. *Suicide Risk Evaluations*

- a. All detainees shall be screened for suicidal tendencies using the suicide evaluation screening process in our booking program. This may help to establish the detainee's suicide risk.
- b. A detainee shall be placed on suicide watch if:
 - i. The risk screening indicates a suicide risk;
 - ii. The detainee exhibits signs or symptoms of suicidal behavior;
 - iii. The detainee threatens to commit suicide;
 - iv. The detainee attempts to commit suicide;
 - v. The detainee's name appears on the Q5, Suicide Risk File; or
 - vi. The detainee is brought to a hospital for a mental health evaluation, released, and returned to the police holding facility.
- c. The officer-in-charge shall consider the detainee's charges, mental state, behavior and other factors and determine if the detainee should be transported to the hospital for a mental health evaluation (Section 12).

D. Holding Cells

1. *Removal to Cell:* Prior to placing and immediately after removing a detainee in a cell within the holding facility, the booking officer shall conduct a security search of the cell, including a search for weapons and contraband. [72.4.5]
 - a. If any weapons or contraband are found, the detainee should be placed in another cell and the supervisor notified.
 - b. The officer finding the item shall submit a report regarding the item found.
 - c. The supervisor shall place the item into evidence and conduct an investigation into the matter.
2. *Placing In Cell:* Whenever an officer closes a cell door to incarcerate a detainee, [s]he shall test the door to be sure it is securely locked. Any problems in securing a cell door shall be reported to the officer-in-charge, who may take the cell out of service and report the problem to the holding facility manager.

D. Medical Screening and Treatment Procedures

1. *Intake Screening*: The prisoner shall, upon arrival at the station and before transfer to another facility, be received and screened by the booking officer. This screening shall consist a brief inquiry into:
 - a. The current health of the detainee; [\[72.6.3\(a\)\]](#)
 - b. Any medications being taken; [\[72.6.3\(b\)\]](#)
 - c. Behavioral observations, including consciousness and mental status (also see Suicide Risk Screening in this policy); and [\[72.6.3\(c\)\]](#)
 - d. A notation of any obvious body deformities, trauma markings, bruises, lesions, jaundice, ease of movement, etc. [\[72.6.3\(d\)\]](#)

NOTE: All observations shall be noted on the intake form.

2. *Treatment*
 - a. Medical treatment shall be arranged for any detainee in need of medical treatment. See department policy on ***Detaining Prisoners***.
 - b. No employee shall be allowed to go beyond the scope of his/her training in administering to the emergency or special medical needs of any person held in the custody of this department. This scope is determined by the level of emergency medical training of the individual members of the department (i.e., CPR, First Responder, EMT, etc.).

E. Group Arrests and Overflow Situations [\[72.5.6\]](#)

1. *Detainee Intake*
 - a. In the event of a group arrest, detainees arriving at the station will be placed in a holding cell, with multiple detainees in a single cell if necessary, or otherwise secured as directed by the officer-in-charge.
 - b. If, as the result of a group arrest, or at any other time, the officer-in-charge determines that the number of persons to be detained in the holding facility will exceed the number for which the facility was designed, [s]he may authorize the overcrowding on a temporary basis. Examples:
 - i. Non-violent, low security risk detainees may be held as a group, if from the same incident or by sex and age.
 - ii. The temporary overcrowding of this area is permitted under these circumstances until such time as the overcrowding situation can reasonably be relieved, typically through the transfer or release of persons being held.
 - iii. In order to accomplish this, the officer-in-charge shall examine the list of detainees and attempt to expedite the bail or release of the less serious offenders.
 - iv. If release of a sufficient number of detainees to relieve the overcrowding of the holding facility is not possible, the officer-in-charge may request the use of a neighboring police department's holding facilities, with the use of this department's personnel to maintain security and control, if requested by the other department.
 - c. The officer-in-charge is authorized to call in such additional personnel as may be necessary to satisfy the staffing requirements of the overflow situation.

2. *Detainee Processing*: Each detainee will be brought to a booking area to be booked and fully processed.

F. Handling Juveniles and Females

1. *Detainee Processing*
 - a. When a child between the ages of seven (7) and seventeen (17) is arrested with or without a warrant, the department policy and procedure Handling Juveniles shall be followed. Persons age seventeen (17) and older are considered adults for the purposes of criminal law.
 - b. Juveniles shall not be booked at the same time as adult arrestees.
 - c. Females shall not be booked at the same time as male arrestees.
2. *Detainee Holding*: See the department policy on ***Holding Facility***.

G. Bail and Arraignment

1. *Court Business Hours*: If the court is in session when the booking process and all related arrest reports are completed, it shall be the responsibility of the officer-in-charge to ensure that the arrestee is transported to the court without delay.^{xi} [**72.7.1(a)**]
2. *Court Not In Session*: If the court is not in session when the booking process and all related reports are completed, the arrestee shall be confined in the holding facility until bail can be arranged, or if bail cannot be arranged, until the next session of the court.^{xii}
3. *Bail* [**72.7.1(b)**]
 - a. Arrestees shall be informed of the right to bail and afforded the opportunity for bail.^{xiii}
 - b. It shall be the responsibility of the officer-in-charge to ensure that an arrestee's opportunity to make bail is not impeded.
 - c. Bail shall be determined by the bail clerk.
 - d. Requesting Bail—Prior to contacting the bail clerk, officers should have the following information available:
 - i. Identity of the person for who bail is to be determined. If the identity is in question, the bail clerk shall be so advised.
 - ii. Residence of the person.
 - iii. Age of the person.
 - iv. Offenses charged.
 - v. Criminal history (BOP).
 - vi. History of court defaults (BOP).
 - vii. Issues relating to dangerousness, if appropriate.
 - viii. Detainee funds and whether or not the detainee wishes to be bailed.
 - ix. The detainee shall be advised of his/her bail status. If the detainee has funds and wishes to be bailed, the bail clerk should be so advised.

- x. If the detainee does not have funds and wishes to be bailed, the detainee may attempt to call others for funds.
- e. When the bail money is at the police station, the bail clerk shall be called and so advised.
- f. Police employees shall not take bail money from persons wishing to bail the detainee. They must wait with the funds for the arrival of the bail clerk.
- g. The bail clerk shall be provided with the booking paperwork, application for complaint, criminal citation, or served warrant.
- h. The detainee's cell shall be inspected for contraband and fresh damage caused by the detainee. Any damage discovered shall be noted in the log. The detainee shall be escorted to the bail clerk from the holding cell by a police officer to be processed for bail.
- i. Detainees under arrest that are also in protective custody may be returned to custody after being bailed until such time as they may be released. See the department policy on ***Protective Custody***.

4. ***Probable Cause Hearing***

- a. Detainees who are not released on bail within twenty-four hours following an arrest on charges for which probable cause has not been determined by a judge or magistrate are entitled to a probable cause hearing.^{xiv}
- b. The arresting officer or shift supervisor shall report the facts, orally or in writing, to a neutral magistrate (usually the Clerk of Courts).
- c. The probable cause review must take place within twenty-four hours.
- d. In the event that the review cannot take place due to extraordinary circumstances, the hearing should take place as soon as possible and the reason for the delay documented.

5. ***Violent or Uncontrollable Detainees***: See the department policy on ***Detaining Prisoners***.

H. **Safekeep Worcester County Sheriff's Office (WCSO):**

1. Safekeep is WCSO regional lockup facility available to Central MA police departments.
2. Safekeep is available seven (7) days a week. During a normal business week, Monday through Friday, intakes are taken from 1900 hours to 0700 hours.
3. ***Lunenburg Police Department process***
 - a. If a detainee is going to be held for court arraignment Monday through Thursday, the detainee will be held at the Department.
 - b. If a detainee is going to be held for court arraignment on the weekend, and/or holidays, the shift supervisor or OIC will contact WSCO to determine if there is availability to hold the detainee.
 - c. If there is availability the detainee will be brought to the WCSO Safekeep facility. All of the required paperwork will be completed prior to transport. Refer to addendum A.

- d. If there is availability at WCSO Safekeep facility two officers shall transport the detainee to the facility.
- e. The appropriate reports will be completed, and it shall be noted of the transfer.
- f. In the case of an arrest without a warrant a Jenkins Probable Cause determination must be made prior to transport.

I. Release of a Detainee

- 1. *Return of Property*
 - a. All items of property shall be compared to the items listed on the inventory report and the individual shall be requested to sign the form indicating that [s]he has received the property. A refusal to sign shall be noted in writing on the inventory report.
 - b. Any items which were held for evidence or as contraband shall be indicated on the inventory report.
- 2. *Change of Medical Condition*: The medical screening information shall be rechecked, and any changes from the condition at entry shall be noted on the intake form. An inquiry shall be made as to the origin of any changes in condition, and the answers shall be documented on the intake form.
- 3. *Holding Cell Inspection*: The cell shall be searched for weapons, contraband and damages and the detainee criminally charged for any damage caused by him or her. Any unusual conditions shall be reported to the Chief of Police or his/her designee.

J. Receiving Persons from Outside Agencies [72.5.5]

- 1. *Intake of Detainee*
 - a. Upon receiving a detainee from another law enforcement agency, the intake officer shall:
 - i. Ensure the identity of the officer in whose custody the detainee is being held.
 - 1) If the officer is known to the receiving officer, no further identification is necessary.
 - 2) Obtain and make a photocopy for the file of a government (police, parole, federal government) identification card or document.
 - ii. Verify the authority of the person making the commitment. Commitments must be made under the authority of the individual's employment. The following persons may request that this department accept their prisoner:
 - 1) A law enforcement officer;
 - 2) A corrections officer;
 - 3) A deputy sheriff authorized to serve criminal process; and
 - 4) A Constable provided that the detainee is charged with a criminal offense.
 - iii. Obtain detainee information from the delivering officer. The information should include:
 - 1) A copy of any booking sheet;
 - 2) Any court documents if the detainee is to be bailed; and

- 3) A point of contact and telephone number where a responsible member of the delivering agency can be reached at any time during the day or night.
- iv. An incident number shall be created to document the intake.
- v. The detainee shall be screened for medical issues. See **Medical Screening and Treatment Procedure** in this policy.

2. *Detainee Property*
The detainee shall be searched and then placed in a cell.

3. *Special Detainee Handling:*
Supervision for hospitalization, high level suicide watch, or other special handling shall be the responsibility of the delivering agency.

4. *Bail:* Detainees may be bailed from custody if bail is set by the bail clerk in the jurisdiction of the delivering agency.

ⁱ M.G.L. c. 276, §33.

ⁱⁱ *Commonwealth vs. Richard e. Wilson.*

ⁱⁱⁱ *Commonwealth vs. Vuthy Seng.*

^{iv} *Com. v. Thomas*, 429 Mass. 403, 708 N.E.2d 669 (1999); *Swain v. Spinney*, 117 F.3d (1st Cir. Mass 1997).

^v *Com. v. Thomas*, 429 Mass. 403, 708 N.E.2d 669 (1999); *Swain v. Spinney*, 117 F.3d (1st Cir. Mass 1997).

^{vi} *Rodrigues v. Furtado*, 410 Mass. 878, 575 N.E.2d 1124 (1991).

^{vii} *Rodrigues v. Furtado*, 950 F.2d 805 (1st Cir. Mass. 1991).

^{viii} M.G.L. c. 276, §33A.

^{ix} M.G.L. c. 248, §26.

^x M.G.L. c. 63, §A.

^{xi} M.G.L. c. 276, §58.

^{xii} M.G.L. c. 276, §58; *Com. v. Finelli*, 422 Mass. 860, 666 N.E.2d 144 (1996).

^{xiii} M.G.L. c. 276, §42.

^{xiv} *Jenkins v. Chief Justice of Dist. Court Dept.* 416 Mass. 221, 619 N.E.2d 324 (1993).