

Offense Squad, makes an arrest involving a sex related offense as defined in NYS Penal Law 130, the Sex Offense Squad shall be contacted. Statements of victims of sex offenses shall be taken by a member of the Sex Offense Squad. The Sex Offense Squad shall assist the arresting Officer in gathering evidence and developing the case.

#### 15.5 ARREST OF OPERATORS OF COMMON CARRIERS

- A. When it becomes necessary to arrest the operator of a common carrier (e.g. bus, train, etc.), the arresting officer shall not take the operator off the common carrier unless there is another employee present capable of taking the arrested employee's place. The operator who has been arrested shall be given an opportunity to notify his/her supervisor whenever possible.
- B. If there is no substitute capable of taking over the operator's responsibilities, the arresting officer will accompany the operator to the transit garage or railroad depot to make the arrangements necessary to safeguard the passengers and equipment.
- C. The arresting officer will, at the first opportunity, notify his/her immediate supervisor of the circumstances of the arrest.

#### 15.6 TRAFFIC ARRESTS

Refer to M.O.P. Chapter 7.

#### 15.7 MASS ARRESTS

Refer to M.O.P. Chapter 11.

#### 15.8 MILITARY DESERTERS

Refer to M.O.P. Chapter 14.

#### 16.0 **MENTALLY ILL**

#### 16.1 **POLICY**

It is the policy of the Buffalo Police Department to treat all persons suffering from an affliction of mental illness in a humane manner. Members must use appropriate caution in dealing with such persons to protect themselves and others, as well as the mentally ill person himself/herself. Proper medical and psychological attention will be provided in those instances where the person is a danger to himself or others.

#### 16.2 **MENTAL ILLNESS DEFINED**

Mental illness means an affliction with a mental disease or condition which is manifested by a disorder or disturbance in behavior, feeling, thinking or judgment to such an extent that the person afflicted requires care, treatment and rehabilitation. (Sec.03.20 MHL)

#### 16.3 POWERS AND DUTIES POLICE/PEACE OFFICERS

1. Emergency Admissions by Police Officers
2. Any Peace Officer acting pursuant to his/her special duties, or any Police Officer, may take into custody any person who appears to be mentally ill and

is conducting himself/herself in a manner which is likely to result in serious harm to himself/herself or others, (Sec 9.41 MHL). "Likely to result in serious harm" means:

- a. substantial risk of physical harm to himself/herself as manifested by physical threats of, or attempts at suicide or serious bodily harm, or other conduct demonstrating that (s)he is dangerous to himself/herself; or
  - b. a substantial risk of physical harm to other persons as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.
3. If the above criteria are met and the person is taken into custody, (s)he shall be immediately taken to the Erie County Medical Center for evaluation.

**B. Emergency Admissions by the Director of Community Services**

1. The Director of Community Services or his/her designee has the power to direct the removal of any person within his/her jurisdiction to an approved hospital if the parent, spouse, child, physician, health officer, Peace Officer, or Police Officer reports to him/her that such person has a mental illness for which immediate treatment and care in a hospital is appropriate and which is likely to result in serious harm to himself or others (Sec. 9.45 MHL).
2. It is the duty of Peace Officers acting pursuant to their special duties, and Police Officers to take into custody and transport such persons. Under this section the Police Officer does not have the authority to make an independent evaluation of the mental health of such person.
3. Certain members of the Emergency Outreach Service of Crisis Services are designees of the Director of Community Services. As such, they can direct a Police Officer to transport an apparently mentally ill person to a hospital. The designee must provide the Police Officer with a completed copy of the form entitled "Request to Take Mentally Ill Person into Custody" before the Officer is required to transport the person.

**C. Apprehending Escapees from a Mental Health Facility**

A person who has been committed or admitted to a Mental Health facility and has escaped or who resists or evades lawful custody, may be apprehended, restrained, transported to, and returned to such facility by a Peace Officer acting pursuant to his/her special duties or any Police Officer. It shall be the duty of Buffalo Police Department members to assist any Mental Health Department representative in taking any such person into custody.

**D. Mental Hygiene Warrants**

1. A court may issue a warrant for a person's arrest based on a verified statement that establishes that the person is:
  1. mentally ill, and:
    - i. that the person engages in conduct that would likely result in serious harm to himself or others; or
    - ii. that the person engages in conduct that would otherwise constitute

disorderly conduct.

2. Mental Hygiene Warrants shall be served only during the times that court is in session and the person can be arraigned.
3. If a sworn member of the Department comes into contact with a person for whom a Mental Hygiene Warrant is outstanding and court is not in session, the person may be apprehended and taken to the Erie County Medical Center if the criteria set forth in M.O.P. Chapter 3 are met. If the criteria in M.O.P. Chapter 3 are not met then the apprehension of the person shall be postponed until court is next in session.

#### 16.4 **HANDLING THE MENTALLY ILL**

##### A. General Guidelines

1. The person must be handled with a gentle firmness. Without unduly agitating the mentally ill person beyond his/her current state, the Officer must exert control over the situation, attempting to minimize the potential danger to himself and to the mentally ill person.
2. Members shall attempt to obtain the cooperation of the patient's family and friends in determining the proper action to be taken.
3. Officers shall avoid handling mentally ill persons alone. The Officer would be taking an undue risk, and the patient would be less deterred from resisting than if at least two Officers were present.
4. Officers shall not ride alone in a vehicle with a mentally ill person. The potential for physical danger is too high and the possibility of unfounded allegations of improper conduct is too great.

##### B. Using Force and Using Restraints

1. If it becomes necessary to use force or restraint, the Officers shall use only that amount of physical force necessary to take the person into custody. Use of the nightstick should be avoided and it should only be used when necessary to defend the Officer from physical injury. When employing force or restraint it is often advisable to approach the person from opposite directions simultaneously, and subdue the person quickly.
2. Handcuffs, or restraints provided by the ambulance crew, shall be used in every instance in which a mentally ill person resists being taken into custody.
3. Mentally ill persons who physically resist being taken into custody should be transported to the hospital by an ambulance after being placed in restraints.

##### B. Armed and Dangerous Mentally Ill Persons

If a mentally ill person is armed, the Crisis Management Team and the SWAT Team shall be called in accordance with M.O.P. Chapter 11.

##### C. Searching the Mentally Ill Person

Any apparently mentally ill person taken into custody by a member of the Department shall be thoroughly searched before being placed in a vehicle and transported to a medical facility.

16.5 TRANSPORTING APPARENTLY MENTALLY ILL PERSONS

- A. Apparently mentally ill persons who have not resisted being taken into custody and who are not violent or combative may be transported to the hospital in a Departmental vehicle. All other mentally ill persons shall be transported by ambulance.
- B. If requested to do so by an ambulance attendant or physician, an Officer shall ride in an ambulance that is transporting a mentally ill person. In such case, another Officer in a police vehicle shall follow the ambulance to the hospital.
- C. Any female patient that is being transported to or from a facility shall be accompanied by another female unless she is accompanied by her father, brother, husband or son (MHL 33.17).

16.6 DISPOSITION OF MENTALLY ILL PERSON'S PROPERTY

- A. If a criminal charge has been placed against an apparently mentally ill person, his/her property shall be treated as prisoner's property and handled in accordance with existing procedures.
- B. If no criminal charge has been placed, the apparently mentally ill person's property shall be delivered to the hospital along with the patient.
- C. Contraband articles shall be retained and handled consistent with procedures outlined in M.O.P. Chapter 5.

16.7 IF NO CRIMINAL CHARGES ARE PLACED

- A. Mentally ill persons who are not charged with a criminal offense and who have been taken into custody under a provision of the Mental Hygiene Law shall be taken directly to the Erie County Medical Center for examination and treatment. The mentally ill person is not to be taken to the City Court Lock-up for booking.
- B. Persons apprehended on the authority of a Mental Hygiene Warrant shall be taken directly to Court and shall not be taken to the City Court Lock-up unless there are also criminal charges outstanding. MHL warrants are to be served only when court is in session.
- C. Whenever questions arise as to the propriety of an examination or admission, members may call the Erie County Medical Center's Comprehensive Psychiatric Emergency Program (CPEP) at 834-3131 or they may call the Crisis Services Suicide Prevention outreach team at 898-3462.

16.8 IF CRIMINAL CHARGES ARE PLACED

A. When Court is in Session

When court is in session and an apparently mentally ill person is charged with a criminal offense, the person shall be booked at the City Court Lock-up on the

criminal charge and then taken to court for arraignment as soon as possible. It is within the court's discretion to order the person to undergo psychological evaluation.

**B. When Court is Not in Session**

When a criminal charge is placed against an apparently mentally ill person and court is not in session, the person shall be taken to the City Court Lock-up for booking on the criminal charge unless circumstances mandate the person's immediate removal to the Erie County Medical Center. Arrest documents are only prepared for the criminal charges and not the Mental Hygiene Law charges.

**C. Hospital Guard**

No Police hospital guard will be required for mentally ill persons who are also charged with a criminal offense except in unusual cases, such as a serious felony or for some other extenuating reason. Only the Duty Inspector or any Officer senior in rank can approve a request for a police hospital guard. The hospital should be requested to notify the Department of the date and time that the patient is to be released.

**16.9 IF THE APPARENTLY MENTALLY ILL PERSON IS REFUSED ADMISSION**

- A. If the apparently mentally ill person is refused admission at ECMC, and the conduct in which the person had engaged would have otherwise constituted an offense (e.g. disorderly conduct, harassment, etc.), the person may be taken to the City Court Lock-up for booking on that charge. In this instance a notation that the person was refused hospital admittance must be recorded on the "Request for Examination (form P-1321), as well as the name of the physician who refused such admittance.
- B. If the apparently mentally ill person is refused admission at ECMC and the examining physician recommends a course of action for the mental and physical welfare of the person that does not include preferring criminal charges, the Officer shall attempt to comply with the physician's recommendations where feasible. When in doubt, the Officers shall consult with the Duty Inspector or 911 Communications Lieutenant and follow his/her directions.
- C. If the apparently mentally ill person is refused admission at ECMC and the person had not engaged in any conduct for which an offense could be charged, Officers should attempt to release him/her to the care of a relative or other concerned person.

**16.10 ATTEMPTED SUICIDES**

In all cases of attempted suicide the member of the Department must:

- A. have the person taken to ECMC for medical and psychological attention;
- B. complete the "Request For Examination" (form P-1321);
- C. notify the Homicide Squad immediately.

## 16.11 REQUIRED FORMS

- A. In all cases in which an apparently mentally ill person is sent to ECMC for examination and/or admission, Form P-1321 "Request for Examination" shall be prepared in accordance with the instructions on the form. An incident number should be obtained in every case.
- B. In preparing the form, great care must be taken to accurately describe the specific conduct that leads the member to believe that the person "is apparently mentally ill and is conducting himself in a manner that is likely to result in serious physical harm to him/herself or others."

DISTRIBUTION: Original to ECMC  
Copy to City Court Booking  
Copy to Command File  
Copy to Homicide Squad (in cases of attempted suicide only)

## 16.12 ALTERNATE PROCEDURES

Whenever circumstances exist in which the person's conduct is not so serious as to authorize the Officer to act under MHL 9.41 but it is apparent that the person is mentally ill, the Officer has several alternatives.

- A. Officers may recommend that the family seek guidance from their family physician.
- B. Officers may recommend that the family seek a Mental Hygiene Warrant from City Court.
- C. Officers may put the family in contact with Crisis Services at 834-3131.
- D. Officers may notify the Erie County Director of Community Services (Erie County Commissioner of Mental Health, 95 Franklin Street) of the circumstances and the person involved. It is then the Director's responsibility to take the necessary steps to ensure the proper care and treatment of such person (MHL 9.47). If a referral of this nature is made, the Officer shall prepare an Aided Case Report (P-71) citing all the pertinent facts of the case.
- E. Either a Police Officer or the parent, spouse, or child, of a mentally ill person who is conducting himself/herself in a manner likely to result in serious physical harm to himself/herself or others, may notify the Director of Community Services or his/her designee. Either the Director or his/her designee may direct the removal of such person to the appropriate agency.
- F. An apparently mentally ill person may be admitted to a proper facility upon the certification of two examining physicians.
- G. The person may be admitted as an "informal" or voluntary patient.