

<b>FRAMINGHAM POLICE DEPARTMENT</b>		Next Review Date: Annually
<b>Subject: Handling the Mentally Ill</b>		Effective Date: 03/01/2009; Rev. 08/30/2017; 12/01/2022
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MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>74.2.1</b>		POLICY <b>100-14</b>
Distribution:  Police Department	Issuing Authority <i>Lester Baker</i> <b>Lester Baker</b> Chief of Police	

## Policy Statement

Reaction to the mentally ill covers a wide range of human responses. People afflicted with mental illness are ignored, laughed at, feared, pitied and often mistreated. Unlike the general public, however, police officers cannot permit personal feelings to dictate their reaction to the mentally ill. Their conduct must reflect a professional attitude and be guided by the fact that mental illness, standing alone, does not permit or require any particular police activity. Individual rights are not lost or diminished merely by virtue of a person's mental condition. These principles, as well as the following procedures, must guide an officer when their duties bring them in contact with a mentally ill person.

## References

None

## **Special Terms**

JDP: Jail Diversion Program

PES: Psychiatric Emergency Services

## **Policy**

### **I. Recognition and Handling**

- A. An officer must be able to recognize a mentally ill individual if he is to handle a situation properly.
  - 1. Factors that may aid in determining if a person is mentally ill are listed below (a through o). These factors are not necessarily conclusive and are intended only as a framework for proper police response.
    - a. severe changes in behavioral patterns and attitudes;
    - b. unusual or bizarre mannerisms;
    - c. loss of memory / disorientation
    - d. hostility to and distrust of others;
    - e. lack of cooperation and tendency to argue;
    - f. known history of mental illness
    - g. unresponsiveness to social cues
    - h. distracted/inattentive behavior
    - i. impaired judgment
    - j. substance intoxication
    - k. grandiosity; exaggerated self-appraisal
    - l. rapid, hard to interrupt speech
    - m. suicidal statements, hopelessness, or irrational guilt

- n. paranoia
  - o. responding to voices/one-sided conversations
2. An officer should ask questions of persons available to learn as much as possible about the individual. It is especially important to learn whether any person, agency or institution presently has lawful custody of the individual, and whether the individual has a history of criminal, violent or self-destructive behavior. Also, ask whether the person has any current treatment providers, prescribed medications, compliance with medications, substance abuse issues, history of self-injurious or suicidal behavior.
  3. An officer should call for the on-duty Jail Diversion Program (JDP) clinician for assistance. In the absence of the JDP clinician, Psychiatric Emergency Services (PES) personnel are available to respond on a 24-hour basis and can be reached immediately through dispatch.
  4. It is not necessarily true that mentally ill persons will be armed or resort to violence. However, this possibility should not be ruled out and because of the potential dangers, the officer should take all precautions to protect everyone involved. However, it is more likely the person is at risk for harming him/herself.
- B. It is not unusual for such persons to employ abusive language against others. An officer must ignore verbal abuse when handling such a situation.

## II. Taking a Mentally Ill Person into Custody

- A. A mentally ill person may be arrested if:
1. [S]he has committed a crime.
  2. [S]he poses a **substantial risk of physical harm** to other persons by exhibiting homicidal or other violent behavior, or poses a substantial risk of physical impairment or injury to him/herself (for example, by threats or attempts at suicide), or [s]he is exhibiting gross impairment of judgment, and is unable to protect him/herself in the community.

3. He has escaped or eluded the custody of those lawfully required to care for him.
4. When an officer possesses a commitment order pursuant to G.L. c. 123 § 12(a), commonly referred to as a “pink paper” or “Section 12.”

**NOTE: A Warrant of Apprehension** is required if it appears that the committal paper (G.L. c. 123 § 12) will not be voluntarily complied with and force is necessary to take the person into custody.

5. Officers may *not* make a forcible entry into a person’s dwelling to execute an involuntary civil commitment order( G.L. c. 123 § 12) unless they have a:
    - a. Warrant of Apprehension, **or**
    - b. a civil commitment order per G.L. c. 123 § 12 **and** *exigent circumstances*
- B. In an emergency situation, if a physician or qualified psychologist is not available, **a police officer**, who believes that failure to hospitalize a person would create a **likelihood of serious harm** by reason of mental illness, **may restrain** such person and apply for the hospitalization of such person for a four-day period at a public facility or a private facility authorized for such purpose by the Massachusetts Department of Mental Health.<sup>i</sup>
- C. Although "any person," including a police officer, may petition the district court to commit a mentally ill person to a facility for a four day period if failure to confine that person would cause a likelihood of serious harm<sup>ii</sup>, generally, a police officer should be the last person to initiate such proceedings. Commitment proceedings under section 12(a) of Chapter 123 should be initiated by a police officer only if all of the following procedures have been observed:
1. determination has been made that there are no outstanding commitment orders pertaining to the individual; and
  2. every effort has been made to enlist an appropriate physician, psychiatrist, psychologist, social worker or family member to initiate the commitment proceedings; and
  3. the officer has received approval from the Shift

Commander.

- D. If a patient or resident of a facility of the Massachusetts Department of Mental Health is absent without authorization, the superintendent of the facility is required to notify the state and local police, the local district attorney and the next of kin of such patient or resident. Such persons who are absent for less than six months may be returned by the police.
- E. Whenever police take a mentally ill person into custody JDP clinician should be notified. Police officers are immune from civil suits for damages for restraining, transporting, applying for the admission of or admitting any person to a facility if the officer acts pursuant to the provisions of Chapter 123.<sup>iii</sup>
- F. At all times, an officer should attempt to gain voluntary cooperation from the individual.
- G. Any officer having contact with a mentally ill person shall keep such matter confidential except to the extent that revelation is necessary for conformance with departmental procedures regarding reports or is necessary during the course of official proceedings.
- H. Whenever a mentally ill or intellectually challenged person is suspected of a crime and is taken into custody for questioning, police officers must be particularly careful in advising the subject of their Miranda rights and eliciting any decision as to whether the individual will exercise or waive those rights. The departmental policy and procedure on ***Interrogating Suspects and Arrestees*** should be consulted. In addition, it may be very useful to incorporate the procedures established for interrogating juveniles when an officer seeks to interrogate a suspect who is mentally ill or intellectually challenged. Those procedures are set out in the departmental policy and procedure ***Handling Juveniles***. Before interrogating a suspect who has a known or apparent mental condition or disability, police should make every effort to determine the nature and severity of that condition or disability, the extent to which it impairs the subject's capacity to understand basic rights and legal concepts such as those contained in the Miranda warnings and whether there is an appropriate "interested adult," such as a legal guardian or legal custodian of the subject, who could act on behalf of the subject and assist the subject in understanding his Miranda rights and in deciding whether or not to waive any of those rights in a knowing, intelligent and voluntary manner.
- I. If a mentally ill or intellectually challenged person is reported lost or

missing, police should consult the departmental policy and procedure on ***Missing Persons***.

- J. An officer who receives a complaint from a family member of an allegedly mentally ill person who is not an immediate threat or is not likely to cause harm to themselves or others, should advise such family member to consult a physician or mental health professional. The officer should also notify the JDP clinician.
- K. Once an officer arrests a mentally ill person who is unable to be safely contained at the holding facility, the person should be brought to a proper mental health facility for evaluation, i.e. Metro-West Medical Center if the JDP clinician or PES is unavailable.

If the person is able to be safely contained, but is threatening self-harm or presenting with concerning psychiatric symptoms, contact the JDP clinician, or in their absence PES for consultation or to request evaluation at the station.

Occasionally, the facility to which an officer transports a mentally ill person will either refuse to admit them entirely or will direct the officer to another mental health facility. Officers should contact the Commanding Officer for specific instructions in such cases.

### **III. Detainment for Criminal Offense**

- A. The following is to be followed when a person is in Police Lock-Up prior to arraignment, but is need of in-patient psychiatric hospitalization due to unsafe behaviors.
  - 1. There should be a probable cause determination as required by *Jenkins*.
  - 2. The detainee should receive an in-cell assessment by the JDP clinician or in their absence a clinician from PES.
  - 3. If the clinician recommends inpatient psychiatric evaluation, the clinician will contact the on-call clinician for the Department of Mental Health who will respond directly to the station and evaluate the prisoner. They will locate an appropriate locked in-patient placement and have an in-patient bed held for the detainee. A recommendation for hospitalization of the detainee should be prepared with the findings.
  - 4. Once an in-patient bed has been located, the judicial

response system on-call judge should be contacted by the DMH clinician in coordination with the police. The police should be prepared to provide the judge with the following information:

- a. the charges
  - b. the condition of the detainee, including the findings from the clinician
  - c. a listing of any default warrants (if any) outstanding
  - d. any other pertinent information
5. The on-call judge after conferring with the police and with the evaluating clinician, may issue an order committing the detainee to a specified, locked in-patient facility pursuant to G.L. c. 123 § 18, until court is in session.
  6. On the designated court day, the detainee will be transported to court.

#### **IV. Training**

- A. All personnel including civilian employees who deal directly with the public will receive training on these procedures during their orientation as well as a refresher at least every two years

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<sup>i</sup>M.G.L. c. 123, s. 12(a)

<sup>ii</sup>M.G.L. c. 123, s. 12(e)

<sup>iii</sup>M.G.L. c. 123, s. 22