



# HANDLING THE MENTALLY ILL OR DEFICIENT PERSONS

*General Order Number: 10.0*

*Effective Date: November 25, 2008*

## **POLICY:**

Reaction to the mentally ill/deficient person 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. It shall be the policy of the Brookline Police Department that these principles as well as the following procedures be followed when dealing with the mentally ill/deficient person.

## **PROCEDURES:**

### **1. AMERICANS WITH DISABILITIES ACT:**

The Americans with Disabilities Act (ADA) entitles people with mental illness to the same services and protection that law enforcement agencies provide to anyone else.

### **2. TREATMENT OF PERSONS:**

All Brookline Police Department employees shall treat persons suspected of suffering from mental illness with dignity and respect. Non-sworn employees who are unable to effectively serve the person's needs shall contact the communications center and request a Police Officer's assistance.

### **3. HEALTH RECORDS:**

Any mental health records received by the Department shall be treated as a non-public record.

#### **4. RECOGNITION AND HANDLING:**

- A.** An officer must be able to recognize a mentally ill individual if they are 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;
    - c.** Loss of memory;
    - d.** Hallucinations or delusions;
    - e.** Hostility to and distrust of others;
    - f.** Marked increase or decrease in efficiency;
    - g.** Lack of cooperation and tendency to argue;
    - h.** One-sided conversations.
  - 2.** 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 may also be mentally ill.
- B.** If an officer believes they are faced with a situation involving a mentally ill person, they should not proceed in haste unless circumstances require otherwise.
- 1.** An officer should be deliberate and take the time for an overall look at the situation;
  - 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;
  - 3.** 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;
  - 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 shall take all precautions to protect everyone involved.

- C. It is not unusual for such persons to employ abusive language against others. An officer must ignore verbal abuse when handling such a situation.
- D. Avoid excitement. Crowds may excite or frighten the mentally ill person. Groups of people should not be permitted to gather or should be dispersed as quickly as possible.
- E. Reassurance is essential. An officer should attempt to keep the person calm and quiet. They should attempt to show that they are a friend and that they will protect and help. It is best to avoid lies and not to resort to trickery.
- F. An officer should at all times act with respect towards the mentally ill person. Do not "talk down to" such a 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 subject to offensive or improper treatment.

**5. TAKING MENTALLY ILL PERSON INTO CUSTODY:**

- A. A mentally ill person may be taken into custody if:
  - 1. They have committed a crime;
  - 2. They pose a substantial danger of physical harm to other persons by exhibition of homicidal or other violent behavior, or they pose a very substantial risk of physical impairment or injury to themselves (for example, by threats or attempts at suicide) or they are unable to protect themselves in the community. Threats or attempts at suicide should never be treated lightly;
  - 3. They have escaped or eluded the custody of those lawfully required to care for them.
- B. Upon receipt of a commitment order (M.G.L. c. 123, s.12 (e)) from a physician or qualified psychologist the communications center will dispatch EMS and two Patrol Officers with a copy of the commitment order. The person who is the subject of the commitment order will be transported by the Town of Brookline's contract ambulance provider. Upon request by the ambulance crew and with the permission of the patrol supervisor, the responding officers may escort the ambulance to a local medical facility.

- C. In an emergency situation, if a physician or qualified psychologist is not available, a police officer, who believes that a 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 day period at a public facility, or a private facility authorized for such purpose by the Massachusetts Department of Mental Health (M.G.L. c. 123, s. 12 (a)).
- D. 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 (M.G.L. c. 123, s. 12 (e) ), generally, a police officer should be the last person to initiate such proceedings. Ten-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:
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 a ranking officer.
- E. If a patient or resident of a facility of the Massachusetts Department of Mental Health is absent without authorization, the superintendent at 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. This six-month limitation does not apply to persons who have been found not guilty of a criminal charge by reason of insanity nor to persons who have been found incompetent to stand trial on a criminal charge (M.G.L. c. 123, s. 30).
- F. 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 sought on how to properly handle and, if necessary, restrain the individual and to what facility they 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 M.G.L. c.123, s. 22.
- G. 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 interest of that person and, if necessary, take the mentally ill person to the station. Notifications of such action shall immediately be given to the Commanding Officer - Platoon on Duty, who can notify the Department of Mental Health.

- H. At all times, an officer should attempt to gain voluntary cooperation from the individual.
- I. 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.
- J. Whenever a mentally ill or mentally deficient person is a suspect and is taken into custody for questioning, police officers must do the following:
  - 1. Be particularly careful in advising the subject of their Miranda rights and eliciting any decision as to whether they will exercise or waive those rights;
  - 2. Consult the Juvenile Operations policy and procedure on "Custodial Interrogation of Juveniles," Section 2-E. It may be useful to incorporate the procedures established for interrogating juveniles when an officer seeks to interrogate a suspect who is mentally ill or mentally deficient.
  - 3. Before interrogating a suspect who has a known or apparent mental condition or disability, the officer should make every effort to determine the nature and severity of that condition or disability, and 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;
  - 4. Determine 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 or her Miranda rights and in deciding whether or not to waive any of those rights in a knowing, intelligent and voluntary manner.
- K. If a mentally ill or deficient person is reported lost or missing, police should consult and comply with the departmental policy and procedure on "Missing Persons."
- L. 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. Officers may also make referrals to the Brookline Community Mental Health Center, through the Community Service Division.

- M.** Once an officer takes custody of a mentally ill person who is likely to cause serious harm to themselves or others, they should only release the person to a proper mental health facility. Occasionally, the facility to which an officer transports a mentally ill person will either refuse to admit them entirely, or will direct the officers to another mental health facility. Officers should contact the Commanding Officer - Platoon on Duty for specific instructions in such cases.

**6. TRAINING:**

Enforcement personnel and civilians who deal directly with the public shall receive entry level training on the recognition and handling of the mentally ill. This training shall include a briefing on this general order. These personnel shall also receive refresher training on the recognition and handling of the mentally ill every three years. This shall also include a review of this general order.