

**LANCASTER POLICE DEPARTMENT
GENERAL ORDERS MANUAL**

<i>Effective Date</i> November 11, 2015		<i>Amended Date</i>		<i>Directive</i> 7.19.1	
<i>Subject</i> Mentally Ill Persons					
<i>Reference</i>			<i>Approved</i>  Chief of Police		
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition</i> Program Reference No Reference		<i>Review Date</i> December 12, 2017	
				<i>Pages</i> 7	

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to provide guidelines for handling mentally ill persons.

SECTION 2 POLICY

It is the policy of the department to attempt to recognize when persons are suffering from mental illness and accordingly employ special police skills and abilities to effectively and legally deal with the person so as to avoid unnecessary violence and potential civil litigation. It is also the policy of the department that all officers shall be guided by this state's laws and the provisions of this directive.

SECTION 3 DEFINITIONS

- A. **Apprehend:** means the temporary, non-custodial detention of a person for the purposes of delivering the person to a treatment facility.
- B. **Mental Illness:** means an illness, disease, or condition, other than epilepsy, senility, alcoholism, or mental deficiency, that:
 - 1. substantially impairs a person's thought, perception of reality, emotional process, judgement; or
 - 2. grossly impairs behavior as demonstrated by recent disturbed behavior
- C. **Treatment facility:** means a state-licensed mental health treatment facility.

SECTION 4 PROCEDURES

A. PROCEDURES FOR HANDLING MENTALLY ILL PERSON

- 1. A minimum of two (2) officers will respond due to the potentially violent nature of these persons.
- 2. Officers will obtain as much information as possible about the person from friends, relatives, or neighbors before making contact with the suspected mentally ill person, if possible.

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3. Officers should exercise the greatest amount of officer safety measures and will avoid using derogatory and trigger words such as "demented," "crazy," "nuts," etc.
4. The primary responsibilities of the officers are to ensure the safety of all those present and to neutralize any threat that may be present. Once those objectives have been accomplished, the appropriate disposition for the suspected mentally ill person must be determined.

B. TREATMENT FACILITY

1. Adults and juveniles taken into custody pursuant to this directive will be transported to:
 - a. Parkland Hospital;
 - b. a treatment facility designated by the hospital;
 - c. a local facility approved by the department; or
 - d. a facility designated by this directive or law
2. A parent or legal guardian of a minor child who is under eighteen (18) years of age may choose a facility for the child provided the facility is located within a reasonable distance.

C. TRANSPORTING

1. If a department member provides the transportation to a treatment facility, the person will be transported in the police vehicle if the person is ambulatory, or by ambulance if the person is not ambulatory. If the person is transported by ambulance, an officer may have to ride in the ambulance to provide assistance.
2. Regardless of whether the person is transported in a police vehicle or in an ambulance, the person should be restrained to prevent injury to any person.

D. EMERGENCY DETENTION

1. Without a Warrant
 - a. Section 573.001, Texas Health and Safety Code, "Apprehension by Peace Officer without Warrant" (APOW) provides:
 - i. A peace officer may, without warrant, take a person into custody if the officer:
 1. has reason to believe that the person is mentally ill, and because of that mental illness, there is substantial risk of serious harm to the person or to others unless the person is immediately restrained; and
 2. believes there is not sufficient time to obtain a warrant before taking the person into custody

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- ii. The belief that a person represents a substantial risk of serious harm may be based on:
 - 1. the person's behavior; or,
 - 2. evidence of severe emotional distress and deterioration in the person's mental or physical condition to the extent that the person cannot remain at liberty
- iii. Officers may base their belief that the person meets the criteria for apprehension on:
 - 1. the representation of a credible witness;
 - 2. the conduct of the apprehended person; or
 - 3. the circumstances under which the apprehended person was found

b. Disposition of Person

- i. The officer will determine whether the person poses a substantial risk of imminent harm or danger to any person and whether any criminal acts have been committed by the person.
- ii. Once these factors have been determined, a disposition can be made. The four possible scenarios on which to make a disposition are:
 - 1. No Threat/No Offense;
 - 2. No Threat/ with an Offense;
 - 3. Threat/No Offense;
 - 4. Threat/with an Offense.
- iii. The appropriate dispositions are enumerated in Table 1, "Report Types for Mentally Ill Persons"

c. Application Required

- i. Anytime a person is taken into custody under this subsection and is delivered to a treatment facility, an "Application for Detention" (Application) must be completed.
- ii. The original Application will be filed with the treatment facility; a copy of the Application, if available, will be submitted with the officer's report.

2. With a Warrant

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- a. Section 573.012, Texas Health and Safety Code, "Issuance of Warrant," provides that a magistrate, upon receiving a written application by an adult for the emergency detention of another person, shall issue a warrant for the person's immediate apprehension if the written application meets the requirements for the issuance.
- b. Disposition of Person
 - i. The magistrate shall issue to an on-duty peace officer a warrant for the person's immediate apprehension, if the magistrate finds that each criterion for the warrant is satisfied.
 - ii. A person apprehended under this section shall be transported to:
 1. the nearest appropriate inpatient mental health facility;
 2. a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available; or
 3. the facility specified in the warrant
 - iii. The warrant serves as an application for detention in the facility. The warrant and a copy of the application for the warrant shall be immediately transmitted to the facility.
 - iv. See Table 1, "Report Types for Mentally Ill Persons" for appropriate report.

E. COURT-ORDERED (AND OTHER) APPREHENSION

1. Protective Custody Order

- a. Section 574.022, Texas Health and Safety Code "Order of Protective Custody" provides that a judge or magistrate may issue a protective custody order for a proposed patient who is charged with a criminal offense if the judge, or the county or district attorney believes the proposed patient meets the required criteria for the order.
- b. Section 574.023, Texas Health and Safety Code "Apprehension Under Order" for the purposes of this section, a peace officer from this agency may detain or take into custody the person only if the officer is a special officer for mental health assignment certified under Section 1701.404, Texas Occupations Code.
- c. Section 574.045, Texas Health and Safety Code "Transportation of Patient" for the purposes of this section, a peace officer from this agency may transport the person only if the officer is a mental health officer certified under Section 1701.404, Texas Occupations Code.
- d. See Table 1, "Report Types for Mentally Ill Persons" for appropriate report.

2. Order for Temporary Detention

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- a. Section 574.063, Texas Health and Safety Code "Order for Temporary Detention," provides that a court may issue an order for temporary detention if a modification hearing has been set and the court finds the information contained in the application for temporary detention meets the required criteria.
- b. A temporary detention order shall direct a peace officer or other designated person to take the patient into custody and transport the patient immediately to:
 - i. the nearest appropriate inpatient mental health facility; or
 - ii. a mental health facility deemed suitable by the local mental health authority for the area, if an appropriate inpatient mental health facility is not available
- c. See Table 1, "Report Types for Mentally Ill Persons" for appropriate report.

3. Return to Facility Under Facility Administrator's Certificate or Court Order

- a. The administrator of a facility to which a patient was admitted for court-ordered inpatient health care services may authorize a peace officer of the municipality or county in which the facility is located to take an absent patient into custody, detain the patient, and return the patient to the facility by issuing a certificate to a law enforcement agency of the municipality.
- b. Section 574.083, Health and Safety Code, "Return to Facility Under Court Order," provides that a magistrate shall issue a court order commanding a peace or health officer to take into custody and deliver to the treatment facility named in the order.

4. Disposition of Patient

- a. A peace or health officer shall take the patient into custody and return the patient to the facility as soon as possible if the patient's return is authorized by a certificate issued or court order issued under this section.
- b. A peace or health officer may take the patient into custody without having the certificate or court order in the officer's possession.
- c. A peace or health officer who cannot immediately return a patient to the facility named in the order may transport the patient to a local facility for detention. The patient may not be detained in a nonmedical facility that is used to detain persons who are charged with or convicted of a crime unless detention in the facility is warranted by an extreme emergency.
- d. See Table 1, "Report Types for Mentally Ill Persons" for appropriate report.

F. FORCIBLE ENTRY INTO RESIDENCES

- 1. Officers attempting to apprehend persons for emergency commitment, either with or without a warrant, may not make forcible entry into a residence except under the following circumstances:

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- a. when an extreme emergency exists where immediate entry is necessary to protect the life of the person to be apprehended or the life of another person;
- b. when a written consent to search has been obtained from the owner of the residence;
- c. when a search warrant has been issued by a magistrate; or
- d. when a magistrate has issued a warrant for the emergency apprehension of the mentally ill person

G. SCOPE OF RESPONSIBILITY

1. All members of the department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.

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Table 1. Report Types for Mentally Ill Persons.

	No Offense	Offense
No Threat	<p>The officer should suggest to a family member to contact the Department of Mental Health or a local Mental Health and Mental Retardation Association to obtain information about: treatment, voluntary commitment, or a court order for commitment</p> <p>Report: Complete applicable paperwork or use appropriate disposition code for the call</p>	<p>The officer will:</p> <ul style="list-style-type: none"> • make all lawful arrest or issue appropriate citations; • process the person in the same manner as in any other case <p>Report: Complete offense/incident report and all other applicable paperwork for that offense.</p>
Threat	<p>The officer will:</p> <ul style="list-style-type: none"> • transport the person to the appropriate treatment facility; • once at the treatment facility: <ul style="list-style-type: none"> ○ assist the staff in restraining the person, if necessary; ○ complete an Application and submit it to the treatment facility; ○ not leave the treatment facility until the facility has released the officer. <p>Report:</p> <ul style="list-style-type: none"> • If the detention is made without an order, the officer will complete an offense/incident report for "Information Report – Mental Evaluation." A copy of the application, if available, will be submitted with the officer's report. • If the detention is made pursuant to an order, warrant, or certificate, the officer will complete an offense/incident report for "Information Report." 	<p>The officer will do the following:</p> <ul style="list-style-type: none"> • transport the person to the appropriate treatment facility; • once at the treatment facility, the officer will: <ul style="list-style-type: none"> ○ assist the staff in restraining the person, if necessary; ○ complete an application and submit it to the treatment facility; and, ○ not leave the treatment facility until it has taken control of the person. • If the person is admitted, an at large case will be completed by the officer; the officer should request the staff to notify the police department of the person's pending release. • If the person is released from the treatment facility and a warrantless arrest cannot be made, an at large case will be completed by the officer; if a warrantless arrest can be made, the person may be taken into custody and delivered to the jail if taken into custody. <p>Report: Complete an offense/incident report and all other applicable paperwork for the offense. A copy of the application, if available, will be submitted with the officer's paperwork.</p>