



Florida Fish and Wildlife Conservation Commission
Division of Law Enforcement

MENTAL HEALTH AND SUBSTANCE ABUSE RESPONSE

| GENERAL ORDER | EFFECTIVE DATE | RESCINDS/AMENDS | APPLICABILITY |
|---------------|----------------|-----------------|-------------------|
| 04 | March 16, 2018 | August 31, 2009 | All Sworn Members |

References

Ch. 393, 394, and 397, F.S.; GO 02, 05, and 15; CFA 2.02

1 POLICY

- A** It is the policy of the Division that any contact with an individual in a possible mental crisis be treated with dignity and the utmost concern for their safety and well-being, as well as the safety of those around them. Any response resulting in such contact shall follow all federal, state and local laws, to include the Florida Mental Health Act (Florida State Statute, Chapter 394). However, the Division recognizes that its members are not trained medical professionals and may be required to make decisions based on limited contact with the individual in question.
- B** It is the policy of the Division to conform to current state law regarding treatment and services for substance abuse impaired individuals. Any response resulting in such contact shall follow all federal, state and local laws, to include the Florida Hal S. Marchman Alcohol and Other Drug Services Act (Florida State Statute, Chapter 397). Nothing in this General Order shall affect any laws, ordinances, resolutions or regulations against driving under the influence of alcohol or other similar offenses which involve the operation of motor vehicles, machinery, or other hazardous equipment.
- C** At no time is this General Order to be construed to require members to delay taking action, including deadly force, if the circumstances justify such action.
- D** A sworn member who acts in good faith pursuant to Chapters 394 or 397, F.S. may not be held criminally or civilly liable for false imprisonment.
- E Definitions**
- (1) **Crisis** – a perception of an event or situation as an intolerable difficulty that exceeds the person’s resources and coping mechanisms. Unless the person obtains relief, the crisis has the potential to cause severe affective, cognitive and/or behavioral malfunctioning.
 - (2) **Florida Mental Health Act** – also known as the “The Baker Act”, is a term for an involuntary examination of an individual who meets the criteria of such examination, pursuant to Chapter 394, Florida Statutes.
 - (3) **Hal S. Marchman Alcohol and Other Drug Services Act** – also known as the “Marchman Act”, provides for emergency assistance and temporary detention for individuals requiring substance abuse evaluation and treatment, pursuant to Chapter 397, Florida Statutes.

- (4) **Incompetent to consent to treatment** – a state in which a person’s judgment is so affected by a mental illness or a substance abuse impairment that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical, mental health, or substance abuse treatment.
- (5) **Mental Health Crisis** – A situation in which an individual who is believed to have a mental illness displays one or more of the following:
 - (a) Having delusions;
 - (b) Creating a disturbance;
 - (c) Real and credible threat of substantial harm due to self-neglect;
 - (d) Threatening harm to oneself or others or;
 - (e) Displaying other activity or behavior that causes alarm.
- (6) **Mental Illness** – an impairment of the mental or emotional processes that exercise conscious control of one’s actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person’s ability to meet the ordinary demands of living. For the purposes of this General Order, the term does not include a developmental disability as defined in Chapter 393, Florida Statutes, intoxication, or conditions manifested only by antisocial behavior or substance abuse.
- (7) **Receiving facility** – a public or private facility or hospital designated by the Department of Children and Families to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider. The term does not include a county jail.
- (8) **Referral** – sending or directing an individual for treatment, aid, or information based on assessment of the facts presented and on services and support agencies available in the community.
- (9) **Release** – allowing a subject to remain in or return to the community based on assessment of the facts presented.
- (10) **Voluntary Examination** – A mental health facility may receive for observation, diagnosis, or treatment any person 18 years of age or older making application by express and informed consent for admission or any person age 17 or under for whom such application is made by their guardian. If found to show evidence of mental illness, to be competent to provide express and informed consent, and to be suitable for treatment, such person 18 years of age or older may be admitted to the facility. A person age 17 or under may be admitted only after a hearing to verify the voluntariness of the consent.

2 RESPONSIBILITIES

A Sworn Members

- (1) When responding to a person with a potential issue of substance abuse or a mental health crisis, sworn members are responsible for the following:
 - (a) Protect oneself.
 - (b) Protect others.
 - (c) Protect the subject, which may require the need for protective custody.
 - (d) Stabilize the situation.
 - (e) Intervene to prevent further problems.

- (2) Encounters with persons described in this General Order which require the sworn member to take action shall be documented using the Incident Summary Report and other applicable forms as appropriate for the incident.
- (3) Sworn members shall follow the policies and procedures regarding prisoner/detainee transport outlined in General Order 05, *Use of Force, Response to Resistance, Transporting Prisoners*

B Training Section

- (1) Training on mental health issues and response shall be provided during the Florida Law Enforcement Officer Basic Recruit Program as described in the Florida Criminal Justice Standards and Training Commission's Law Enforcement Basic Recruit Curriculum.
- (2) All other entry-level sworn members shall receive training in dealing with mentally ill persons.
- (3) Training Section staff shall periodically provide refresher training to all sworn members as part of scheduled in-service training.
- (4) The nature of the training may vary but shall include:
 - (a) Guidelines for the recognition of persons suffering from mental illness.
 - (b) Procedures for accessing available community mental health resources.
 - (c) Specific guidelines for sworn members to follow in dealing with persons they suspect are mentally ill during contacts in the field as well as during interviews and interrogations.
- (5) All training shall either be documented by the Division's Training Section and maintained in the sworn member's training record, or documented in PowerDMS.

3 PROCEDURES

A Assessment of Possible Mentally Ill Persons

- (1) The terms "mental illness," "emotional illness," and "psychological illness," describes varying levels of a group of disabilities causing disturbances in thinking, feeling, and relating. These terms should not be confused with developmentally disabled.
- (2) When identifying symptoms of behavior that may suggest mental illness, sworn members should not rule out other potential causes such as reactions to narcotics, or temporary emotional disturbances that are situationally motivated.
- (3) Sworn members responding to a mental health crisis shall:
 - (a) Protect oneself.
 - (b) Protect others.
 - (c) Protect the subject, which may require the need for protective custody.
 - (d) Stabilize the situation.
 - (e) Intervene to prevent further problems.
- (4) When making contact or during triage members shall assess for:
 - (a) Current level of danger of risk.
 - (b) Medical Emergency.
 - (c) Nature of criminal activity, if relevant.
 - (d) Nature of problem: mental illness or substance abuse.
- (5) To determine whether the person needs medical, substance abuse, or mental health intervention, ask the subject and people who know the subject specific questions designed to

assess the person's condition. If the nature of the condition cannot be quickly determined, request assistance from emergency medical personnel.

B Baker Act (Florida Mental Health Act Ch. 394, Florida Statutes)

- (1) Sworn members may take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have them delivered to the nearest receiving facility for examination if there is reason to believe that the person has a mental illness and because of their mental illness:
 - (a) The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; or the person is unable to determine for themselves whether examination is necessary; and
 - (b) Without care or treatment, the person is likely to suffer from neglect or refuse to care for themselves; such neglect or refusal poses a real and present threat of substantial harm to their well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or there is a substantial likelihood that without care or treatment the person will cause serious bodily harm to themselves or others in the near future, as evidenced by recent behavior.
- (2) A list of receiving facilities by county or city are available on the Department of Children and Families' website at: <http://www.myflfamilies.com/service-programs/mental-health/baker-act-receiving-facilities>
- (3) The refusal to accept medical attention in life threatening situations may be considered as one of the factors in determining the need for involuntary examination. However, any person(s) who appears to be mentally competent and refuses medical attention in apparent non-life-threatening situations may not meet the criteria for an involuntary examination.
- (4) Under the Baker Act, sworn members do not need to witness all the behaviors of the subject personally. Sworn members can consider credible eyewitness accounts in determining the need for further assessment. If relying on a credible witness, a sworn member shall have the witness complete a sworn statement and attach it to the incident report.
- (5) Whenever sworn members observe conduct which meets the above criteria they shall notify their immediate supervisor. Sworn statements may be obtained from credible witnesses who have observed conduct which may be indicative of a person's mental health. These statements may be used in lieu of the sworn member's observations. The totality of the circumstances should be considered when determining whether a person will be taken to a receiving facility for involuntary examination.
- (6) Criminally charged subjects:
 - (a) Mentally ill persons in the custody of a sworn member based on either noncriminal or minor criminal behavior that meet the statutory guidelines for involuntary examination shall be transported to the nearest receiving facility. If on examination the individual is not found to meet the criteria for admission, he/she will be released back to the sworn member for disposition of the minor criminal charge.
 - (b) When a sworn member has arrested a person for a felony and it appears that the person meets the statutory guidelines for involuntary examination or placement under the Baker Act, such person must first be processed in the same manner as any other criminal suspect. The sworn member shall then notify the appropriate receiving facility. The receiving facility shall be responsible for promptly arranging for the examination and treatment of the person. A receiving facility is not required to admit a person charged with a crime for whom the facility determines and documents that it is unable to provide adequate security, but shall provide examination and treatment to the person where he or she is held.
- (7) Once a decision to transport a subject for an involuntarily examination has been made, sworn members shall determine if the subject is injured and requires emergency medical attention. If

the person is injured, he/she shall be transported to the nearest hospital emergency room. If there is a question concerning a subject's medical condition, EMS should evaluate the subject prior to transport.

- (8) When a sworn member believes that criteria for involuntary examination has been met, the following forms shall be completed:
- (a) Department of Children and Families Forms available at the receiving facility and at the Florida Department of Children and Families website: <http://www.myflfamilies.com/service-programs/mental-health/baker-act-forms>:
 - 1. CF-MH 3052a – Report of Law Enforcement Officer Initiating Involuntary Examination
 - 2. CF-MH 3100 – Transportation to Receiving Facility
 - (b) Incident Summary Report
- (9) Any person who violates or abuses any rights or privileges of patients is liable for damages as determined by law. As per Section 394.459(10) F.S., any person who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the admission, diagnosis, treatment, or discharge of a patient to or from a facility. However, this does not relieve any person from liability if such person commits negligence.

C Marchman Act (Hal S. Marchman Alcohol and Other Drug Services Act Ch. 397, Florida Statutes)

- (1) Sworn members may implement protective custody measures when a person (minor or adult) who appears to meet the following involuntary admission criteria is brought to the attention of law enforcement, or is in a public place. Protective custody can be initiated if either element is present.
- (2) A person meets the criteria for involuntary admission under the Marchman Act if there is a good faith reason to believe that the person is substance abuse impaired or has a co-occurring mental health disorder and, because of such impairment or disorder:
- (a) Has lost the power of self-control with respect to substance abuse; and
 - (b) Is in need of substance abuse services and, by reason of substance abuse impairment, his or her judgment has been so impaired that he or she is incapable of appreciating his or her need for such services and of making a rational decision in that regard, although mere refusal to receive such services does not constitute evidence of lack of judgment with respect to his or her need for such services; or
 - (c) Without care or treatment, is likely to suffer from neglect or refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services, or there is substantial likelihood that the person has inflicted, or threatened to or attempted to inflict, or, unless admitted, is likely to inflict, physical harm on himself, herself, or another.
- (3) Sworn members acting in good faith may not be held criminally or civilly liable for false imprisonment when initiating protective custody measures.
- (4) Protective custody with consent (Section 397.6771, F.S.)
- (a) A person in circumstances which justify protective custody, as described in Chapter 397, Florida Statute, may consent to be assisted by a sworn member to his or her home, to a hospital, or to a licensed detoxification or addictions receiving facility, whichever the sworn member determines is most appropriate.
 - (b) If the person withdraws consent or if the facility cannot take the person, the person may not be forced to remain at the facility unless the criteria for involuntary admission has been met.

- (5) Protective custody without consent (Section 397.6772, F.S)
- (a) If a person in circumstances which justify protective custody as described above fails or refuses to consent to assistance and a sworn member has determined that a hospital or a licensed detoxification or addictions receiving facility is the most appropriate place for the person, the officer may, after giving due consideration to the expressed wishes of the person:
 1. Take the person to a hospital or to a licensed detoxification or addictions receiving facility against the person's will but without using unreasonable force.
 - (b) If circumstances prevent admission into a hospital or detoxification facility (e.g., lack of bed space), sworn members shall:
 1. In the case of an adult, detain the person for his or her own protection in any municipal or county jail or other appropriate detention facility.
 - (c) Such detention is not to be considered an arrest for any purpose, and no entry or other record may be made to indicate that the person has been detained or charged with any crime. The officer in charge of the detention facility must notify the nearest appropriate licensed service provider within the first 8 hours after detention that the person has been detained. It is the duty of the detention facility to arrange, as necessary, for transportation of the person to an appropriate licensed service provider with an available bed. Persons taken into protective custody must be assessed by the attending physician within the 72-hour period and without unnecessary delay, to determine the need for further services.
 - (d) When a sworn member believes that criteria for involuntary examination are met the following forms shall be completed:
 1. Incident Summary Report
 2. Department of Children and Families Form, available at the receiving facility and at the Florida Department of Children and Families website: <http://www.myflfamilies.com/service-programs/substance-abuse/marchman-act>.
 3. CF-MH 4002 – Report of Law Enforcement Officer Initiating Protective Custody

4 FORMS

| FORM NUMBER | FORM TITLE |
|-------------|--|
| | Incident Summary Report |
| CF-MH 3052a | Report of Law Enforcement Officer Initiating Involuntary Examination |
| CF-MH 3100 | Transportation to Receiving Facility |
| CF-MH 4002 | Report of Law Enforcement Officer Initiating Protective Custody |