

CUMBERLAND COUNTY DISTRICT ATTORNEY'S OFFICE MODEL POLICY ON MENTAL ILLNESS AND INVOLUNTARY COMMITMENT FOR LAW ENFORCEMENT OFFICERS

I. Purpose

The purpose of this policy is to provide guidance to members of this agency on the options and resources available to assist individuals who appear to be mentally ill or experiencing a mental health crisis. This policy is intended to satisfy the mandatory policy requirements set by the Legislature regarding "Deviant Behavior"¹ and "Response to Mental Illness and Involuntary Commitment."²

II. Policy

It is the policy of this agency to assist individuals who appear to be mentally ill or who are experiencing a mental health crisis. This assistance will include, as appropriate, placing individuals in protective custody and participating in the involuntary commitment or "blue paper process."

This agency requires that 20% of all full-time law enforcement officers receive at least 8 hours of nationally recognized or best practice in-person training in Mental Health Identification Awareness for Law Enforcement Officers by January 1, 2018. This ratio will be maintained and reported annually to the Maine Criminal Justice Academy.

Given this is a statutorily mandated policy; officers must abide by this agency's policy as it applies to all standards of the Maine Criminal Justice Academy Board of Trustees.

III. Definitions

Advanced Healthcare Directive: an individual instruction form or a power of attorney for health care by an individual with capacity for use when the person appears to lack capacity.

Crisis Intervention Officer (CIO): An officer specifically trained in the identification, handling, and disposition of individuals exhibiting signs of mental health crisis.

Crisis Intervention Team (CIT): A group of individuals, including officers, specifically trained in the identification, handling, and disposition of individuals exhibiting signs of mental health crisis.

Crisis Service System: A program provided by the Maine Department of Health and Human Services to provide mobile crisis services anywhere in the State on a 24/7 basis. DHHS can provide triage for consumers, immediate responses to consumer needs when in crisis, and assist with a proper disposition of the situation. This may include hospitalization, placement in a "crisis bed," in-home supports, referral for services, or no follow-up if it is not indicated. The statewide crisis system is accessed free by calling **1-888-568-1112 or 211**, and the caller to an appropriate provider in the local area.

Emergency Involuntary Commitment (Blue Paper Process): Three-step process by which:

1. Any person (friend, relative, social services worker, officer, etc.) applies for admission of an individual to a mental hospital;
2. Clinician evaluates the individual, usually at a local hospital, and;
3. If the clinician certifies that the individual is mentally ill and because of that illness poses a likelihood of harm, a judicial officer reviews and, as appropriate, endorses the documentation reflecting the first 2 steps. These 3 steps are reflected on sections 1, 2, and 3 of the "blue paper," an application for Emergency Involuntary Admission to a Mental Hospital, form MH-100.

Least Restrictive Form of Transportation: The vehicle used for transportation and any restraining devices that may be used during transportation that impose the least amount of restriction, taking into consideration the stigmatizing impact upon the individual being transported.³

¹ 25 M.R.S. § 2803 (1-C)

² 25 M.R.S. § 2803(1-L)

³ 34-B M.R.S. § 3801 (1-B)

Mental Health Crisis: Behavior – such as loss of contact with reality, extreme agitation, severe depression, imminent suicidal or homicidal statements or actions, or inability to control actions – that creates a threat of imminent and substantial physical harm to the person experiencing the behavior or to others and that appears to be of sufficient severity to require professional evaluation.

Probable Cause: If a law enforcement officer has probable cause to believe that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons, or if a law enforcement officer knows that a person has an advance health care directive authorizing mental health treatment and the officer has probable cause to believe that the person lacks capacity, the law enforcement officer may take the person into protective custody.

Protective Custody: A law enforcement officer taking a person into custody when the officer determines that probable cause exists that the person is mentally ill and because of that illness presents a threat of immediate and substantial physical harm to that person or other persons, or when the officer knows that a person has an advance healthcare directive authorizing mental health treatment and the officer has probable cause that the person lacks capacity.⁴

Threat of Imminent and Substantial Physical Harm: A reasonably foreseeable risk of harm to someone, taking into consideration the immediacy of the potential harm, the seriousness of the potential harm, and the likelihood that harm will occur. Harm threatened may include:

1. Suicide or serious self-injury;
2. Violent behavior or placing others in reasonable fear of serious physical harm; and
3. Reasonable certainty of severe impairment or injury because a person is unable to avoid harm or protect himself or herself from harm.

IV. Procedures

- A. Officers from this agency shall be familiar with the law of protective custody. The officer will assess the situation and determine if the person appears to be experiencing a mental health crisis.
- B. If the person appears to be experiencing a mental health crisis, the officer will assess the need for protective custody taking into consideration whether the individual is willing to accept immediate voluntary commitment.
- C. If the officer determines that protective custody is not appropriate, the officer may refer the person to a medical or mental health practitioner, or other services; leave the person in the care of friends, relatives or service providers, or take other steps necessary to maintain public safety. Referral resources include:
 1. Local mental health agencies, with contact information.
 2. Local hospital with voluntary inpatient capacity, with contact information.
 3. Regional DHHS staff, with contact information.
 4. Licensed mental health professional in private practice, with contact information.
 5. Local DHHS contract crisis provider. Call toll free **(1-888-568-1112)** to connect with the local DHHS contract crisis provider.
- D. If the person requires protective custody and the requisite standard is met, or if the person has an advance healthcare directive and it is determined that the directive is applicable, the officer may take the person into custody and deliver the person for examination. The officer shall complete the “State of Maine Protective Custody Intake Form” and provide it to the examining clinician. The officer should retain a copy of the Maine Protective Custody Intake Form. (Appendix 1)
- E. The examination may be performed by a licensed physician, a licensed clinical psychologist, physician’s assistant, nurse practitioner, or certified psychiatric clinical nurse specialist.
- F. If the person in protective custody is alleged to have committed a criminal act for which a warrantless arrest may be made, the officer, in consultation with the licensed practitioner examining the person and the officer’s supervisor, shall determine the most appropriate confinement condition to satisfy the protection of the public and the person’s treatment.
- G. The officer may provide either the person or the person’s family a resource information card.

⁴ 34-B M.R.S. § 3862

- H. If the clinician determines that the person does not satisfy the criteria for emergency involuntary hospitalization or that the person's advance healthcare directive is inapplicable under the particular circumstances, the officer will release the person from protective custody and, with the person's permission, either take the person home (if that is in the officer's territorial jurisdiction) or return the person to the place from which the person was taken into custody, except that if the person is also under arrest, the officer will keep the person in custody until the person is released in accordance with law.
- I. If the examining clinician determines that the person satisfies criteria for emergency involuntary hospitalization, unless the law enforcement agency has a custody agreement with the health care facility to which the person is to be transported for examination, the officer shall seek judicial endorsement as soon as possible and cause to be transported in the least restricted form of transportation the person to the hospital authorized by the judicial officer. However, if the examination is completed between the hours of 11:00 p.m. and 7:00 a.m., the officer may transport the person to a hospital that has agreed to an admission, and the hospital will secure a judicial endorsement as soon as possible thereafter.
- J. It should be noted that when a person is taken by an officer to a hospital for examination under this section and not admitted, the chief administrative officer of the hospital shall notify the officer or the officer's agency of that release.⁵

V. Billing and Documentation

- A. This agency may bill the Maine Department of Health and Human Services (DHHS) for transportation expenses of a person to and from an examination that follows protective custody. The total cost for protective custody transportation billing includes mileage and the fully impacted hourly rate of the officer(s).
- B. This agency may bill DHHS for transportation expenses of a person to and from a psychiatric hospital for admission authorized under the involuntary commitment (blue paper process). The total cost for blue paper process transportation billing includes mileage and the fully impacted hourly rate of the officer(s).
- C. If an officer who encounters a person in a mental health crisis takes any formal action, the officer will document the action in an incident report. The officer will document any contact that results in protective custody with sufficient detail of the probable cause for the particular action.

VI. Crisis Intervention Team

- A. The Crisis Intervention Team (CIT) is established to provide this agency with qualified personnel trained in the handling of individuals in a mental health crisis. The primary goal of the CIT is to de-escalate the person in mental health crisis and ensure the proper disposition of individuals who encounter officers while in crisis. This is accomplished using skills involving identification of types of crisis and the de-escalation of individuals.
- B. Selection to the CIT or as a CIO is the determination of the Chief Law Enforcement Officer. Factors to be considered for eligibility include seniority, commendations, aptitude, disciplinary history, and prior training.
- C. Officers selected for the CIT program must complete a 40-hour block of CIT or equivalent training before being designated as a CIT officer. All CIT members will attend annual training to maintain proficiency as determined by the Chief Law Enforcement Officer.

PER ORDER OF: _____

Agency Head

⁵ 34-B M.R.S. § 3863 (6-A)

State of Maine Protective Custody Intake Form – Appendix 1

| | | |
|--|--|--|
| SUBJECT NAME | DOB | CASE # |
| ADDRESS | TOWN | DATE/TIME OF INCIDENT |
| LOCATION OF INCIDENT | POLICE DEPARTMENT | OFFICER NAME |
| MEDICAL FACILITY NAME | DOCTOR NAME | |
| MENTAL ILLNESS | Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> | Prior LE Contacts Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> |
| KNOWN DIAGNOSIS | Depression <input type="checkbox"/> Bipolar <input type="checkbox"/> Anxiety/Panic <input type="checkbox"/> PTSD <input type="checkbox"/> Substance Dependence <input type="checkbox"/> Mental Retardation <input type="checkbox"/> Schizophrenia <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> | PENDING CRIM. CHARGES No <input type="checkbox"/> Yes <input type="checkbox"/> List _____ |
| THREAT ASSESSMENT | None <input type="checkbox"/> Suicide Threat <input type="checkbox"/> Suicide Attempt <input type="checkbox"/> Threat/Harm to Others <input type="checkbox"/> Threat/Harm to Police <input type="checkbox"/> Threat/Harm to Family <input type="checkbox"/> Threat/Harm to Medical Staff <input type="checkbox"/> Expressed Hopelessness <input type="checkbox"/> | INJURIES Self-Injury <input type="checkbox"/> Bystander Injury <input type="checkbox"/> Police Injury <input type="checkbox"/> Relative Injury <input type="checkbox"/> Medical/EMS Injury <input type="checkbox"/> Hospitalized <input type="checkbox"/> Not Hospitalized <input type="checkbox"/> |
| SUBSTANCE ABUSE | Alcohol <input type="checkbox"/> Marijuana <input type="checkbox"/> Cocaine/Crack <input type="checkbox"/> Methadone <input type="checkbox"/> Prescription Med's <input type="checkbox"/> Heroin <input type="checkbox"/> Other <input type="checkbox"/> | WEAPON/METHOD Firearm <input type="checkbox"/> Edged Weapon <input type="checkbox"/> Overdose <input type="checkbox"/> Hanging <input type="checkbox"/> Jumping <input type="checkbox"/> Police <input type="checkbox"/> Traffic <input type="checkbox"/> Other <input type="checkbox"/> |
| BEHAVIOR SIGNS AND/OR INDICATORS | Intoxicated/Impaired <input type="checkbox"/> Threats to Self <input type="checkbox"/> Threat to Others <input type="checkbox"/> Confused Speech <input type="checkbox"/> Irrational Statements <input type="checkbox"/> Irrational Behavior <input type="checkbox"/> Unable to Care for Self <input type="checkbox"/> Recent Negative Life Changing Events (Divorce, Job Loss, Death of Spouse etc.) <input type="checkbox"/> | PRIOR HISTORY Suicide Attempts <input type="checkbox"/> LE Protective Custody <input type="checkbox"/> LE Non-Protective Custody <input type="checkbox"/> Prior Violence <input type="checkbox"/> Arrests <input type="checkbox"/> Self-Injury <input type="checkbox"/> DV Assault <input type="checkbox"/> Psychiatric History <input type="checkbox"/> |
| | | CURRENT COURT ORDERS Protection from Abuse <input type="checkbox"/> Protection from Harassment <input type="checkbox"/> Criminal Trespass Notice <input type="checkbox"/> |
| CURRENT MEDICATION | Taking <input type="checkbox"/> Not Taking <input type="checkbox"/> Overdosing <input type="checkbox"/> Under Dosing <input type="checkbox"/> (Check, as applicable): <i>The above person has been taken into protective custody pursuant to 34-B M.R.S.A., § 3862. I hereby state that probable cause exists to believe that the person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to another; OR I am aware that the above person has an Advance Healthcare Directive authorizing mental health treatment AND have reasonable grounds to believe that the person lacks capacity</i> (attach health care directive, as applicable) | |
| Narrative Details Provide a BRIEF incident overview to establish probable cause for protective custody Use Specific Suicidal Comments made by the individual _____ _____ _____ _____ _____ | | |
| Copies should be retained by the transporting Law Enforcement Officer and the medical facility | | |
| OFFICER SIGNATURE | DOCTOR/ ADMITTING NURSE SIGNATURE | (Receipt acknowledged) |

STATE OF MAINE
APPLICATION FOR EMERGENCY INVOLUNTARY ADMISSION TO A MENTAL HOSPITAL

1. Application.

I hereby apply under 34-B M.R.S.A. § 3863 for emergency admission of _____
to _____ Proposed patient. I believe that the proposed patient has a mental illness and therefore
Mental hospital poses a likelihood of serious harm because _____
_____ Grounds for belief, including nature of illness and harm

Date Applicant's printed name Applicant's signature Applicant's capacity

Name and address of proposed patient's guardian, spouse, parent, adult child, next of kin, or friend:

2. Certifying Examination. I hereby certify that:

(a) I am a licensed _____ and that I examined _____ today.
MD/DO/PhD/PA/NP/RN,CS Proposed patient

(b) My opinion is that the proposed patient has a mental illness and that

[suicide, self injury] the illness causes a substantial risk of physical harm to the proposed patient because _____

Symptoms and grounds, including recent actions or behaviors (threats of or attempts at suicide or serious bodily harm) caused by illness

[harm to others] the illness causes a substantial risk of harm to others because _____

Symptoms and grounds, including recent actions or behaviors caused by illness that placed others in reasonable fear of violent behavior or serious harm

[self protection] the illness creates a reasonable certainty that the proposed patient will suffer severe physical or mental injury or impairment because _____

Symptoms and grounds, including recent actions or behaviors caused by illness showing proposed patient's inability to protect self from harm

(c) I have confirmed that adequate community resources are unavailable for care and treatment of this person's mental illness.

(d) I believe that _____ is the least restrictive form of transportation for the patient's clinical needs.
Ambulance or other (please specify)

Date Time Examiner's printed name Examiner's signature

3. Judicial Review and Endorsement.

Upon review pursuant to 34-B M.R.S.A. § 3863(3), I find this application and certificate to be regular and in accordance with the law, and I hereby authorize _____ to take
_____ Person authorized to take proposed patient into custody
_____ Proposed patient into custody and transport him or her to _____ Mental hospital

Date Time Judicial officer's printed name Judicial officer's signature Judicial officer's capacity (District, Probate or Superior Court Judge or Justice, Justice of the Peace)