

PITTSFIELD POLICE DEPARTMENT  
PROCEDURE

POLICY & PROCEDURE: 24	SUBJECT: Protective Custody of Mentally Ill Persons
EFFECTIVE DATE: 01/01/2008	EXPIRATION DATE: Indefinite
THIS POLICY RECSINDS ANY PREVIOUSLY ISSUED MEMORANDUM, DIRECTIVES, NOTICES, SPECIAL OR GENERAL ORDERS IN CONFLICT WITH THIS POLICY.	
AUTHORIZED BY:	Matthew E. Harshberger Director of Public Safety
REVISIONS: 12-01-10, 01-01-13	

**POLICY:**

This policy shall be followed by all Department Personnel. Adherence to any and all procedures related to this policy are required and hereby incorporated by reference for the purpose of determining compliance.

**PURPOSE:**

To establish policy regarding the handling of subjects requiring mental health services/treatment.

Situations involving subjects who have or appear to have a mental illness can be unpredictable, rapidly evolving, demanding, and time consuming. Officers need to remain flexible in their handling of an incident involving one of these subjects. Officers will need to rely upon their training, experience, and judgment, based on the circumstances they face and make a decision on the course of action.

**I. PROTECTIVE CUSTODY OF MENTALLY ILL PERSONS AND INCAPACITATED PERSONS**

A. Mentally Ill Persons

1. Definitions

- a. **Mental Illness:** Mental illness means a substantial disorder of thought or mood, which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.
- b. **Person Requiring Treatment:** A person requiring treatment is:

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- i. A person who is mentally ill, and who, as a result of that mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure himself/herself or another person, and who has engaged in an act(s), or made significant threats, that are substantially supportive of the expectation;
  - ii. A person who is mentally ill and who, as a result of that mental illness, is unable to attend to his/her basic physical needs such as food, clothing, or shelter which are necessary in order for him/her to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs; or
  - iii. A person who is mentally ill, whose judgment is so impaired that he/she is unable to understand his/her need for treatment and whose continued behavior as a result of this mental illness can reasonably be expected, on the basis of competent medical opinion, to result in significant physical harm to himself/herself or others. This type of person shall be hospitalized only when a petition is filed with the Court or if the Court orders an officer to take the individual into protective custody and transport him/her to the hospital.
  - iv. A person whose mental processes have simply been weakened or impaired by reason of advanced years, a person with epilepsy, or a person with alcoholism or other drug dependency shall not be deemed to be a person requiring treatment unless the person also meets the criteria listed in (i.), (ii.) or (iii.) above.
  - v. A person who is judged to be "incapacitated" simply because of alcohol or drugs, shall be taken into protective custody under the provisions of the public health code.
- c. **Protective Custody:** Protective custody means the temporary custody of an individual by an officer, with or without the individual's consent, for the purpose of protecting that individual's health and safety, or the health and safety of the public, and for the purpose of transporting the individual if they, in the judgment of an officer, appear to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and not to be construed as an arrest. An officer shall inform the individual that he or she is being held in protective custody and is not under arrest.

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2. Discretionary Actions

If an officer decides that a person is a "person requiring treatment", the officer may:

- a. Take the person into protective custody and transport him/her to a hospital;
- b. Notify Community Mental Health and request "mental health intervention services."
- c. Community Mental Health may advise the officer either to take the person to a hospital or release them from protective custody. However, an officer need not follow the advice of Community Mental Health. An officer should exercise his or her reasonable judgment.

3. Non-Discretionary Actions

An officer must take a person into protective custody when:

- a. A person has been admitted to a hospital by judicial order and has left the hospital without authorization or has refused a request to return to the hospital from an authorized absence, and a hospital representative requests that an officer return the person to the hospital. In this case, an officer shall take the person into protective custody and return him/her to the hospital;
- b. An application for hospitalization of an individual and a physician's or psychologist's certificate, certifying that the individual is "a person requiring treatment", is delivered to a peace officer. In this case, an officer shall take the individual named in the application into protective custody and transport the individual immediately to a hospital; or
- c. A court order is issued to an officer to take an individual into protective custody and transport him/her to a hospital or other place of the Court's designation.

4. Procedure

An officer, when taking an individual into protective custody, may use that same kind and degree of force which would be lawful when an officer is effecting an arrest for a misdemeanor without a warrant. In taking the individual, an officer may take reasonable steps for self-protection. The protective steps may include a pat down search of the individual and the

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individual's immediate surroundings, but only to the extent necessary to discover and seize a dangerous weapon which may be used against the officer or other persons present. The person may be restrained with handcuffs or other appropriate restraints. These protective steps shall be taken by an officer before the individual is transported to a hospital.

B. Incapacitated Persons

1. Definitions

- a. **Incapacitated:** An individual who, as a result of the use of alcohol or drugs, is unconscious or has his or her mental or physical functions so impaired that he or she either poses an immediate and substantial danger to his or her own health and safety, or is endangering the health and safety of the public.
- b. **Protective custody:** Protective custody means the temporary custody of an individual for the purpose of protecting that individual's health and safety, or the health and safety of the public, if the individual appears to be or is incapacitated. Protective custody is civil in nature and is not an arrest.
- c. **Emergency Service Unit:** An emergency service unit means either of the following:
  - i. A person or a governmental entity which provides, for profit or otherwise, the licensed personnel, vehicles, and other equipment required to perform advanced emergency medical techniques at the scene of an emergency; or
  - ii. A vehicle used or designated to be routinely available to provide transportation, or transportation and treatment of patients, as part of a licensed ambulance operation which is staffed by an attendant.
- d. **Attendant:** An attendant means an individual who has completed the first responder and emergency care course conducted by the American Red Cross, or an equivalent course approved by the Department of Consumer and Industry Services, and who is licensed by that Department.

2. Non-Discretionary Action

- a. An individual who appears to be incapacitated in a public place shall be taken into protective custody and taken to an approved service program,

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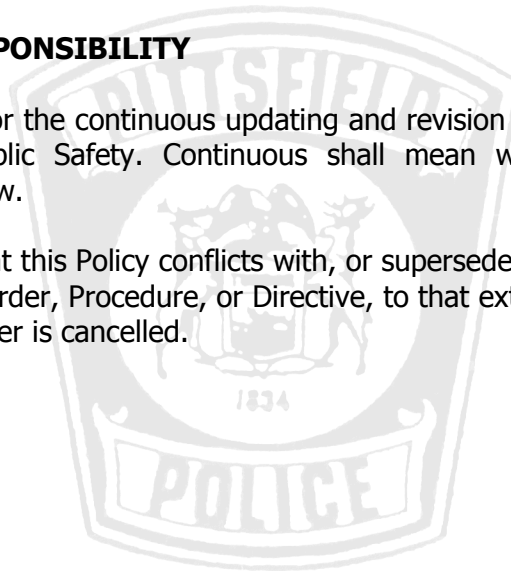
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or to an emergency medical service, or to a transfer facility for subsequent transportation to an approved service program or emergency medical service.

- b. When requested by an officer, an ambulance shall provide transportation for the individual to an approved service program or a hospital. The ambulance does not have to take the individual if the law enforcement officer reasonably believes that the individual will attempt escape or will be unreasonably difficult for the staff to control.
- c. An officer shall inform the individual that he or she is being held in protective custody and is not under arrest. An incident report will be filed, indicating the date, time and place of the taking, but the entries shall not be treated for any purpose as an arrest or criminal record.

**II. REVISION RESPONSIBILITY**

- A. Responsibility for the continuous updating and revision of this Order lies with the Director of Public Safety. Continuous shall mean when necessary or when mandated by law.
- B. In the event that this Policy conflicts with, or supersedes, any previous Departmental Order, Procedure, or Directive, to that extent, the conflicting or superseded Order is cancelled.



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