BART PD Policy Manual

Temporary Custody of Adults

900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Bay Area Rapid Transit Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy.

Custodial searches are addressed in the Custodial Searches Policy.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Lock Up - A room or secure enclosure that is primarily for the secure detention of adults upon arrest.

Administrative Cuffing Station - An immovable bench with a ring to secure handcuffs where the detainee is not left unattended during pre-booking processing. (Civic Center and Fruitvale offices)

Safety checks - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

Temporary custody - The time period an adult is in custody at the Bay Area Rapid Transit Police Department prior to being released or transported to a housing or other type of facility.

900.1.2 DETENTION OF PRISONERS IN THE TEMPORARY HOLDING FACILITY It is the policy of the BART Police Department that prisoners detained in the our lock ups shall be released or transported to another facility, per the provisions of this manual, as soon as possible and practical.

The BART Police Department Detention Facilities are classified by the California Board of State and Community Corrections as "Lock Ups" and do not meet the definition of a local detention facility pursuant to California Penal Code 6031.4. It is the policy of the BARTPolice Department that prisoners should not be detained in the lock ups for a period of more than six (6) hours, absent exigent circumstances. Any prisoner detained in a lock up in excess of six (6) hours will require watch commander notification and documentation in the related incident report of the exigent circumstances. Supervision and accountability for processing, searching, and temporary detention of individuals within the facility is the responsibility of the arresting officer, unless relieved by an authorized department member.

Restraint devices, other than handcuffs or the WRAP device, will not be used in the BART Police Department Lock Up Facilities. Any prisoners that would require any type of restraint device, other than handcuffs or WRAP device, will be transported to the appropriate facility. Prisoners will not be secured to fixed objects unless it is designed and intended for such use. This does not preclude other approved restraint devices being utilized for transportation purposes.

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900.2 POLICY

The Bay Area Rapid Transit Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

An administrative review of lock up areas and procedures will be completed annually. The zone commanders will write a memorandum to the Support Services lieutenant to documenting the status of their zone's lock up areas, as well as any recommendations to changes in the procedures outlined in this policy. The zone commander will ensure any facility issues affecting the lock up area(s) are resolved and the Support Services lieutenant will facilitate making changes to the policy or procedures.

900.2.1 OPERATIONAL RESPONSIBILITIES - ZONE SERGEANTS

The zone sergeant is responsible for the operation of the lock up facilities during his/her shift. Such responsibility includes, but is not limited to:

- 1. Making the decision as to who may or may not be held.
- 2. Inspection of the facilities to insure compliance with all applicable laws, standards, policies and procedures and reporting any deficiencies to the appropriate zone commander. The inspection will include but not be limited to:
 - (a) Ensuring inspections are conducted on a monthly basis.
 - (b) Ensuring a visual inspection of each cell to include under the bench and drinking fountain/toilet, if applicable, prior to each use.
 - (c) Reviewing all custody logs to insure completeness.
 - (d) Ensuring there are adequate supplies to include first aid kit, gloves, and report forms.
 - (e) Ensuring cleanliness and all hygiene standards are being met.
 - (f) Ensuring a check of fire and life safety items to include the fire extinguisher and first aid/CPR supplies, as well as ensure a visual inspection of the fire sprinkler heads for obstructions, rust or leakage, is conducted.
- 3. If necessary, assuring arrestees are allowed access to a telephone per Penal Code § 851.5.
- 4. Assuring that no arrestee is held for more than six hours, nor longer than legally allowable, absent exigent circumstances, without the appropriate documentation and notification to the on-duty watch commander.
- 5. Evaluating injured prisoners and arranging for proper medical aid.
- 6. Assuring all arrestees are promptly released according to all applicable laws or are transported to County Jail as soon as possible.
- 7. Assure appropriate charges are added or included in the arrest report in all instances which result in physical harm or serious threat of physical harm, to any employee or

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- arrestee or any person or whenever an arrestee damages or destroys District property or attempts to do so.
- 8. Assure constant supervision of detainees not contained in a secured lockup area.
- 9. Assure face-to-face visual safety checks of secured detainees are made at least once every thirty (30) minutes.
- 10. Assure that a briefing is conducted at shift change, alerting oncoming personnel as to the status of the prisoner(s).

900.2.2 PRISONER CLASSIFICATION AND SCREENING

It is the policy of the BART Police Department to segregate prisoners by gender.

900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours, absent exigent circumstances. Only authorized employees of the BART Police Department or sworn law enforcement officers from an allied agency shall have access to an individual held in one of our temporary holding facilities.

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Bay Area Rapid Transit Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
 - 1. If the officer taking custody of an individual believes that the individual may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to themselves or others (15 CCR 1053; 15 CCR 1055).

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- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to the individual's health or safety.
- (j) Any individual with an obvious developmental disability (15 CCR 1057).
- (k) Any individual who appears to be a danger to themselves or others due to a behavioral crisis, or who appears gravely disabled (15 CCR 1052).
- (I) Any individual who needs restraint beyond the use of handcuffs orWRAP device for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability.

When utilizing an administrative cuffing station, officers will ensure detainees are not left unattended and are under constant supervision. Officers can remain armed when using the two administrative cuffing station locations.

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

900.4 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the local or county jail or the appropriate mental health facility.

The officer should promptly notify their supervisor of any conditions that may warrant immediate medical attention or other appropriate action. The supervisor shall determine whether the individual will be placed in a lock up, immediately released or transported to jail or other facility.

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900.4.1 RELEASE OF INTOXICATED PRISONERS

Intoxicated persons will be handled in the most expedient manner possible. Intoxicated persons will not be held in the lock up longer than necessary to complete the booking paperwork and should be transported to the county jail as soon as possible.

900.4.2 OTHER RELEASE REQUIREMENTS

- (a) The releasing officer shall inspect the cell area for damage prior to the release or transportation of any inmate.
- (b) Record any damages noted in the criminal incident report.
- (c) Photograph such damage to support additional charges.
- (d) All property, not to include evidence, contraband or dangerous weapons, shall be returned to the prisoner.
- (e) Dispatch is to be notified of the prisoner's release.

900.4.3 SCREENING AND PLACEMENT

The officer responsible for an individual in custody shall do the following:

- (a) When feasible, ensure males and females are separated by sight and conversational sound.
- (b) Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.
- (d) Ensure separation, as appropriate, based on other factors, such as age (juveniles), criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation. Juveniles should be separated from adults by sight and conversational sound.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks are conducted and noted on the prisoner activity sheet. Significant incidents/activities should be reported to a supervisor.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
 - (a) There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
 - (b) This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins, upon request.
- (d) There is reasonable access to a drinking fountain or water, upon request.

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- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (g) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (h) Adequate furnishings are available, including suitable chairs or benches.

900.5.2 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, the person will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Bay Area Rapid Transit Police Department. They should be released or transferred to another facility as appropriate.

900.5.3 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to the individual's health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

900.5.4 TELEPHONE CALLS

Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary. In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations and logistics should be balanced against the individual's desire for further telephone access.

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- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at the individual's own expense.
 - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
 - 2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.
- (b) The individual should be given sufficient time to contact whomever the individual desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
 - (a) Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use their judgment in determining the duration of the calls.
 - (b) Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that they may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).
- (c) Calls between an individual in temporary custody and the individual's attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded (Penal Code § 851.5(b)(1)).

900.5.5 FIREARMS AND OTHER SECURITY MEASURES

- 1. Firearms and knives shall not be permitted in the lock up area. They should be properly secured in the provided lock boxes. An exception may occur only during emergencies.
- 2. All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.
- 3. Cell doors are to be locked at all times when prisoners are detained in the lock ups.
- 4. Individual portable radios are equipped with orange panic buttons that, when activated, alerts dispatch to an emergency situation.

900.6 PERSONAL PROPERTY

The personal property of an individual in temporary custody should be removed, inventoried and processed, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. The releasing officer shall document whom the property was released to in their police report.

If the individual is transferred to another facility or court, the member transporting the individual shall turn over all property to the other facility. All property that is not accepted by the other facility or court will be inventoried and placed into safekeeping. The individual will be required to sign

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a BART Police property receipt for the property being retained in safekeeping. The Department shall maintain a copy of this property receipt.

A supervisor shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property.

900.7 USAGE OF LOCK UP

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched, and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.
- (b) If available, the individual should be constantly monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) The individual's initial placement into, including the applicable charge(s), and the removal from a locked enclosure shall be logged on the appropriate form.
- (e) Any meals provided to the individual should be noted in the incident report and detention log, if applicable.
- (f) Safety checks by department members shall occur no less than every 30 minutes.
 - (a) Safety checks should be at varying times.
 - (b) All safety checks shall be logged.
 - (c) The safety check should involve questioning the individual as to his/her well-being.
 - (d) Individuals who are sleeping or apparently sleeping should be awakened.
 - (e) Requests or concerns of the individual should be logged.

900.8 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Operations <u>Deputy Chief</u> will ensure procedures are in place to address any suicide attempt, death, or serious injury of any individual in temporary custody at the Bay Area Rapid Transit Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Watch Commander, Chief of Police, and Criminal Investigations Lieutenant

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- (c) Notification of the spouse, next of kin, or other appropriate person
 - 1. <u>In-custody death notification shall be made within 24 hours as provided by Penal Code § 4032.5.</u>
- (d) Notification of the appropriate prosecutor
- (e) Notification of the General Counsel
- (f) Notification of the Coroner
- (g) Notification of the Office of the Independent Police Auditor (OIPA)
- (h) Evidence preservation
- (i) In-custody death review reports in compliance with 15 CCR 1046
 - 1. A copy of the initial review report of an in-custody death shall be provided to the BSCC within 60 days of the death.
- (j) Preparation of a written report to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)
 - 1. A copy of the report submitted to the Attorney General shall also be submitted to the BSCC within 10 days of the death (15 CCR 1046).
 - 2. Any change or new information that becomes available after the initial reporting to the Attorney General shall be updated in the report and provided to the Attorney General within 10 days of the date of the change or the date the new information becomes available.

900.8.1 IN-CUSTODY DEATH PUBLICATION

The Chief of Police or the authorized designee should ensure that all specified information relating to an in-custody death is posted on the department website as prescribed and within the time frames provided in Penal Code § 10008.

900.9 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) If applicable, the photographing and fingerprinting of arrestees will be accomplished by the receiving local or county jail as outlined in their respective policy and booking procedures.
- (d) It has been confirmed that the correct individual is being released or transported.
- (e) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.

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- (f) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (g) The individual is not permitted in any nonpublic areas of the Bay Area Rapid Transit Police Department unless escorted by a member of the Department.
- (h) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
 - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (i) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.

900.9.1 ESCAPE

- (a) Attempted Escape During the course of an escape, the Officer responsible for the prisoner in custody shall use any one of the following means to summon assistance and prevent the escape of a prisoner:
 - Notify Police personnel via radio
 - 2. Use the facility telephone to notify Police personnel
 - 3. Or any verbal means to summon assistance in preventing the escape.

(b) Confirmed Escape

- When an escape has been confirmed, the Watch Commander will be the incident commander and will direct the search and investigation.
- 2. The Watch Commander and assisting officers will take immediate action to correct any security breech to prevent further escapes.
- 3. The arresting officer of the escapee will provide the following information to assist police personnel:
 - (a) Name and number of escapees
 - (b) Physical description of escapee(s)
 - (c) Last known direction of travel
 - (d) Method of escape and weapons, if any
 - (e) Provide escapee photograph as soon as possible
 - (f) Provide any relevant information about the escapee
 - (g) Address of escapee's residence
 - (h) Identity and address of friends, relatives or associates of escapee
 - (i) Description of escapee's vehicle

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- 4. There will be an immediate notification to all local law enforcement agencies regarding the escape.
- 5. The Watch Commander will notify the Chief of Police and Operations Bureau Deputy Chief.
- 6. The Criminal Investigations Division will be notified and requested to respond to assist in the investigation.

900.9.2 FORM REQUEST FOR PETITION TO SEAL RECORDS

Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.91).

The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

900.10 ASSIGNED ADMINISTRATOR

The zone commanders will ensure any reasonably necessary supplemental procedures are in place to address the following issues:

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety
- (h) Disaster plans
- (i) Building and safety code compliance
- (j) Civil and other disturbances including hostage situations
- (k) Periodic testing of emergency equipment
- (I) Inspections and operations reviews

900.11 FIRE SAFETY

The lock up areas shall be inspected on a monthly basis by an individual designated by zone commander to ensure:

- (a) No flammable materials are stored in the detention area
- (b) Fire extinguishers are serviceable
- (c) First aid kits are readily available and completely stocked
- (d) Smoke detectors are operational

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The results of the monthly inspection shall be documented in writing in a memorandum to the zone commander. The memorandums will be forwarded to the Records Division and will be retained for a period of two years.

900.11.1 FIRE PROCEDURES

In the event of a fire in the lock up area the discovering employee should immediately:

- 1. NotifytheFireDepartment,WatchCommander and on duty patrol personnel simultaneously through the Communications Center
- 2. Initiate movement of all prisoners to an area of safety through the utilization of the evacuation plan
- 3. Begin fire suppression procedures as applicable.

Responding patrol officers should be responsible for:

- 1. The evacuation of prisoners
- 2. Obtaining medical services as needed
- 3. Securing prisoners in a safe area
- 4. Arranging transportation of prisoners to the County Jail
- 5. Initiating an investigation concerning the origin of the fire along with filing necessary reports.

The County Fire Marshall should make annual inspections of the lock ups.

900.11.2 EVACUATION OF LOCK UP

If an evacuation of the lock up becomes necessary, the following should be considered:

- (a) PRIMARY CONCERNS
 - 1. Safety of public
 - 2. Safety of department personnel
 - 3. Safety of prisoners
 - 4. Security of prisoners
- (b) NOTIFICATION
 - Watch Commander
 - 2. Zone Sergeant
 - 3. All available sworn personnel
 - 4. Fire Department
 - 5. Medical aid
 - 6. Chief of Police

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- Operations Bureau Deputy Chief
- (c) EMERGENCY EVACUATION When time permits, all inmates will be restrained, as deemed necessary by the officer conducting the evacuation. The evacuation will be conducted in an orderly fashion.
- (d) EVACUATION FORMATION AREA All prisoners will form in the designated location where they will be held until the lock up can again be safely occupied, or as in the case of an emergency of a long duration, until they can be transported to another facility.
 - 1. If possible, juveniles are to be kept separate from adult prisoners, and females from male prisoners.
 - Only after the safety and security of the prisoners is assured will personnel, not detailed to prisoner security, participate in fire suppression or other emergency activities.
- (e) DISTRICT-WIDE OR REGIONAL DISASTERS In cases of District-wide or regional disasters, the Watch Commander may authorize the release of prisoners detained for misdemeanors or felonies involving property crimes only. Every available effort will be made to continue the custody of violent felons or felons accused of violent crimes to ensure the safety of the public.
- (f) REPORTS The zone sergeant will ensure that any emergency evacuation of the lock up is documented and that copies of those reports be forwarded to the Chief of Police.

900.12 TRAINING

Department members should be trained and familiar with this policy and any supplemental procedures.

The Personnel and Training Lieutenant shall maintain records of all such training in the member's training file.