

BERKELEY POLICE DEPARTMENT

DATE ISSUED: April 7, 2010

GENERAL ORDER I-16

SUBJECT: MENTALLY DISORDERED PERSONS

PURPOSE

- 1 - The purpose of this Order is to establish policy and procedure for the custody and/or transportation of mentally disordered persons to designated treatment facilities, and other related processes.

POLICY

- 2 - Employees are expected to comply with applicable law and the procedures described in this Order.
- 3 - Employees shall reasonably ensure all medical or mental health records or information obtained while providing services to mentally disordered persons remain confidential.
 - (a) Employees shall not make public nor reveal to unauthorized persons any information received about mentally disordered persons.
 - (b) Release of confidential information documented in a police report shall be handled as set forth in General Order R-23.

DEFINITIONS

- 4 - Deadly Weapon: Any weapon, the possession or concealed carrying of which is prohibited by Penal Code §12020.
- 5 - Gravely Disabled: A person so impaired by a mental disorder that he/she cannot provide for his/her basic needs for food, clothing, or shelter.
- 6 - "In Extremis" Person: A person with a potential life-threatening illness or injury.
- 7 - Mentally Disordered Person: A person who is a danger to him-/herself, others, or is gravely disabled as a result of a mental disorder.

PROCEDURES

Emergency Detention

- 8 - A mentally disordered person may be taken into custody by a sworn peace officer and placed in a facility designated by the County and approved by the State Department of Mental Health for emergency evaluation and treatment (ref. Welfare and Institutions Code (WI) §5150).
- 9 - Officers who take a mentally disordered person into custody pursuant to WI §5150 shall complete an Application for Emergency Psychiatric Detention form documenting the following information:

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- (a) The circumstances under which the person's condition was called to the attention of law enforcement;
 - (b) The officer's observations and belief that the person, as a result of mental disorder, is a danger to others, to himself/herself, or is gravely disabled;
and,
 - (c) **If the emergency commitment is associated with a criminal offense and arrest, the words "POLICE HOLD" and relevant code sections shall be written on the Application form.**
 - (1) **In the event the law enforcement hold is solely related to a parole violation, the words "PAROLE AGENT HOLD" shall be written on the Application form.**
 - (d) **The officer's issuance of the Detainment Admonition (WI §5157(a)).**
- 10 - When an officer commits a mentally disordered person under the provisions of WI §5150, the Application For Emergency Psychiatric Detention form shall serve as the police report.
- (a) **Application forms prepared by officers shall be prepared and administered in accordance with established report writing procedures (ref. General Order R-31).**
 - (b) **If the emergency commitment is associated with a criminal offense and arrest, the Application form shall be incorporated into and bear the same report number as the criminal investigation report.**
 - (c) **Referral "green" copies of the completed Application for Emergency Psychiatric Detention form shall be given to ambulance personnel prior to transport.**
 - (d) **The officer shall ensure a copy of the Application form (i.e., the "white" cover page retained as the police report) is routed to the Berkeley Department of Health Services' Mental Health Division.**

Voluntary Committal/Request for Psychiatric Care

- 11 - Employees shall facilitate the request of any person in Berkeley for emergency psychiatric care.

Transportation Procedures

- 12 - A mentally disordered person who voluntarily requests transportation, or is subject to WI §5150 detention, for emergency psychiatric evaluation shall be transported to an appropriate care facility via ambulance.

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- (a) **When requesting an ambulance transport, officers shall advise the Communication Center if the mentally disordered person has a known or suspected injury or illness that might require pre-psychiatric commitment medical clearance.**
 - (b) Communication Center personnel shall be responsible for requesting the appropriate ambulance service, based on **information** communicated by the requesting officer and requirements set forth in the service contract(s) maintained **with** Alameda County EMS governing non-medical WI §5150 transportation.
- 13 - A mentally disordered person who is “in extremis” or otherwise requires medical clearance prior to delivery to a psychiatric care facility shall be transported to the appropriate "Receiving Hospital", as determined by ambulance personnel.
- (a) Officers shall communicate knowledge of and observations regarding a mentally disordered person’s **physical status (i.e., known or suspected injury, illness or substance influence, history of same, etc.)** to ambulance personnel to assist their assessment of whether or not a medical clearance is required.
- 14 - Officers shall evaluate the mentally disordered person’s potential for violence when **considering** transportation **logistics**.
- (a) Non-Violent Person: **Officers will not be required to participate in the transportation of a mentally disordered person** to the appropriate medical or psychiatric treatment **facility**.
 - (b) Violent Person, Threat of Violence or Escape/Crime-related “HOLDS”: **Officers shall participate in the transportation of a mentally disordered person who is violent, where there is a threat of violence or escape, or when the person is subject to a “POLICE HOLD” or “PAROLE AGENT HOLD”.**
 - (1) **Participation in transportation may include following the ambulance in a separate vehicle, or, if requested by ambulance personnel or required for security, riding within the ambulance.**
 - (i) The officer who participates in transportation by riding in the ambulance shall ensure his/her return to **Berkeley** is arranged prior to departure to the designated treatment facility.
 - (2) **Patrol Division personnel shall be responsible for post-commitment transportation of a “POLICE HOLD” prisoner from the involved psychological services facility.**

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- 15 - Prior to transportation, the officer taking a mentally disordered person into custody pursuant to WI §5150, or who facilitates the person's request for voluntary psychiatric evaluation, shall insure the person is searched for weapons or items that could present a safety hazard or security concern to ambulance personnel.
- (a) **When police department personnel have physical custody of a prisoner who is/was subject to emergency psychological commitment and evaluation, custodial and prisoner transportation policies and protocols shall be followed (ref. General Orders J-1 and T-2).**
- 16 - When a person is taken into custody for psychiatric evaluation, precautions shall be taken to preserve and safeguard the property in his/her possession or in his/her control on the premises occupied by the person.
- (a) Property may be left in the custody of a responsible relative (i.e., spouse, parent, adult child, and adult brother/sister, but not petitioner), guardian or conservator.
- 17 - If a mentally disordered person is apprehended in either his/her home or vehicle, the responsible officer should make reasonable efforts to secure the home or vehicle, or convey its custody to a responsible relative, guardian, or conservator.
- (a) If necessary, **an officer may order the removal of a vehicle from the public right-of-way (ref. Vehicle Code §22651(g) and General Order V-2).**
- 18 - If a mentally disordered person is apprehended away from his/her home or vehicle, and advises that either is in danger if not secured or protected, the officer should make reasonable efforts to secure the property and notify a responsible relative, guardian, or conservator.
- 19 - Custody of the personal property (**not in person's immediate possession/control**), vehicle, or home of a mentally disordered person may be conveyed to any responsible adult upon express consent of its owner.

Firearms/Deadly Weapons Procedure

- 20 - When a mentally disordered person detained or apprehended for emergency psychiatric evaluation is found to have in his/her immediate possession or control, any firearm or deadly weapon, the officer shall confiscate and retain custody of said firearm or weapon (WI §8102(a)).
- (a) Despite the directive of WI 8102(a), officers shall not enter a mentally disordered person's residence, or if in the residence at the time of detention/apprehension, search areas beyond the person's immediate control, solely to seize a firearm or deadly weapon without express consent or **a search warrant**.

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- (b) The officer who confiscates a firearm or deadly weapon from a mentally disordered person shall inform the person of the procedures for the return of the seized item (WI §8102(b)).
 - (c) **The officer who confiscates a firearm or deadly weapon pursuant to this Order shall forward a copy of the police report to the Detective Bureau unit responsible for weapons investigation.**
- 21 - Within 30 days of the release of a mentally disordered person from a psychiatric care facility, Detective Bureau personnel may initiate a petition in the Superior Court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to endanger the person or others (WI §8102(c)).
- (a) Should retention of the firearm or deadly weapon be deemed in the best interest of public safety, petitioning Detective Bureau personnel shall ensure notice has been sent to the mentally disordered person advising him/her that he/she has 30 days to request a court hearing on the seizure of the weapon and that the failure to request a hearing will result in forfeiture of the weapon (WI §8102(e)).
 - (b) If the mentally disordered person does not respond to the Court within 30 days of notice, Detective Bureau personnel shall file a petition for Order of Default to authorize forfeiture of the firearm or deadly weapon.
- 22 - **Prior to the return of a firearm seized pursuant to this Order, pre-return requirements described in PC §12021.3 shall be accomplished.**
- 23 - The final disposition of firearms or deadly weapons confiscated pursuant to this Order, whether abandoned by the owner or forfeited by Court Order, shall conform to the property management procedures set forth in General Order P-65.

Service of Court Orders

- 24 - The officer assigned to serve a Court Order directing a mentally disordered person to submit him-/herself to psychological evaluation on a particular date/time and location shall:
- (a) Deliver a copy of the Petition and Order received from the Alameda County Sheriff's Office to the person named in the Order.
 - (b) Complete the Affidavit of Service form.
 - (c) Deliver the original of the Petition, Court Order, and Affidavit of Service to the designated psychiatric facility for return to the Superior Court (**ref. WI §5208**).

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- 25 - The officer assigned to serve a Court Order to take into custody and deliver a mentally disordered person for psychiatric evaluation shall:
- (a) Deliver a copy of the Court Order to the person named and take the person into custody.
 - (1) Whenever possible, officers charged with the apprehension of a mentally disordered person should dress in plainclothes and travel in unmarked vehicles (WI §5153).
 - (b) Complete the Affidavit of Service form.
 - (c) Facilitate the named person's transportation to a designated psychiatric facility.
 - (d) Deliver the original of the Court Order and Affidavit of Service to the designated psychiatric facility for return to the Superior Court.
 - (e) Deliver a copy of the Court Order to the designated psychiatric facility for its records.
- 26 - Regarding officer responsibility for safeguarding a mentally disordered person's personal property (ref. paragraph 16 of this Order), if the detention is made pursuant to Court Order, the responsible officer shall report the property's disposition to the Court in the following format (ref. WI §5211):
- (a) "I hereby report to the Superior Court for the County of Alameda that the personal property of [*name of person apprehended*], described generally as [*description of property*], was preserved and safeguarded by [*name of officer, relative, guardian, or conservator*]. The property is now located at [*address*]." [*date/officer signature*]
- Psychiatric Facility "Walk Away"/Missing Person Protocol
- 27 - In the event a psychiatric treatment facility notifies this Department that a mentally disordered patient committed by a Berkeley police officer pursuant to WI §5150, or who is a resident of Berkeley, is a "missing person," investigative assistance shall be provided in accordance with General Order M-1.

Mentally Ill Parolees

- 28 - **When an officer contacts a parolee who is subject to State mental health supervised release conditions, that officer should notify the person's parole agent as soon as practical following the contact.**
- (a) **In the event the contact involves violence, criminal conduct, or results in emergency commitment for psychiatric evaluation, the person's parole agent shall be notified.**

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(b) In the event the contact involves criminal conduct, established investigative and custodial procedures shall be followed.

29 - Non-violent parolees subject to State mental health supervised release conditions who are in need of psychiatric services, but who are not committable pursuant to WI §5150, should be referred to mental health services provided by the California Department of Corrections and Rehabilitation Parole Division's Berkeley office.

(a) After normal business hours or as may be necessary, Mobile Crisis Team resources may be requested.

References: **Penal Code §§1524, 12020 and 12021.3**

Welfare and Institutions Code §§5008, 5150 – 5157, 5200 – 5213, 5325.1, 8100 and 8102

Vehicle Code §22651(g)

General Orders **C-2**, M-1, P-65, R-23, R-31 and **V-2**

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