



POLICY REVIEW REPORT

ODPA No. 19

Detention and Release of Inebriated
Individuals

Prepared by:

The Office of the Director
of Police Accountability

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Introduction

This report, prepared by the Office of the Director of Police Accountability (ODPA), examines a series of events following a public intoxication detention involving a medically vulnerable community member and focuses specifically on the policies and procedures of the Berkeley Police Department (BPD). The incident raises important questions about BPD's current protocols related to arrest, custody, medical assessment, and release decisions under California Penal Code §849(b).¹ To guide this examination, the report centers around the following key research questions:

- What policies guide law enforcement responses to public intoxication involving individuals with potential medical or physical vulnerabilities?
- How do law enforcement agencies coordinate with health care providers and shelter services when managing cases involving public intoxication?
- What procedures are in place for determining release decisions under public intoxication statutes, and how are those procedures implemented in practice?
- What effective practices exist for ensuring the safety and well-being of individuals released from custody following detention for public intoxication, and how might they inform future policy development?
- Do existing policies account for treatment of vulnerable populations in these scenarios or were there gaps that need to be addressed?

These questions frame the analysis and inform recommendations for improving BPD policies and practices aimed at protecting community members while supporting effective and accountable policing.

Review Methodology

To ensure a comprehensive and objective evaluation, staff from the ODPA adopted a multi-method approach grounded in both qualitative and documentary analysis. The review encompassed a close examination of incident reports, coroner's records, and available jail surveillance footage. To provide further context and supplement these materials, ODPA reviewed past interviews conducted with the involved officers surrounding the event in question². Furthermore, a comparative policy analysis was conducted, drawing upon policies and practices from peer jurisdictions, as referenced

¹ California Penal Code 849(b):

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=849.

² Policy Review No. 19 began as a self-initiated personnel investigation by the PAB on January 28, 2022, and was converted to a policy review on January 31, 2023, after it was determined the PAB could not investigate misconduct without a public complaint.

throughout the report. Collectively, these methods were employed to facilitate a robust assessment of the incident in relation to established standards and evolving effective practices.

Relevant Policies

This report presents an analysis of several Berkeley Police Department (BPD) policies and practices that were either directly or indirectly relevant to the incident in question. The goal of this analysis is to evaluate whether current protocols adequately support officer decision-making, particularly in situations involving individuals who are intoxicated, medically vulnerable, or otherwise at risk. The policies examined include:

- **BPD Policy 313 – “Senior and Disability Victimization (Updated 3/17/2025):** The purpose of this policy is to establish guidelines for investigating and reporting suspected abuse of vulnerable adults, including elders and individuals with disabilities. It outlines mandatory reporting requirements for Berkeley Police Department personnel in accordance with state law, provides standards for ensuring the safety of elders and dependent adults, and reaffirms the department’s commitment to equal protection and the enforcement of all relevant criminal laws.
- **BPD Policy 431 – “Medical Aid and Response” (Updated 02/10/2025):** The purpose of this policy is to establish clear guidelines for BPD personnel when responding to individuals in need of medical assistance. It outlines responsibilities for providing emergency aid, coordinating with EMS, and ensuring officers are appropriately trained and equipped to act within their certification levels. The policy emphasizes prioritizing safety, proper EMS coordination, and protecting the health and rights of individuals—especially those in custody or experiencing medical crises.
- **BPD Policy 440 – “Sobering and Detoxification Center” (Updated 11/30/2022):** The purpose of this policy is to outline the protocols for referring individuals to the Cherry Hill Detoxification Program, which offers sobering and detoxification services to help individuals address alcohol and drug-related issues. It provides eligibility criteria and procedures for officer referrals to either the short-term Sobering Center or the longer-term Detoxification Program.
- **BPD Policy 900 – “Temporary Custody of Adults” (Updated 08/07/2024):** This policy provides guidelines for ensuring the health and safety of adults taken into temporary custody by the BPD. It outlines screening, placement, and separation procedures to minimize risk, including considerations for medical, mental health, and safety concerns. It also sets standards for determining fitness for incarceration and handling individuals with minor injuries prior to booking.

This report assesses whether these policies (or associated practices and procedures) offer clear and sufficient guidance to officers in the field and identifies opportunities for improving their effectiveness in future, comparable scenarios.

Incident Review & Analysis

On January 8, 2022, at approximately 8:40 p.m., the BPD received a call from an employee at local restaurant reporting that a community member with an open container of alcohol was sitting in the business's parklet and refused to leave. At least two BPD officers responded to the call about 10 minutes later.³ One of the officers spoke with the reporting party and assessed the situation, while another officer remained with the community member. After speaking with the reporting party and assessing the Community Member's condition, the BPD Officers determined that the community member was unable to care for himself.⁴ Given the circumstances, one of the officers placed the community member under arrest for public intoxication, in violation of Penal Code 647(f).⁵ The community member was identified as a 75-year old white male.⁶

Following the detention of the community member, the responding officers transported him to the Grayson Street Shelter in an effort to secure a safe location for him to sober up. Upon arrival, they were informed that the shelter was not accepting walk-ins and that vouchers were required.⁷ The officers transported the community member to the Berkeley Police Department for processing at around 10 p.m. During the interview with ODPa, some officers stated that they were unfamiliar with the Cherry Hill Sobering Center and, as a result, did not consider it as an option.⁸ During the booking process, a Community Service Officer (CSO) observed that the community member exhibited signs of a potentially communicable skin condition on his arm and back. Based on these

³ Call for Service Detail Report – CFS 865

⁴ ODPa Interview with BPD Officer and Arrest Report for Case No. 2022-00001164

⁵ Penal Code 647(f):

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=647.&lawCode=PEN

⁶ Incident Report Number 2022-00000017

⁷ ODPa Interview with BPD Officers

⁸ ODPa Interview with BPD Officers

observations, the CSO declined to proceed with booking until the community member received medical clearance deeming him fit for incarceration.⁹

The community member was assisted back into the police vehicle by the BPD officers and a CSO. A few minutes later, he was removed from the vehicle and seated in a chair within the sally port area¹⁰, where he was provided with food.¹¹ During this time, one of the responding officers consulted with a supervision officer regarding the reason for the booking rejection and potential next steps. The supervising officer advised that the options were to either: 1) transport the community member to Alta Bates Hospital to obtain medical clearance for incarceration; or 2) to release him pursuant to California Penal Code §849(b)¹², which allows officers to release individuals without arraignment when the sole offense is public intoxication. The supervising officer further noted that by the time medical clearance was obtained, the community member may have already sobered up. Accordingly, the supervising officer recommended considering an §849(b) release if the community member appeared sober and able to care for himself.¹³

As noted in the surveillance camera,¹⁴ while in the sally port, the community member appeared to be in physical discomfort and showed signs of anxiety, such as repeatedly rubbing his knees and arms. He also seemed to have difficulty standing from his chair and walking without assistance¹⁵. Prior to his release, the community member visibly struggled to put on his jacket and stand up¹⁶. He used the wall for support as he slowly walked in the direction he was being guided. At approximately 11:00 p.m., the community member was released from BPD custody under a California Penal Code §849(b) release to the corner of Addison Street and McKinley Avenue, located behind the

⁹ Incident Report Number 2022-00000017

¹⁰ A sally port is a secure entryway (as at a prison) that consists of a series of doors or gates

¹¹ CCTV Footage from the BPD Jail Sally Port – January 8, 2022

¹² California Penal Code 849(b):

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=849.

¹³ Interviews with the Primary Officer and Supervising Sergeant

¹⁴ CCTV Footage from the BPD Jail Sally Port – January 8, 2022

¹⁵ Ibid

¹⁶ Ibid

Public Safety Building.¹⁷ The community member remained where he was released for the remainder of the incident.¹⁸

On January 9th, 2022, at approximately 1:00 a.m., at least one patrol officer noticed the community member sitting outside the police station where he had been left earlier that night. Finding the situation unusual, the situation was elevated to the supervising officer. The supervising officer—who had earlier provided guidance regarding the §849(b) release—relayed that the community member had been in custody earlier that night but had since been released by another BPD.

Concerned about the cold weather, one of the BPD officers entered the jail to request blankets for the community member. After receiving them, the officer approached the community member, who allegedly yelled at her in an agitated manner.¹⁹ The officer left the blankets with the community member and concluded the interaction.²⁰

Around 5:30 a.m., at least one other BPD patrol officer encountered the community member in the same location. The community member was now noted to be lying shirtless on the sidewalk gutter and appeared unresponsive. Though he was mumbling what seemed like responses, he was not answering the BPD's questions clearly. The BPD requested a Berkeley Fire Department (BFD) medical evaluation noting that the community member appeared to "be suffering a medical issue due to alcohol intoxication, cold weather and not having weather appropriate clothing."²¹ BFD arrived within minutes and found the community member cold to the touch and visibly shaking.

The community member was transported by ambulance to Alta Bates Hospital with lifesaving measures in progress. According to the Alameda County Coroner's investigation, the community member became unresponsive in the ambulance on the way to the hospital.²² He arrived at the emergency room at approximately 5:55 a.m. and was treated for about an hour before being pronounced dead at 6:55 a.m. on January 9, 2022.

¹⁷ Ibid

¹⁸ Incident Report Number 22-1193

¹⁹ ODPa Interview with Officer and Incident Report Number 22-1193

²⁰ Ibid

²¹ Incident Report Number 22-1193

²² Coroner's Investigation Report Case Number 2022-00135

A toxicology report later showed the community member had a blood alcohol concentration (BAC) of .128—60% over the legal threshold of .08²³ to be considered impaired.²⁴ However, the Coroner’s investigation concluded that he died of natural causes related to hypertensive cardiovascular disease, and that alcohol intoxication was not a contributing factor.²⁵ A forensic autopsy revealed that the community member had an enlarged, globally dilated heart weighing 630 grams—more than double the average heart weight of approximately 331 grams.²⁶

Incident Analysis

This incident raised several questions regarding the department’s handling of public intoxication, particularly when dealing with vulnerable individuals. While the BPD officers appeared to have followed standard procedure for arresting the community member for public intoxication under penal code §647(f), several critical issues related to medical assessment, the decision to release the individual, and the subsequent handling of the situation suggest areas for improvement in BPD’s policies and procedures.

Gaps in Alternatives to Detention

A significant issue illuminated by this incident is the lack of viable alternatives to jail-based detention for individuals detained under public intoxication laws. In this case, officers attempted to transport the community member to the Grayson Street shelter in lieu of jail, a decision that aligns with effective practices for diverting individuals from the criminal legal system when possible.²⁷ However, that shelter was not accepting walk-ins, leaving officers with limited options beyond detention at the BPD jail.

Since the occurrence of this incident, BPD has adopted Policy 440, “Sobering and Detoxification Center,” which identifies the Cherry Hill Detoxification Program as an alternative to jail for individuals willing to be transported there for a 24-hour period. It is

²³ California Department of Motor Vehicle BAC Limits: <https://www.dmv.ca.gov/portal/handbook/california-driver-handbook/alcohol-and-drugs/>

²⁴ Toxicology Report Conducted by NMS Labs

²⁵ Coroner’s Investigation Report Case Number 2022-00135

²⁶ Molina, D. K. (n.d.). Typical organ weights. Duke University Department of Pathology. Retrieved April 16, 2025, from <https://pathology.oit.duke.edu/siteParts/Typical%20Organ%20Weights.pdf>

²⁷ International Association of Chiefs of Police. (2023). Sobering centers: Practical implementation guidelines. https://www.theiacp.org/sites/default/files/2023-08/Sobering%20Centers_Practical%20Implementation%20Guidelines_0.pdf

important to note that the Cherry Hill program is a shared resource, accessible to all law enforcement agencies, hospitals, and community organizations across Alameda County. The program includes a 50-bed sobering unit that operates 24/7 and provides short-term (up to 23 hours) sobering services for individuals under the influence of alcohol or other substances.²⁸ Horizon Treatment Services, which operates the Cherry Hill Sobering Center, reported that from July 2023 to June 2024, the facility operated at an average of 80% capacity and served a total of 7,642 individuals.²⁹

This resource was available at the time of the incident; however, some of the responding officers appeared to be unaware of this resource. A least one of the BPD officers indicated that had known about the center, they would have considered and looked into that option.³⁰

According to BPD crime data, from January 1, 2018, to April 11, 2025, the department made 837 arrests under Penal Code §647(f) for public intoxication alone—averaging about 10 arrests per month.³¹ While this may not appear to be a large number relative to the volume of overall police encounters, the cumulative demand placed on sobering centers like Cherry Hill—by law enforcement agencies across Alameda County as well as hospitals—can exceed their capacity.³² As a result, in the absence of readily available alternatives, the BPD continues to rely on its jail facilities to serve as default sobering spaces.

²⁸ Horizon Treatment Services – Cherry Hill (San Leandro, CA): <https://www.horizonservices.org/cherry-hill/>

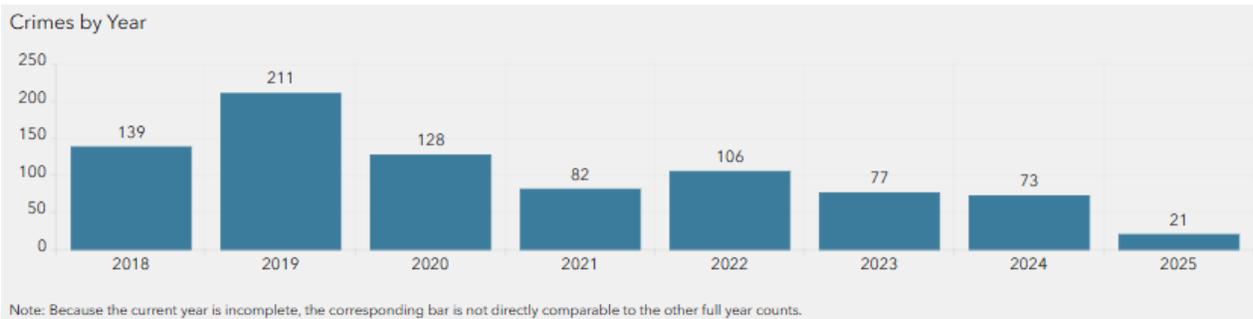
²⁹ Horizon Treatment Services. (2025, March 26). Cherry Hill Programs presentation. Alameda County Health Care for the Homeless. https://www.achch.org/uploads/7/2/5/4/72547769/horizon_treatment_services_-_cherry_hill_programs_presentation_03262025.pdf

³⁰ ODPa Interview with BPD Officers

³¹ BPD Crime Data January 1, 2018 to April 11, 2025: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/crimes>

³² The number of arrests made under Penal Code §647(f) was not publicly available from other comparator law enforcement agencies that prioritize reporting through the National Incident-Based Reporting System (NIBRS), as the available data did not allow for filtering these specific violations and arrests.

Figure 1. PC 647 (F) Crimes in Berkeley



Source: BPD Crime Data January 1, 2018 to April 11, 2025

Evaluation of Vulnerability in Release Decision

Throughout the booking process, the community member exhibited several objective signs of vulnerability that warranted closer attention (i.e. ODPa staff noted that the individual visibly struggled to stand, walk, and put on his jacket, suggesting that he may not have been fit for release without a more comprehensive assessment). At intake, he was observed wearing a hospital wristband and a leg brace, along with showing visible symptoms of a potentially communicable skin condition. Although the CSO appropriately paused the booking process in response to these concerns, there was no documented follow-up to confirm the individual's medical clearance or assess whether he was in stable condition for release.

Despite these indicators of physical distress and possible medical need, the community member was released under California Penal Code §849(b), which allows for discretionary release without arraignment in cases of public intoxication. While §849(b) authorizes discretionary release, it also provides alternative avenues that prioritize care and safety. Notably, under §849(b)(3), officers may release an individual into the custody of a medical facility or hospital for treatment when further legal proceedings are deemed unnecessary. This provision underscores the importance of considering health-based alternatives when signs of possible medical vulnerability are present.”³³

An important consideration that appears to have been overlooked is the community member's age and their status as an older adult—a population with distinct and often heightened vulnerabilities. While BPD's Policies 900, 441, and 431 do not specifically address vulnerable populations such as older adults, it is important to acknowledge that aging individuals frequently have greater health and safety needs than other age groups. In this case, the community member was 75 years old, reportedly intoxicated, showing

³³ California Penal Code §849(b)(3):

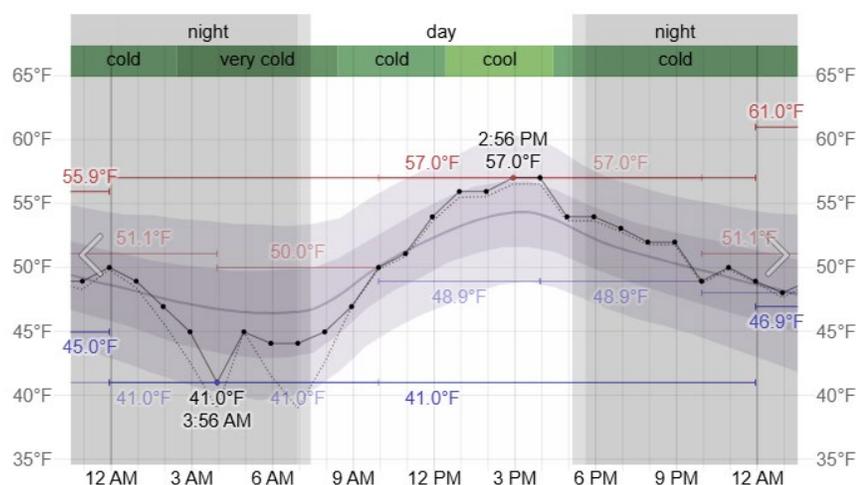
https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=849

signs of limited mobility, and wearing light clothing. These factors combined suggest a heightened level of vulnerability and a potential inability to care for themselves.

Research from the National Institute on Alcohol Abuse and Alcoholism (NIAAA) reinforces these concerns, noting that older adults are more sensitive to the sedative effects of alcohol and its impact on balance, coordination, attention, and motor skills. This increased sensitivity places them at greater risk of falls, motor vehicle accidents, and other alcohol-related injuries.³⁴ Furthermore, age-related changes in body composition—such as reduced muscle mass and body water—can result in higher blood alcohol concentrations in older adults compared to younger individuals consuming the same amount.

Compounding these risks, the National Institute on Aging emphasizes that older adults are also more susceptible to cold weather.³⁵ On the date of the incident, January 9, 2022, historical weather records show that temperatures in the City dropped below 50°F, with a low of

Figure 2 Temperature on Sunday, January 9, 2022 in Berkeley, CA



Source: Weather Spark

41°F during the time of the incident.³⁶ As noted by the NIAAA, such conditions pose a serious health threat to older adults, who are at increased risk of hypothermia—a condition that occurs when the body’s core temperature falls below 95°F. Even at temperatures above 40°F, hypothermia can develop if an individual becomes chilled by

³⁴ National Institute on Alcohol Abuse and Alcoholism. (n.d.). Aging and alcohol. U.S. Department of Health and Human Services, National Institutes of Health. <https://www.niaaa.nih.gov/alcohols-effects-health/aging-and-alcohol>

³⁵ National Institute on Aging. (n.d.). Cold weather safety for older adults. U.S. Department of Health and Human Services, National Institutes of Health. <https://www.nia.nih.gov/health/safety/cold-weather-safety-older-adults>

³⁶ Data obtained from WeatherSpark.com which offers detailed reports of the typical weather for 145,479 locations worldwide. <https://weatherspark.com/about>

rain, sweat, or damp clothing. In addition to causing serious complications such as arrhythmia, heart failure, and organ damage, hypothermia impairs cognitive function, making it difficult for individuals to recognize the danger or seek help. Early symptoms—such as shivering, pale skin, slurred speech, and confusion—can escalate quickly to slow breathing, unconsciousness, and death if not addressed.

The Coroner’s report indicated that the community member died from hypertensive cardiovascular disease and, although intoxicated, alcohol did not appear to be a factor in his death. However, as NIAAA notes, it is important to highlight that older adults with hypertensive cardiovascular disease are particularly vulnerable to complications from both alcohol consumption and cold weather exposure. Alcohol can raise blood pressure, interfere with hypertension medications, and disrupt heart rhythm—factors that can worsen cardiovascular conditions in older individuals.³⁷ Additionally, the aging body metabolizes alcohol more slowly, amplifying its effects. Cold temperatures further increase cardiovascular risk by causing blood vessels to constrict, placing added strain on the heart and potentially triggering serious health events in those with preexisting hypertension.³⁸

In this incident, the community member was released at the discretion of the BPD officers, who, after consulting with a supervising officer, determined that the individual was suitable for release given the amount of time that had elapsed since the initial detention. The community member was released without any medical attention or further evaluation despite the impediments that the community member displayed in the sally port and the potential vulnerabilities that come with being an elder adult. Notably, there appears to have been a lack of consideration for the heightened vulnerabilities associated with being an older adult, particularly the increased health risks that can follow alcohol consumption and exposure to cold weather. BPD Policy 900.11.2 notes that no person shall be released from custody in an intoxicated condition and to be eligible for release, the individual must be sober to the extent they can care for themselves in public. To that extent, Section 900.11.2.c states that for an arresting officer to request a §849(b) release, the individual in custody must be sober. The coroner’s report indicates that the community member’s blood alcohol concentration (BAC) remained at .128 several hours after initial

³⁷ National Institute on Alcohol Abuse and Alcoholism. (n.d.). Aging and alcohol. U.S. Department of Health and Human Services, National Institutes of Health. <https://www.niaaa.nih.gov/alcohols-effects-health/aging-and-alcohol>

³⁸ American Heart Association. (2025, January 3). What cold weather does to the body—and how to protect yourself this winter. <https://www.heart.org/en/news/2025/01/03/what-cold-weather-does-to-the-body-and-how-to-protect-yourself-this-winter>

contact with the arresting officer—well above California’s legal threshold of .08 for intoxication.³⁹ This elevated BAC strongly suggests that the individual was still significantly impaired at the time of his release.

Post-Release Monitoring and Safety

The community member’s physical decline in the hours following his release—culminating in his eventual unresponsiveness—reveals a critical gap in post-release monitoring and safety practices. He was released from BPD custody in a visibly impaired state, with no apparent mechanisms in place to assess or support his condition afterward. At approximately 1:30 a.m.—two hours after his release—at least one BPD officer observed that the individual remained outside the police station and, finding it unusual, offered him blankets. Several hours later, around 5:30 a.m., the same individual was again found at the station, this time in visible distress and significant medical decline.

Although post-release monitoring is not legally required, the circumstances surrounding this release arguably created a foreseeable and preventable danger. The individual’s condition at the time of release suggested the need for further medical evaluation. This risk might have been mitigated had officers exercised the option under California Penal Code §849(b)(3), which allows for individuals arrested for public intoxication to be transported to a medical facility and released without further legal proceedings, if no criminal charges are pursued.

Legal precedent establishes that law enforcement may be held liable under the *state-created danger* doctrine when their actions affirmatively place individuals in foreseeable danger, particularly when releasing them in a compromised state. In *Kneipp v. Tedder* (95 F.3d 1199, 3rd Cir. 1996), the court allowed a claim under 42 U.S.C. § 1983 to proceed after officers allowed an intoxicated woman to walk home alone on a freezing night, despite previously separating her from her sober husband. She later collapsed and suffered severe injuries. Similarly, in *Riordan v. City of Joliet* (3 F. Supp. 2d 889, N.D. Ill. 1998), the court denied qualified immunity where officers released a visibly intoxicated man into freezing weather while inadequately dressed and unable to care for himself. In *Davis v. Brady* (143 F.3d 1021, 6th Cir. 1998), the court held that officers could be liable for releasing an intoxicated man along a busy highway at night, where he was later struck by a car. In each of these cases, the courts declined to grant qualified immunity, allowing the plaintiffs’ constitutional claims to proceed to trial. These cases highlight the potential liability officers and agencies may face when they release impaired individuals into environments where foreseeable harm may result.

³⁹ California Department of Motor Vehicle BAC Limits: <https://www.dmv.ca.gov/portal/handbook/california-driver-handbook/alcohol-and-drugs/>

By contrast, *Lane v. City of Kinston* (544 S.E.2d 810, N.C. App. 2001) the court found no liability after officers left an intoxicated man on the street and he was later attacked by third parties. The court concluded that the harm resulted from unforeseeable criminal acts, rather than the officers' conduct. These cases collectively underscore the importance of evaluating the foreseeable risks associated with releasing individuals in compromised conditions.

Discretionary release without consideration of these factors can lead to preventable tragedies—and expose departments to ethical and legal scrutiny. At the same time, it is important to acknowledge the operational limitations law enforcement agencies face. BPD personnel may not have the capacity to monitor every individual post-release, particularly during late-night hours when staffing is minimal and demands are high. These constraints highlight the need for innovative, non-enforcement-based strategies to enhance public safety.

One promising avenue lies in the responsible use of emerging technologies—such as fixed surveillance cameras equipped with Artificial Intelligence (AI) enabled monitoring features—which can detect signs of distress among individuals lingering near police facilities or other public spaces. When thoughtfully implemented with appropriate privacy and civil rights safeguards, these tools can support early intervention efforts and improve post-release safety. Rather than functioning solely as enforcement mechanisms, such technologies could be integrated into a broader public safety strategy—serving as compassionate tools to help prevent harm when human oversight is limited.

A 2023 study published in *Current Problems in Cardiology* found that AI-enabled public surveillance cameras can effectively detect out-of-hospital cardiac arrests (OHCA) and rapidly activate emergency medical services.⁴⁰ This study evaluated the performance of an AI-enabled video surveillance system designed to detect falls, with potential applications in identifying unwitnessed medical emergencies such as sudden cardiac arrest. The system demonstrated strong results, accurately identifying 95% of actual falls, with high precision and overall accuracy. Detection was more effective when individuals were closer to the camera. Unlike wearable devices, which require user interaction and may be ineffective if the individual is unconscious, this video-based approach allows for passive, continuous monitoring in public spaces. The findings suggest that such technology could support faster emergency response times. However, the use of video raises important privacy and data security considerations that must be

⁴⁰ Darginavicius, L., Vencloviene, J., Dobožinskas, P., Vaitkaitiene, E., Vaitkaitis, D., Pranskunas, A., & Krikscionaitiene, A. (2023). AI-enabled public surveillance cameras for rapid emergency medical service activation in out-of-hospital cardiac arrests. *Current Problems in Cardiology*, 48(11), 101915. <https://doi.org/10.1016/j.cpcardiol.2023.101915>

addressed in future implementations. The study's limitations include testing under simulated conditions and a small, non-representative sample, indicating the need for further research and validation in real-world environments. Nonetheless, the results highlight the promise of AI-assisted monitoring tools in enhancing public health and safety.

Image 1. Visualization of AI-Powered Fall Detection in Public Areas



Source: 1 *Current Problems in Cardiology*

AI-enabled surveillance cameras are currently being offered by various companies and are being pitched as systems that can help law enforcement by using AI to monitor environments in real time and flag potential criminal or suspicious activity. Vendors such as Flock Safety,⁴¹ Verkada,⁴² and Clearview AI⁴³ are among those promoting this

⁴¹ Flock Safety AI Video Analytics: <https://www.flocksafety.com/articles/new-ai-video-analytics-features-24-7-security-coverage-no-extra-staff-needed>

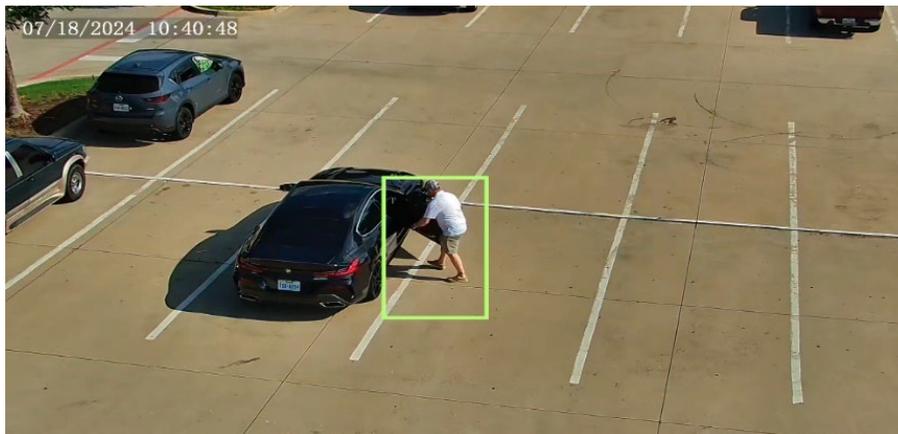
⁴² Verkada AI CCTV:

https://www.verkada.com/demo/?utm_source=bing&utm_medium=search&utm_campaign=7012T0000022amEQAQ&utm_content=LP_nontm_US_videosecurity&utm_term=Ai%20Cctv&msclkid=cef0ff6edd56158f7b4e976f99c77198

⁴³ Clearview AI Video Analytics: https://go.clearview.ai/law-enforcement?utm_term=crime%20scene%20investigation%20software&utm_campaign=Law+Enforcement&utm_source=bing&utm_medium=ppc&hsa_acc=1137892768&hsa_cam=18779890797&hsa_grp=1232552844893287&h

technology as a way to enhance response times and improve investigative outcomes. Although these tools have not traditionally been marketed for broader public welfare purposes, the technology holds potential for such applications if developed and implemented with that intent. If this type of surveillance technology is considered for adoption, factors such as its intended use, capabilities, and impact should be carefully evaluated. Privacy and data security implications will also need to be addressed, but the technology can be developed to serve public welfare goals as noted in the aforementioned study.

Image 2. Flock Safety 24-Hour Guardian Mode



Source: 2 Flock Safety

Effective practices for the Detention and Release of Intoxicated Individuals

As part of our review, we analyzed policies from nearby jurisdictions to understand how other departments handle the arrest and release of intoxicated individuals, with a particular focus on measures intended to safeguard their well-being. Our review concentrated on departmental-level policies to identify practices that either align with or differ from those of the Berkeley Police Department. The jurisdictions included in this analysis were Fremont, Hayward, Concord, Santa Clara, Richmond, San Francisco, and Oakland. In addition to this regional policy scan, we reviewed relevant literature and professional guidance to identify established effective practices concerning the detention and release of intoxicated individuals. This included standards related to medical

[sa_ad=&hsa_src=o&hsa_tgt=kwd-77034807109378:loc-4084&hsa_kw=crime%20scene%20investigation%20software&hsa_mt=b&hsa_net=adwords&hsa_ver=3&msclkid=53fca8994e4c1a05ded9c0980add4e88](#)

screening, risk assessment, and post-release support, all of which informed our analysis and recommendations.

Policy Review of Neighboring Jurisdictions

The goal in reviewing the policies of other jurisdictions was to identify common patterns and general approaches, as well as the considerations involved in arresting and releasing intoxicated individuals within the community. This regional scan revealed a range of practices, from proactive diversion efforts to procedures focused primarily on custodial care. The ODPa observes that none of the reviewed policies specifically address the treatment of older adults or other vulnerable populations.

Fremont Police Department – Policy 905 “Public Intoxication”⁴⁴

Fremont’s Public Intoxication Policy takes a non-criminal, care-based approach by emphasizing protective custody and alternatives to arrest. The policy outlines detailed documentation procedures and introduces the Cherry Hill Detoxification Services Program as a voluntary alternative to jail for eligible individuals. This program allows cooperative, ambulatory persons without active warrants to be transported to a detox facility instead of being booked into jail. The policy also allows officers to issue field citations for certain warrants, further expanding access to diversion. Individuals who require medical or psychiatric care are referred to hospitals rather than detox or jail. Fremont’s policy underscores a clear preference for non-incarceration responses when safely possible.

Hayward Police Department – Policy 900 “Detention Facility”⁴⁵

While Hayward does not have a dedicated public intoxication policy, relevant guidance is included in Policy 900, which governs the use of the city’s detention facility. Section 900.12.1 prohibits the acceptance of incoherent individuals into the jail without prior medical evaluation and possible hospitalization. Section 900.15.3 establishes protocols for placing individuals in sobering cells, including supervisor approval, 30-minute welfare checks, and medical evaluation after six hours, with clearance required for stays beyond 12 hours. The policy prioritizes safety, ensuring individuals are not released until they are able to care for themselves, and requires immediate medical attention for those in withdrawal or distress.

⁴⁴ Fremont Police Department Policy 905 “Public Intoxication”:

<https://public.powerdms.com/FremontPD/tree/documents/3209035>

⁴⁵ Hayward Police Department Policy 900 “Detention Facility”: <https://www.hayward-ca.gov/sites/default/files/documents/HPD-Policy-Manual-April-2025.pdf#Page=763>

Concord Police Department – Policy 900 “Temporary Custody of Adults”⁴⁶

Concord does not have a standalone public intoxication policy, instead relying on sobering cell procedures aligned with Berkeley Police Department’s Policy 900. The policy follows the requirements of 15 CCR 1056, including documented cell logs, safety checks every 30 minutes, supervisor reviews, and medical evaluation after six hours. Individuals are held until they no longer pose a risk to themselves or others. While the policy provides clear custodial procedures, it does not reference diversion or alternatives to arrest, although officers retain discretion to release individuals under California Penal Code § 647(f).

Santa Clara Police Department – Policy 900 “Temporary Custody of Adults”⁴⁷

Santa Clara’s policy mirrors Concord’s approach, focusing on temporary custody procedures and sobering cell use in accordance with 15 CCR 1056. There is no standalone public intoxication policy, and no reference to diversion or alternative response programs, though the same statewide discretion under Penal Code § 647(f) applies.

Richmond Police Department – Policy 901 “Temporary Custody of Adults”⁴⁸

Richmond similarly follows a custodial approach aligned with the policies of Berkeley, Concord, and Santa Clara. The focus is on the safe temporary holding of intoxicated individuals using sobering cells, with no mention of non-custodial alternatives.

⁴⁶ Concord Police Department Policy 900 “Temporary Custody of Adults:”

<https://www.cityofconcord.org/DocumentCenter/View/11150/Concord-Police-Department-Policy-Manual#Page=556>

⁴⁷ Santa Clara Police Department Policy 900 “Temporary Custody of Adults”:

<https://www.santaclaraca.gov/home/showpublisheddocument/86758/638797885007830000#Page=629>

⁴⁸ Richmond Police Department Policy 901 “Temporary Custody of Adults”:

<https://www.ci.richmond.ca.us/DocumentCenter/View/67365/Richmond-Police-Department-Policy-Manual?bidId=#Page=651>

Oakland Police Department – No Available Policy⁴⁹

The Oakland Police Department does not have a policy specifically dedicated to public intoxication. However, procedures related to the temporary detention and release of individuals may fall under broader custody or detention protocols. Based on a review of the department's publicly available policy manual, there is no clear guidance addressing how intoxicated individuals should be handled in terms of arrest alternatives, use of sobering cells, or protective custody. As such, decisions regarding temporary detention and release in public intoxication cases appear to be left to officer discretion or governed by general custody policies, with no documented reference to diversion programs or non-custodial options.

Policy Review Beyond the Neighboring Jurisdictions

While our policy scan concentrated on neighboring jurisdictions within California, it is instructive to consider how other states address the detention and release of intoxicated individuals, particularly where additional tools or statutory frameworks assist officers in determining fitness for release. Although we did not identify a local jurisdiction outside California with a directly comparable policy ready for adoption, Massachusetts offers a compelling example of a system where legal precedent provides more defined mechanisms for release determinations.

In Massachusetts, public intoxication is not treated as a criminal offense. Instead, individuals found to be intoxicated in public may be placed into civil protective custody under state law. Notably, Massachusetts General Law Chapter 111B, Section 8 provides that individuals taken into protective custody due to intoxication have the *right to request a breathalyzer test*. The statute further establishes BAC-based presumptions to guide release decisions:

- BAC \geq 0.10%: Presumed intoxicated; the individual is held in protective custody.
- BAC \leq 0.05%: Presumed not intoxicated; the individual is released immediately.
- BAC between 0.05% and 0.10%: No presumption; further assessment through coordination or speech tests is required.

These provisions offer a structured and measurable framework that supports officer discretion with objective tools, enhancing both individual safety and operational

⁴⁹ Oakland Police Department Policy, does not have a policy
<https://public.powerdms.com/oakland/tree/documents/816>

clarity. Multiple municipal police departments across Massachusetts have implemented these statutory requirements in their own policies. Examples include the:

- Cambridge Department⁵⁰
- Lancaster Police Department⁵¹
- Lexington Police Department⁵²
- Medfield Police Department⁵³
- Stow Police Department⁵⁴, and
- Yarmouth Police Department⁵⁵

Each of which includes BAC-based custody and release procedures in alignment with state law.

Unlike Massachusetts, California does not have a state-level mandate or statutory guidance requiring or authorizing the use of chemical testing to determine whether a person detained for public intoxication is fit for release. Instead, individual officers or departments rely on behavioral observation, discretion, and general custodial guidelines without reference to specific BAC thresholds.

Though California does not currently mandate or widely adopt the use of breathalyzers to determine release eligibility for individuals detained under Penal Code § 647(f), the Massachusetts example demonstrates that structured tools can be used to support officer judgment while reinforcing safeguards for individuals who may still be

⁵⁰ Protective Custody Policy No. 670

<https://www.cambridgema.gov/-/media/Files/policedepartment/Policies/670protectivecustody.pdf>

⁵¹ Policy 5.07: Protective Custody

https://www.ci.lancaster.ma.us/sites/g/files/vyhlif16016/f/pages/5.07_lancaster_protective_custody.pdf

⁵² Policy 72-C: Protective Custody

<https://lexingtonma.gov/DocumentCenter/View/1256/72-C---Protective-Custody-PDF>

⁵³ Policy 3.05: Protective Custody

<https://town.medfield.net/DocumentCenter/View/6384/305-Protective-Custody-MPD>

⁵⁴ Policy 3.06: Protective Custody

https://www.stow-ma.gov/sites/g/files/vyhlif11851/f/uploads/protective_custody.pdf

⁵⁵ Policy and Procedure 2016-1A: Protective Custody

<https://yarmouthpolice.com/wp-content/uploads/2020/07/Protective-Custody.pdf>

impaired. While such approaches may require legal or regulatory changes to implement in California, they serve as a model for how more structured, health- and safety-oriented responses could be incorporated into local policy frameworks moving forward.

Research on Alternatives to Incarceration

The implementation of sobering centers as an alternative to arrest for public intoxication has gained widespread support from law enforcement organizations, including the International Association of Chiefs of Police (IACP) and the National Policing Institute. These centers provide a non-criminal environment for intoxicated individuals to recover safely, easing the strain on emergency rooms and jails while connecting individuals to supportive services.

The IACP's "Sobering Centers: Practical Implementation Guidelines" (2023)⁵⁶ emphasize the role of sobering centers as a diversionary tool that reduces arrests and promotes public safety. Successful implementation requires clear policies, officer training, and community partnerships. Policies should define eligibility criteria, such as ensuring individuals are non-violent, medically stable, and able to recover safely. Additionally, intake and release procedures must be clear, and documentation should ensure accountability.

Officer training is critical to ensure law enforcement recognizes substance use-related health risks and understands when to use sobering centers. Training also helps foster a shift toward health-centered, diversionary responses to public intoxication rather than punitive measures.

The National Policing Institute's "Evaluating the Utility of Sobering Centers: National Survey Report" (2022)⁵⁷ further supports the value of sobering centers, with many police agencies reporting benefits like saving time, offering a better alternative to jail, and connecting individuals to services. However, the report highlights challenges such as the need for clear guidelines, adequate officer training, and strong partnerships with healthcare providers and community organizations to ensure effective care.

⁵⁶ International Association of Chiefs of Police. (2023). Sobering centers: Practical implementation guidelines.

https://www.theiacp.org/sites/default/files/2023-08/Sobering%20Centers_Practical%20Implementation%20Guidelines_0.pdf

⁵⁷ National Policing Institute. (2022). Evaluating the utility of sobering centers: National survey report. National Policing Institute. https://www.policinginstitute.org/wp-content/uploads/2022/12/Evaluating-the-Utility-of-Sobering-Centers_National-Survey-Report_FINAL.pdf

Considerations for Elder Adults

The California POST *Elder and Dependent Adult Abuse Guidelines* are designed to support law enforcement agencies in developing and implementing effective policies for identifying, investigating, and responding to cases of abuse involving elder and dependent adults. While the guidelines broadly aim to ensure alignment with state laws and promote coordinated responses among key agencies for the prevention and investigation of elder abuse, they place particular emphasis on the enhanced protection of vulnerable populations—especially those in care or custody.⁵⁸ When applied to the temporary detention of elder or dependent adults, this guidance underscores the need for a thoughtful and responsive approach. Agencies should begin with a clear assessment of vulnerability, recognizing that individuals in temporary custody may have medical, cognitive, or communicative needs that require special attention and may limit their ability to advocate for themselves. Ensuring appropriate custodial care standards—including access to medication, mobility aids, hygiene support, and protection from harm—is essential during any period of detention, no matter how brief. The use of trauma-informed interviewing techniques is also critical, as elder and dependent adults may be more susceptible to fear, confusion, or retraumatization during law enforcement interactions. To support this, the POST guidelines recommend ongoing training and supervision for all personnel involved in temporary detention settings, reinforcing the importance of recognizing signs of abuse or neglect and responding in a manner that prioritizes safety, dignity, and legal compliance. These principles can be applied in the context of temporary detentions of elder or dependent adults.

Recap of Effective practices

Drawing from the analysis of policies in neighboring jurisdictions and relevant research, the following effective practices for managing intoxicated individuals underscore the importance of safety, medical assessment, and diversion from incarceration. Key strategies include:

1. **Non-Criminal, Care-Based Approach:** Jurisdictions like Fremont prioritize protective custody and detox services, offering alternatives to jail for eligible individuals and promoting recovery.
2. **Medical Evaluation Before Detention:** Policies from Hayward and Concord ensure that intoxicated individuals are medically assessed before detention, preventing unsafe conditions and addressing health needs. Massachusetts takes this one step further by integrating tools like breathalyzers into the evaluation process, providing officers with measurable criteria to guide release decisions.

⁵⁸ California Commission on Peace Officer Standards and Training. (2024). Elder and dependent adult abuse guidelines. https://post.ca.gov/Portals/0/post_docs/publications/Elder_Dependent_Adult_Abuse.pdf

3. **Use of Sobering Cells with Safety Protocols:** Sobering cells, used by jurisdictions like Hayward and Concord, include regular welfare checks and medical evaluations to monitor individuals' safety during temporary custody.
4. **Implementation of Sobering Centers:** Sobering centers offer a non-criminal environment for recovery, reducing strain on emergency rooms and jails while connecting individuals to services. Successful implementation requires clear procedures, officer training, and community partnerships.
5. **Officer Training and Community Partnerships:** Training ensures officers can identify health risks and use diversion programs effectively, while partnerships with healthcare providers enhance care and support for intoxicated individuals.
6. **Vulnerability Assessment and Trauma-Informed Care:** Early assessment helps identify elder and dependent adults with heightened medical or cognitive needs, while trauma-informed practices and proper accommodations ensure their safety and dignity during temporary detention.

These effective practices reduce reliance on punitive measures, promoting health-centered responses that safeguard the well-being of individuals in custody.

Recommendations

The Berkeley Police Department (BPD) has established strong policies that provide valuable guidance in addressing the detention and care of intoxicated individuals. Policies such as BPD Policy 431, "Medical Aid and Response," BPD Policy 440, "Sobering and Detoxification Center," and BPD Policy 900, "Temporary Custody of Adults," demonstrate a commitment to community health and safety, with a focus on diversion and medical assistance rather than punitive actions. While these policies represent a solid foundation, there are areas for improvement that could better ensure the safety of community members and prevent future incidents like the one discussed in this report. Full implementation of these policies also requires increased support from the city and community. Strengthening resources for diversion programs, improving coordination with health services, and enhancing officer training are essential to ensuring a more effective and comprehensive response, reducing the risk of harm, and helping the BPD fully realize its goals for community care and safety. To further enhance the effectiveness of the BPD's policies and ensure the safety of community members, the following recommendations are offered.

1. Revise Policies to Require Medical Clearance and Incorporate Objective Tools for Safe Release Determinations

The BPD should revise Policy 900, Temporary Custody of Adults, to mandate medical clearance for community members who are rejected from jail and are being detained solely under California Penal Code § 647(f) for public intoxication. This revision would

remove discretionary decision-making in high-risk situations and ensure that individuals who may be medically compromised receive proper evaluation before release. The policy should also be revised to specifically identify older adults as a vulnerable population requiring heightened protections, in alignment with BPD Policy 313, Senior and Disability Victimization.

This recommendation stems from concerns identified in the incident under review, where available materials indicate that the community member—an older adult—may not have received a proper medical evaluation prior to release. Although the officer determined that the individual appeared less intoxicated than at initial contact, the community member's BAC was later measured at 0.128, and body-worn camera footage shows him visibly struggling to walk and move independently. Despite California Penal Code § 849(b)(3) authorizing officers to transport and release individuals to medical care without further legal proceedings, the individual was ultimately released without medical clearance and later died at the hospital. These facts underscore the need for a more structured release process, particularly for older individuals and others at elevated risk of medical distress.

To support officer decision-making and reduce the likelihood of premature release, the policy should also authorize the optional, non-punitive use of breathalyzer tests as an objective tool to assist in determining whether a person is fit for release. Modeled after Massachusetts General Law Chapter 111B, Section 8, BPD could incorporate presumptive BAC thresholds to guide officers in these situations. These tools should not replace behavioral observation but serve to reinforce safe custody decisions with measurable criteria.

Suggested policy language to be added to BPD Policy 900:

When an individual is detained solely for public intoxication under Penal Code § 647(f), and jail intake is denied or medical vulnerability is suspected, the individual shall not be released on their own recognizance without medical clearance from a qualified healthcare provider. Additionally, officers may offer a voluntary, non-punitive preliminary breath test to support their fitness-for-release determination. A BAC reading of 0.05% or less shall establish a presumption of sobriety and may prompt consideration for release absent other safety concerns. A BAC of 0.10% or more shall establish a presumption of continued intoxication, and the individual shall not be released unless medically cleared. BAC readings between 0.05% and 0.10% shall require additional observational assessments of coordination, speech, and responsiveness.

These additions would enhance officer safety protocols, reduce liability, and provide consistency in handling individuals detained for intoxication. They also recognize the

elevated medical risks faced by older adults and other vulnerable populations, ensuring that temporary custody does not become a point of avoidable harm.

- 2. *Expand Diversion Options Beyond Cherry Hill Sobering Center:*** *The BPD should explore additional options beyond the Cherry Hill Sobering Center to provide officers with a broader range of alternatives to incarceration for individuals whose sole charge is intoxication. Expanding these options will offer a more flexible approach to addressing public intoxication, ensuring that individuals are directed to the appropriate care and treatment, rather than solely relying on one facility.*

This recommendation is made in recognition that placement at the Cherry Hill Sobering Center is not always guaranteed, even for individuals who meet eligibility criteria. Cherry Hill's sobering services are utilized by numerous law enforcement agencies, hospitals, and community organizations across the region, and the 24-hour sobering center has a limited capacity of only 50 beds. This creates a structural barrier to consistent diversion and limits BPD's ability to provide timely alternatives to custody for individuals detained solely due to intoxication.

To address this limitation, the City of Berkeley could consider a multidepartment effort to explore the creation of a local sobering center independent of the criminal justice system. As outlined in the IACP guide, *Sobering Centers as an Alternative to Incarceration: A Planning and Implementation Guide* (2023),⁵⁹ such facilities can reduce officer time on scene, improve outcomes for individuals experiencing substance use crises, and support broader public health and safety goals. Expanding diversion options beyond Cherry Hill would give BPD more flexibility to direct individuals toward appropriate care and reduce reliance on custodial settings.

- 3. *Review the Use of Technology for Public Welfare:*** *The PAB should consider reviewing the potential benefits of modern technology to enhance public safety and welfare. Specifically, the use of AI-enabled surveillance cameras could help identify medical emergencies or situations requiring immediate intervention, ensuring that the BPD can respond proactively and appropriately to medical crises in the community, beyond the scope of crime enforcement.*

This recommendation arises from a gap observed in post-release monitoring of a community member, as outlined in this report. After being released by BPD, the individual

⁵⁹ International Association of Chiefs of Police. (2023). Sobering centers as an alternative to incarceration: A planning and implementation guide. https://www.theiacp.org/sites/default/files/2023-09/FINAL_Sobering_Centers_Guide_508c.pdf

went several hours without being identified as experiencing medical distress. Unfortunately, the community member later passed away at the hospital, and earlier intervention may have provided a different outcome. The recommendation suggests that AI-enabled public surveillance cameras or similar technologies could offer a tool for timely response by both BPD and emergency medical services in situations of medical distress. As the BPD is considering acquiring AI-capable surveillance cameras, the PAB may want to explore how such technology could be utilized for public welfare, in addition to its use in crime enforcement, during their review of BPD's request under Berkeley Municipal Code 2.99.⁶⁰

By exploring the potential use of such technology, the City of Berkeley could enhance its ability to identify and respond to medical emergencies in real time, especially in situations where immediate assistance may not be available. A review of AI-enabled surveillance could provide the PAB with an opportunity to consider how these tools might support a more comprehensive approach to public safety, allowing the BPD to address health-related emergencies and better serve the community.

4. Call on the California Legislature to Establish Statewide Protective Custody Standards Mirroring Massachusetts General Law Chapter 111B, Section 8:

The PAB should consider asking the City of Berkeley Council to should urge the California Legislature to consider amending California Penal Code § 647(g) or enacting a companion statute to establish statewide protective custody procedures for intoxicated individuals, similar to those in Massachusetts. Such legislation should provide individuals taken into civil protective custody due to intoxication with the right to request a breathalyzer test and establish presumptive BAC thresholds for release or continued observation.

Suggested amendment language for the California Penal Code could read:

An individual taken into protective custody solely for public intoxication under Penal Code § 647(f) shall be informed of their right to request a chemical breath test. A test result indicating a blood alcohol content of 0.05 percent or less shall create a presumption that the individual is no longer intoxicated and may be released unless other medical or safety concerns are present. A result of 0.10 percent or higher shall create a presumption of continued intoxication, and the individual shall be held until deemed fit for

⁶⁰ Berkeley Municipal Code 2.99.030 "City Council Approval Requirement":

<https://berkeley.municipal.codes/BMC/2.99.030>

release by a qualified medical or custodial authority. Individuals with intermediate results shall be further evaluated using standardized field sobriety or wellness assessments.

Codifying such a standard would support equitable and medically informed treatment of individuals detained for intoxication across jurisdictions, reduce liability, and create statewide consistency in line with trauma-informed and health-centered policing.

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Call for Service Detail Report – CFS 865

CCTV Footage from the BPD Jail Sally Port – January 8, 2022

Coroner's Investigation Report Case Number 2022-00135

Incident Report Number 22-1193

Incident Report Number 2022-00000017

ODPA Personnel Interviews with Involved Officers

ODPA Personnel Interview with Supervising Officer

Toxicology Report Conducted by NMS Labs

⁶¹ For the purposes of the Public Records Act, the ODPa is not the official custodian of these records. Some of the materials are part of a personnel file or misconduct investigation and may not be subject to public disclosure under California Penal Code Section 832.7. Any request for these records should be directed to the BPD or the Alameda County Coroner's Office. You can submit a Public Records Act (PRA) request to the City of Berkeley at <https://cityofberkeleyca.nextrequest.com/requests/new> and to Alameda County at <https://alamedacountysheriffca.nextrequest.com/>.

APPENDIX

Appendix 1. Proposed Changes to Policy 431.9 “Sick or Injured Arrestee”

The following changes to BPD Policy 431.9 “Sick or Injured Arrestee” are proposed:

431.9 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. **Officers shall provide particular care for adults who may be at heightened risk due to age or disabilities, ensuring their medical needs are promptly addressed.** If the officer suspects the arrestee is feigning injury or illness, the officer should contact a supervisor to determine whether medical clearance is necessary before booking.

If the jail or detention facility refuses to accept custody based on medical screening, the officer should note the name of the facility staff member refusing custody and the reason for refusal, then notify a supervisor to determine the appropriate action.

Arrestees with serious medical issues should be transported by ambulance. **Adults at heightened risk due to age or disabilities may require additional medical attention during transport.** Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee shows symptoms of life-threatening conditions, such as breathing problems or an altered level of consciousness, or claims an illness or injury requiring EMS response. **Officers should be particularly vigilant for signs of medical distress in adults at heightened risk due to age or disabilities, as these individuals may exhibit less obvious symptoms.**

Current BPD Policy 431 “Medical Aid and Response”:

https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=437

Appendix 2. Proposed Changes to Policy 900 “Temporary Custody of Adults”

The following changes to BPD Policy 900.11.2 “Sober Release” are proposed:

900.11.2 SOBER RELEASE

No person shall be released from custody in an intoxicated condition.

To be eligible for release from custody, an individual must be sober to the extent he/she can care for him/herself in public (ref. PC §647(f)).

This protocol does not preclude release of an intoxicated adult upon Notice To Appear into the custody of a sober and responsible adult, provided that adult will assume responsibility for the intoxicated adult.

This protocol does not preclude release of an intoxicated juvenile into the custody of his/her sober and responsible adult parent or guardian, provided that adult will assume responsibility for the intoxicated juvenile.

When specifically requested by the arresting officer, individuals in custody may be released pursuant to PC § 849(b) when sober. *When an individual is detained solely for public intoxication under Penal Code § 647(f), and jail intake is denied or medical vulnerability is suspected, the individual shall not be released on their own recognizance without medical clearance from a qualified healthcare provider. Additionally, officers may offer a voluntary, non-punitive preliminary breath test to support their fitness-for-release determination. A BAC reading of 0.05% or less shall establish a presumption of sobriety and may prompt consideration for release absent other safety concerns. A BAC of 0.10% or more shall establish a presumption of continued intoxication, and the individual shall not be released unless medically cleared. BAC readings between 0.05% and 0.10% shall require additional observational assessments of coordination, speech, and responsiveness.*

Neither the passage of any set period of time, nor posting of or ability to post bail, shall be factors considered in regard to evaluation of an individual's sobriety.

The following new section is proposed for inclusion in BPD Policy 900, "Temporary Custody of Adults":

900.XX.X ELDER AND DEPENDENT ADULT

For the purposes of this policy, “Elder” shall refer to a person who is 65 years of age or older as defined in PC §368. “Dependent adult” shall refer to a person who, pursuant to

PC § 368.6, is between the ages of 18 and 64 and has physical or mental limitations that restrict their ability to carry out normal activities or protect their rights. This includes, but is not limited to, persons with physical or developmental disabilities or whose physical or mental abilities have diminished due to age.

Any elder or dependent adult who is under the influence of drugs or alcohol to the extent that their life or well-being is at risk, or they are unable to care for themselves, shall not be accepted into the Jail without first being examined and cleared for incarceration by a physician. Once cleared for incarceration, the individual may be booked into the Jail.