

Truro Police Department

E-911 HANGUP RESPONSE

Policy Number: OPS-6.25

REFERENCE: TPDM Policy ADM-2.02

Effective Date: October 25, 2002

Revised Date

Accreditation Standards:

Mass. Gen. Law Chapter 560 CMR 2.06(4)

Other: Commonwealth v. Hurd 29 Mass. App. Ct. 929 (1990), Commonwealth v Leonard 422 Mass. 504 (1996), Commonwealth v. Bates 28 Mass. App. Ct. 217 (1990), Commonwealth v. DiGeronimo 38 Mass. App. Ct. 714 (1995), Mincey v. Arizona 437 U.S. 385, 392 (1978)

I. GENERAL CONSIDERATIONS AND GUIDELINES

In 560 CMR 2.06(4), concerning unanswered or silent 911 calls, it states that police “shall call back any unanswered or silent 911 call...” Additionally, it states that “are required to develop call handling procedures and urged to dispatch a police cruiser] if the [department] receives no response to the call back.” The Truro Police Department chose to expand this regulation by mandating response to all 911 hang-up calls, regardless if contact is made or not.

In the recent AGs Law Enforcement Newsletter, August/September 1996, @ page 34, addressing this issue, it states that “Massachusetts precedent [] suggests that the courts will uphold warrantless entries into private homes where an officer is acting in the capacity of a ‘community caretaker.’ Less clear, however, is whether evidence of a crime observed by officers who have executed a warrantless entry into a private home based on a silent e-911 call would be admissible: trial. The answer can only be determined on a case-by-case basis due to the fact-specific nature of the circumstances. If the warrantless entry into the home was not a pretext for criminal investigatory purposes, and the scope of the search was limited to be commensurate with the emergency situation, any evidence seized as a result of the warrantless search stands a good chance of being held admissible. Where evidence of a crime is seen during this type of limited search and the emergency situation has ended, the best practice would seem to be, however, for police to secure the area and obtain a search warrant.”

The case of *State v. Lynd*, 771 P.2d 770 (Wash. App. Ct. 1989) is the only in the United States that involved police effecting an entry on a 911 hang-up call. When the police arrived they observed the husband with a recent cut on his face. He stated that he and his wife had been fighting. The husband refused the officers entry into the apartment to check on his wife. The police officers then forced themselves into the apartment and discovered marijuana in plain view. The court stated that entry into a dwelling can be justified if it is “reasonable [to believe an emergency existed.” The Court also stated that the police officers would have been derelict in their duties by not effecting entry into the dwelling under the circumstances.

IV. POLICY

It is the policy of the Truro Police Department that all E911 hang-up calls be handled expeditiously and professionally. If the police are unable to ascertain any information, a decision must be made concerning whether or not they should make an entry under the circumstances. *Without probable cause, consent or a warrant, police may consider relying on the emergency exception. This exception is also called the community caretaking doctrine. Concerning the emergency exception, the United States Supreme Court in Mincey v. Arizona, 437 U.S. 385,392 (1978), stated that “ need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency.”*

V. PROCEDURES

All 911 hang-ups will be followed up by a telephone call to the telephone number on the ani/ali screen. The Telecommunicator on duty shall ascertain whether or not there is a problem at the caller location. Officers will respond to all 911 calls, even if the caller or Telecommunicator insists that there is no problem.

If no contact is made with the caller, an officer will be sent to the caller location. Officers should use common sense, and evaluate and consider the following conditions prior to making entry:

1. Visually inspect the premises to see if there are any signs of a break
2. Do they hear/see anything unusual emanating from within
3. Attempt to obtain any information from the neighbors
4. Are the police aware of any past problems at that address

If entry to the caller location is made:

- a. A log entry shall be made detailing such entry.
- b. A caretaker (if available) will be called to secure the property
- c. All reasonable attempts to secure the property will be made

- d. All attempts to notify the owner on record will be made