	<b>Boylston Police Department Policy Manual</b> <b>Standard Operating Procedure</b>	
	<b>Chapter: 200 – General Rules and Regulations</b>	
	<b>Directive: 200 – 30 Handling the Mentally Ill</b>	
<b>Authorized by: Chief Anthony G. Sahagian</b>		<b>Effective Date: 06/18/2018</b>
<b>MPAC Standards: 41.2.7 a-e</b>		<b>Revision Number/Date: NEW</b>

## General Considerations and Guidelines

Reaction to the mentally ill covers a wide range of human response. People afflicted with mental illness are ignored, laughed at, feared, pitied and often mistreated. Unlike the general public, however, a police officer 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 him or her in contact with a mentally ill person.

### Policy

It is the policy of this department that officers shall:

1. Accord all persons, including those with mental illness, all individuals rights to which they are entitled;
  2. Attempt to protect mentally ill persons from harm and shall refer them to agencies or persons able to provide services where appropriate.
- I. Procedure (41.2.7a)
- A. An officer must be able to recognize a mentally ill individual if he/she is to handle a situation properly.
    1. Factors that may aid in determining if a person is disturbed are:
      - a. Severe changes in behavioral patterns and attitudes;
      - b. Unusual or bizarre mannerisms and/or appearance;
      - c. Distorted memory or loss of memory;

- d. Hallucinations or delusions;
- e. Hostility to and distrust of others;
- f. Marked increase or decrease in efficiency;
- g. Fear of others such as paranoia;
- h. Irrational explanation of events;
- i. Lack of insight regarding his/her mental illness;
- j. Lack of cooperation and tendency to argue; and/or
- k. One-sided conversations.

II. These factors are not necessarily, and should not be treated as conclusive. They are intended only as a framework for proper police response. It should be noted that a person exhibiting signs of an excessive intake of alcohol or drugs might also appear to be mentally ill. (41.2.7c)

- a. If an officer believes he or she is faced with a situation involving a mentally ill person, they should not proceed in haste unless circumstances require otherwise.
- b. An officer should be deliberate and take the time required for an overall look at the situation.
- c. 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.
- d. An officer should call for and await assistance. It is advisable to seek the assistance of professionals such as doctors, psychologists, psychiatric nurses and clergy, if available.

- e. 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.
- 3. It is not unusual for such persons to employ abusive language against others. An officer must ignore verbal abuse when handling such a situation.
- 4. Avoid excitement. Crowds may excite or frighten the mentally ill person. Groups of people should not be permitted to form or should be dispersed as quickly as possible.
- 5. Reassurance is essential. An officer should attempt to keep the person calm and quiet. They should attempt to show that he or she is a friend and that they will protect and help. It is best to avoid lies and not to resort to trickery.
- 6. An officer should at all times act with respect towards the mentally ill person. Do not, "talk down to", such person or treat such a person as, "child-like." Mental illness, because of human attitudes, carries with it a serious stigma. An officer's response should not increase the likelihood that a disturbed person will be subjected to offensive or improper treatment.

**B. Taking a Mentally Ill Person into Custody (41.2.7)**

- 1. A mentally ill person may be taken into custody if:
  - a. They have committed a crime;
  - b. They pose a substantial danger of physical harm to other persons by exhibition of homicidal or other violent behavior, he or she poses a very substantial risk of physical impairment or injury to themselves (for example, by threats or attempts at suicide), or he or she is unable to protect themselves in the community. Threats or attempts at suicide should never be treated lightly; and/or
  - c. They have escaped or eluded the custody of those lawfully required to care for them.

2. 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 ten (10) day period at a public facility or a private facility authorized for such purpose by the Massachusetts Department of Mental Health. (41.2.7b)
3. Although, "any person," including a police officer, may petition a District Court to commit a mentally ill person to a facility for a ten (10) day period if failure to confine that person would cause a likelihood of serious harm, generally, a police officer should be the last person to initiate such proceedings. Ten (10) day commitment proceedings under Massachusetts General Law Chapter #123, Section #12e should be initiated by a police officer only if all of the following procedures have been observed: (41.2.7b)
  - a. Determination has been made that there are no outstanding commitment orders pertaining to the individual;
  - b. Every effort has been made to enlist an appropriate physician, psychiatrist, psychologist, social worker or family member to initiate the commitment proceedings; and
  - c. The officer has received approval from the Chief of Police or the appropriate Officer-In-Charge of the Boylston Police Department.
4. 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 (6) months may be returned by the police. This six (6) month limitation does not apply to persons who have been found not guilty of a criminal charge by reason of insanity or to persons who have been found incompetent to stand trial on a criminal charge. (41.2.7b)
5. Whenever police take a mentally ill person into custody, the appropriate mental health officials should be contacted. They should be informed of the individual's condition and their instructions should be sought on how to properly handle and, if necessary, restrain the individual and to what facility he/she should be taken. 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 Massachusetts General Laws. (41.2.7b)

6. If an officer makes application to a hospital or facility and is refused, or if they transport a person with a commitment paper (Section #12 paper) signed by a physician, and that person is refused admission, they should ask to see the Administrative Officer on duty to have them evaluate the patient. If refusal to accept the mentally ill person continues, the officer shall not abandon the individual, but shall take measures in the best interests of that person and, if necessary, take the mentally ill person to the UMASS Memorial campus. Notification of such action shall immediately be given to the Officer-in-Charge or the Chief of Police, who can notify the Department of Mental Health. (41.2.7b)
7. At all times, an officer should attempt to gain voluntary cooperation from the individual. (41.2.7b)
8. 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. (41.2.7b)
9. If a mentally ill or deficient person is reported lost or missing, officers should refer to the Police Policy and Procedures Manual, (200-31 Missing Persons). (41.2.7b)
10. 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. (41.2.7b)
11. Once an officer takes custody of a mentally ill person who is likely to cause serious harm to themselves or others, he or she should only release the person to a proper mental health facility. When transfer of a mentally ill person to Harrington Hospital or other facility, is necessary, Boylston Fire/Rescue shall be notified and the person will be transported by ambulance. The Officer-in-Charge may, in extenuating circumstances, allow for transport in a cruiser. The Officer-in-Charge shall then complete a written report for the log, articulating reasons for the transport. (41.2.7b)

**C. Interrogating Mentally Ill Persons (41.2.7c)**

1. Whenever a mentally ill or mentally deficient person is a suspect 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 he or she will exercise or waive those rights. Refer to the Police Policy and Procedures Manual (200- 19 Interviewing Complaints, Victims, and Witnesses). 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 mentally deficient. Those procedures are set out in the Police Policy and Procedures Manual (200-9 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 their Miranda rights and in deciding whether or not to waive any of those rights in a knowing, intelligent and voluntary manner.
2. 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 mentally deficient. Those procedures are set out in the departmental juvenile policy.
3. Before interrogating a suspect who has a known or apparent mental condition or disability, police should make every effort to determine the nature and extent to which it impairs the subject's capacity to understand basic rights and legal concepts such as those contained in 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/her Miranda rights and in deciding whether or not to waive any of those rights in a knowing, intelligent and voluntary manner.

**D. Confidentiality**

1. Any officer having contact with a mentally ill or deficient 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.

**E. Lost or Missing**

1. If a mentally ill or deficient person is reported lost or missing, the family will be provided the telephone number of the National Alliance for the Mentally Ill (NAMI)/Homeless or Missing Persons which operates an emergency hotline to assist families and friends who have a missing relative or friend. The telephone number is (740) 423-4279.
2. Lost or Missing Mentally Ill Persons shall be entered into NCIC following the established procedures set forth by department policy and procedures and CJIS.

**F. Escapes from Mental Health Facilities**

1. 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.
2. Such persons who are absent for less than six months may be returned by the police. The six month limitation does not apply to persons who have been found not guilty of a criminal charge by reason of insanity or to the persons who have been found incompetent to stand trial on a criminal charge.

**G. Petitions in Accordance with MGL 123 Section 12**

1. In an emergency situation, if a physician or qualified psychologist is not available, a police officer, who reasonably believes under the circumstances 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 hospitalization of such person for a three day period at a public facility authorized for such purpose by the Massachusetts Department of Public Health.
2. Although "any person," including a police officer, may petition a district court to commit a mentally ill person to a facility for a ten day

period if failure to confine that person would cause a likelihood of serious harm, generally, a police officer should be the last person to initiate such proceedings. Three day commitment proceedings under section 12(e) of Chapter 123 should be initiated by a police officer only if all of the following procedures have been observed:

- a. Determination has been made that there are no outstanding commitment orders pertaining to the individual; and
  - b. Every effort has been made to enlist an appropriate physician, psychiatrist, psychologist, social worker, or family member to initiate the commitment proceedings; and
  - c. The officer has received approval from the Chief of Police or the appropriate Officer-In-Charge of the department.
3. Officers may effect a warrantless entry to execute a section 12 application for temporary hospitalization (pink paper) provided:
- a. they are in possession of the pink paper;
  - b. the entry is of the residence of the subject of the pink paper;
  - c. the pink paper was issued by a qualified physician, psychologist, or psychiatric nurse in an emergency situation and where the subject refused consent to an examination; and
  - d. The warrantless entry is made within a reasonable amount of time after the pink paper has been issued.

Note: Officers should familiarize themselves with *McCabe v. Life-Line Ambulance Service*, 77F.3rd 540 (1st Cir. Mass), the United States District Court of Appeals permitting Lynn, Mass. police officers to effect a nonconsensual warrantless entry to serve an involuntary committal order signed by a physician pursuant to Ch.123 - Sec.12 on a recalcitrant dangerous mentally ill person as a “needs” entry.

#### **H. Training (41.2.7d-e)**

Newly recruited officers and newly hired dispatchers shall receive training in accordance with the curriculum established by the Municipal Police Training Committee. In-service and refresher training in dealing with mentally ill persons will occur at least every three years.

#### **I. Receiving a Call from a Mentally Ill Person (Communication Personnel)**



1. Dispatch, upon receipt of a call suspected to be from a mentally ill person, shall;
  - a. Ascertain the need of the caller; (Police, Fire, EMS)
  - b. Treat all callers with respect and courtesy;
  - c. Dispatch two (2) police officers to the location of assistance needed, when available;
  - d. Refer to the caller as a “possible code 123-12” whenever radio transmission is necessary;
  - e. Dispatch should, at all times speak and act with respect towards the mentally ill person. Do not, “talk down”, to such person, or treat such person, “child-like.” The Dispatch response should not increase the likelihood that a disturbed person will be subjected to offensive treatment;
  - f. Dispatch shall assist the police officer with contacting the appropriate mental health officials or facilities, or relaying information from the officer to the facility; and
  - g. Dispatch personnel having contact with mentally ill persons shall keep such matters and information confidential, except to the extent that revelation is necessary for conformance with departmental procedures, or officer safety issues.

**V. Governing Authority**

**MGL 123 Section 12**

- A.** Any physician who is licensed pursuant to section 2 of chapter 112, qualified psychiatric nurse, or mental health clinical specialist authorized to practice as such under regulations promulgated pursuant to the provisions of section 80B of said chapter 112 or a qualified psychologist licensed pursuant to sections 118 to 129, inclusive, of said chapter 112, or a licensed independent clinical social worker licensed pursuant to sections 130 to 137, inclusive, of chapter 112 who, after examining a person, has reason to believe that failure to hospitalize such person would create a likelihood of serious harm by

reason of mental illness may restrain or authorize the restraint of such person and apply for the hospitalization of such person for a 3-day period at a public facility or at a private facility authorized for such purposes by the department. If an examination is not possible because of the emergency nature of the case and because of the refusal of the person to consent to such examination, the physician, qualified psychologist, qualified psychiatric nurse, mental health clinical specialist, or licensed independent clinical social worker, on the basis of the facts and circumstances may determine that hospitalization is necessary and may apply therefore. In an emergency situation, if a physician, qualified psychologist, qualified psychiatric nurse, mental health clinical specialist, or licensed independent clinical social worker 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 3-day period at a public facility or a private facility authorized for such purpose by the department. An application for hospitalization shall state the reasons for the restraint of such person and any other relevant information which may assist the admitting physician or physicians. Whenever practicable, prior to transporting such person, the applicant shall telephone or otherwise communicate with a facility to describe the circumstances and known clinical history and to determine whether the facility is the proper facility to receive such person and also to give notice of any restraint to be used and to determine whether such restraint is necessary.

- B.** Only if the application for hospitalization under the provisions of this section is made by a physician specifically designated to have the authority to admit to a facility in accordance with the regulations of the department, shall such person be admitted to the facility immediately after his reception. If the application is made by someone other than a designated physician, such person shall be given a psychiatric examination by a designated physician immediately after his reception at such facility. If the physician determines that failure to hospitalize such person would create a likelihood of serious harm by reason of mental illness he may admit such person to the facility for care and treatment.

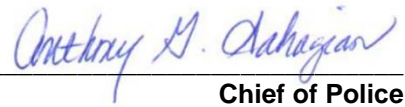
Upon admission of a person under the provisions of this subsection, the facility shall inform the person that it shall, upon such person's request, notify the committee for public counsel services of the name and location

of the person admitted. Said committee for public counsel services shall forthwith appoint an attorney who shall meet with the person. If the appointed attorney determines that the person voluntarily and knowingly waives the right to be represented, or is presently represented or will be represented by another attorney, the appointed attorney shall so notify said committee for public counsel services, which shall withdraw the appointment.

Any person admitted under the provisions of this subsection, who has reason to believe that such admission is the result of an abuse or misuse of the provisions of this subsection, may request, or request through counsel an emergency hearing in the district court in whose jurisdiction the facility is located, and unless a delay is requested by the person or through counsel, the district court shall hold such hearing on the day the request is filed with the court or not later than the next business day.

- C.** No person shall be admitted to a facility under the provisions of this section unless he, or his parent or legal guardian in his behalf, is given an opportunity to apply for voluntary admission under the provisions of paragraph (a) of section ten and unless he, or such parent or legal guardian has been informed (1) that he has a right to such voluntary admission, and (2) that the period of hospitalization under the provisions of this section cannot exceed three days. At any time during such period of hospitalization, the superintendent may discharge such person if he determines that such person is not in need of care and treatment.
- D.** A person shall be discharged at the end of the three day period unless the superintendent applies for a commitment under the provisions of sections seven and eight of this chapter or the person remains on a voluntary status.
- E.** Any person may make application to a district court justice or a justice of the juvenile court department for a three day commitment to a facility of a mentally ill person whom the failure to confine would cause a likelihood of serious harm. The court shall appoint counsel to represent said person. After hearing such evidence as he may consider sufficient, a district court justice or a justice of the juvenile court department may issue a warrant for the apprehension and appearance before the court of the alleged mentally ill person, if in the judgment the court, the condition or conduct of such person makes such action necessary or proper. Following apprehension, the court shall have the person examined by a physician designated to have the authority to admit to a facility or examined by a qualified psychologist in accordance with the regulations of the department. If said physician or qualified psychologist reports that the failure to hospitalize the person would create a likelihood

of serious harm by reason of mental illness, the court may order the person committed to a facility for a period not to exceed three days, but the superintendent may discharge him at any time within the three day period. The periods of time prescribed or allowed under the provisions of this section shall be computed pursuant to Rule 6 of the Massachusetts Rules of Civil Procedure.

  
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**Chief of Police**

**06/18/2018**

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**Date**