

Osceola County Sheriff's Office

Policy and Procedure

Number: 415.0

Subject: Response to Persons with Mental Illness and/or Substance Abuse Impairment

Effective Date: 08/14/09

P.R.C. Review: 04/17/09

Rescinds: 07/07/05

Amends:

This order consists of the following:

1. Purpose
2. Policy
3. Definitions
4. Procedures

1. **Purpose**

Intoxication and mental illness are not crimes. The Baker Act is a statute that allows a law enforcement officer to take immediate steps to protect an individual believed to be mentally ill and safeguard those persons who may be harmed by the individual's behavior, or from harming themselves. The Marchman Act serves the same purpose for individuals who are substance abusers.

The purpose of this policy is to establish guidelines for the lawful execution of the Baker Act and the Marchman Act.

2. **Policy**

Sheriff's Office members encountering individuals who meet the criteria of the Baker Act or the Marchman Act will follow state law when exercising their authority. When available, Crisis Intervention Team (CIT) members or deputies with CIT training will respond to calls involving the mentally ill in crisis, and explore alternatives to arrest, if possible.

3. **Definitions**

- A. B-52 Form - A DCFS form authorized by law to initiate the involuntary exam process under the Baker Act.
- B. Baker Act - A section of Chapter 394 Florida Statutes, which allows a law enforcement officer to take a person, who is believed to suffer from a mental illness and is an immediate threat to him/her-self or others, to a receiving facility for an involuntarily examination for mental illness. Also known as the Florida Mental Health Act.
- C. Crisis Intervention Team (CIT) - specially trained deputies who have received a minimum of forty (40) hours of advanced training in the recognition of persons in a mental health crisis and the appropriate intervention techniques.
- D. Designated Receiving Facility - A hospital, community facility, public or private facility, or receiving or treatment facility providing for the evaluation, diagnosis, care, treatment, training, or hospitalization of persons who appear to have a mental illness and meet certain criteria for voluntary admission or involuntary examination. The location and telephone

number of the nearest appropriate facility may be obtained from communications.

- E. Developmentally Disabled – retardation, autism, cerebral palsy, spina bifida, Prader-Willi syndrome, or other disability that constitutes a substantial handicap that can reasonably be expected to continue indefinitely and can never be cured. Developmental disabilities are distinctly different from mental illness.
- F. Excited Delirium Syndrome (EDS) - Excited Delirium Syndrome is a state of extreme mental and physiological excitement primarily related to illicit stimulant drug abuse and less often related to mental illness. EDS is manifested by acute behavioral and physiological changes (i.e., great strength, extreme body temperature, incoherent speech) that may result in sudden and unexplained death.
- G. Ex Parte Order - A circuit court judge's order requiring that the person named in the order be taken into custody and delivered to a designated receiving facility for an involuntary examination.
- H. Incompetent to Consent to Treatment – A person's judgment is so affected by their mental illness that the person *lacks the capacity* to make a well-reasoned, willful, and knowing decision concerning their mental health treatment.
- I. Marchman Act - A section of Florida State Statute chapter 397 which allows a law enforcement officer to take a person into protective custody who is substance abuse impaired, has lost the power of self control and poses an immediate threat to him/her-self or others. Also known as the Hal S. Marchman Alcohol and Other Drug Services Act of 1993.
- J. Mental Health Crisis – A situation in which an individual who is believed to have a mental illness displays one or more of the following:
 - 1. Having delusions;
 - 2. Exhibiting erratic behavior;
 - 3. Creating a disturbance;
 - 4. Real and credible threat of substantial harm due to self-neglect;
 - 5. Threatening harm to oneself or others, or;
 - 6. Displaying other activity or behavior that causes alarm.
- K. Mental Illness – An impairment of the mental or emotional processes that exercises conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person's ability to meet the ordinary demands of living. For the purpose of this policy, the term specifically excludes mental retardation or developmental disabilities as defined in chapter 393, simple intoxication, drug addiction, and conditions manifested only by antisocial behavior or substance abuse impairment.

4. Procedures

A. Recognizing Subjects Suffering from Mental Illness

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, deputies should not rule out other potential causes such as reactions to narcotics, Excited Delirium Syndrome or temporary emotional disturbances that are situationally motivated.

B. Law Enforcement Initiated Admissions

1. The Baker Act is a civil procedure which empowers law enforcement officers to take a person to a designated receiving facility for involuntary examination if there is reason to believe that the individual is mentally ill, and because of such illness: {CFA 2.04}
 - a. Has refused voluntary examination after a conscientious explanation and disclosure of the purpose of the exam; or,
 - b. Is unable to determine for himself whether the examination is necessary; and
 - c. Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself; such neglect or refusal poses a real and present threat of substantial harm to his 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,
 - d. There is a substantial likelihood that without care or treatment, he will cause serious bodily harm to himself or others in the near future, as evidenced by recent behavior.
2. The refusal to accept medical attention in life threatening situations may be considered as one of the facts 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.
3. Under the Baker Act, deputies do not need to witness all of the behaviors of the subject personally. Deputies can consider credible eyewitness accounts in determining the need for further assessment. If relying on a credible witness, deputies will have the witness complete a sworn statement and attach it to the incident report.

C. Baker Act Procedures

1. General

- a. If available, a deputy with Crisis Intervention Team (CIT) training shall respond to incidents involving a mentally ill subject who is unstable or in a state of crisis.
- b. Upon contact with a person who meets the involuntary examination criteria, deputies shall initiate a Baker Act and complete the required documentation.
- c. Once a decision to Baker Act has been made, deputies shall determine if the subject is injured and requires emergency medical attention. If the person is

injured, he/she will 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. Transportation by EMS or OCSO vehicle will be determined by the severity and nature of the medical emergency.

2. Documentation

All records regarding any Baker Act subject except the Incident Report are confidential and exempt from disclosure under Florida's public records law. A Baker Act requires:

- a. An Incident Report.
- b. B-52 form or original Ex-parte Order (*with a raised seal*).
- c. Charging Affidavit (if applicable).
- d. Medical clearance documents (if applicable).
- e. Return of service (when an ex parte order is served).
- f. Witness statements (if applicable).

3. Criminal Charges {CFA 2.04}

Subjects who are to be criminally charged with a misdemeanor but do not require emergency medical attention may be transported to a designated receiving facility for evaluation and/or treatment if the nature of the charge(s) is such that the person does not present a threat of escape or violence toward others. The member must notify his/her supervisor and complete an A.P.S. to be forwarded to the State Attorney's Office for follow-up. If a subject who meets the involuntary examination criteria commits a felony and does not require medical treatment, he/she shall be arrested and transported to jail. The arresting member will immediately notify Corrections personnel who shall be responsible for the subject's care and treatment.

4. Mentally Ill Under the Influence of Drugs or Alcohol

Subjects who meet Baker Act criteria and appear to be substance impaired but do not require medical attention will be transported to the designated receiving facility. If the receiving facility will not accept the subject due to substance impairment, the subject will be transported to jail under the provisions of the Marchman Act.

5. Violent Subjects

Violent subjects who are not under arrest will be transported to the designated receiving facility, unless the subject is so violent as to require the continued presence of a law enforcement officer. Under no circumstances should a violent subject be left unattended until personnel at the designated mental health receiving facility or hospital indicate that there is no longer a need for a law enforcement presence. In such cases, a supervisor will be contacted.

D. Voluntary Admissions

1. If an individual who is believed to be suffering from a mental illness is willing to be evaluated by a mental health professional, the person does not meet the requirements for involuntary examination. However, a voluntary admission is not appropriate for a person(s) who is so affected by their illness that the deputy believes they are incompetent to consent to mental health treatment.

2. Deputies will transport a subject to the nearest receiving facility unless a less restrictive means of transportation is discovered, such as willing family members or a friend. However if there is a potential for violence or other mitigating circumstance, deputies shall transport the person to the nearest receiving facility.
3. Even if an individual initially agrees to a voluntarily evaluation by a mental health professional, deputies shall continue to observe the subject to determine if criteria for an initiated involuntary examination are met. If the criteria are met, complete an involuntary examination.

E. Court-Ordered Admissions

1. A judge may issue an ex parte order after a family member or other concerned person goes to the Clerk of Court probate office and fills out the required paperwork under oath.
2. Court orders are sent to the Osceola County Sheriff's Office Judicial Services Section for service, but may be served by any sworn member. An ex parte order can be executed any hour of the day or night, any day of the week, and use reasonable physical force as is necessary to gain entry to any structures on the premises to take custody of the person who is the subject of the ex parte order.
3. At times family members or persons involved with the subject to be served will contact the agency to advise the subject's location. If this occurs and a Judicial Services Unit is unavailable, the Communications Section will dispatch a patrol unit to locate and transport the subject to a receiving facility. The on-call Judicial Services Unit must be notified to meet the transporting deputy at the receiving facility to serve the order.
4. If the subject of a Court Ordered Ex-Parte appears to have an emergency medical condition, the subject should be taken to the nearest emergency room, regardless of whether it is designated as a psychiatric receiving facility. Once medical clearance is obtained, the Sheriff's Office will be responsible for transportation of the person to a designated receiving facility.
5. Before serving an ex-parte order, members shall ensure that it has not expired.

F. Health Care Professional Initiated Admissions

1. A Baker Act may also be initiated by a physician, licensed clinical psychologist, psychiatric nurse, licensed clinical social worker, licensed mental health counselor, or a licensed marriage and family therapist.
2. The health care professional will execute a certificate (BA-52) stating that he has examined a person within the preceding 48 hours and finds that the individual appears to meet the criteria for involuntary examination.
3. The Sheriff's Office will transport for these types of admissions.

G. Transport

All persons will be transported with dignity, including those who face criminal charges. The

individual will be searched for weapons prior to transport and handcuffed according to Policy 403.0, Handcuffs and Other Restraints. Prior to transport, the member will notify the designated receiving facility. Under this policy, deputies will transport persons when:

1. The member is acting upon an order from the court; or
2. The member initiates a Baker Act.
3. Extraordinary circumstances cause another law enforcement agency to request assistance with a transport, and the transport is approved by a lieutenant or higher authority.
4. A health care professional who has Baker Acted a subject requests transport to a designated receiving facility, and the transport is approved by a supervisor.

H. Liability/Immunity

Any person who violates or abuses any rights or privileges of patients provided by the Baker Act may be liable for damages. Any person who acts in good faith in compliance with the provision of this part of the Act is immune from the civil or criminal liability for his actions in connection with the admission, diagnosis, treatment, or discharge of a patient to or from a facility. However, this provision does not relieve any person from liability for a negligent act (*failure to act*) (F.S.S. 394.459 (10)).

I. Agency Mental Health Training

1. All sworn agency members, Community Service Officers, and Communications Section members shall receive two (2) hours of entry level mental health training and refresher training as needed, which shall be documented and entered into the member's training record.
2. In order to determine the necessity and scope of future agency-wide mental health training, a copy of every offense report documenting the initiation of a Baker Act shall be forwarded to the CIT Coordinator.
3. CIT members shall receive a minimum of forty (40) hours advanced training based on the "Memphis Model" of crisis intervention training. CIT members shall receive annual refresher training via on-line studies as provided by the Training Unit.

J. Structure and Deployment of CIT-Trained Members:

1. The Crisis Intervention Team (CIT) Coordinator is a sworn supervisor designated by the Enforcement Bureau Major or designee. The CIT Coordinator shall be responsible for:
 - a. Compiling monthly and yearly activity reports to assist in determining the effectiveness of the CIT Unit.
 - b. Coordinating mental health training.
 - c. Coordinating the operation of the CIT Unit.
 - d. Reviewing CIT tracking sheets.
 - e. Serving as the agency liaison with other mental health service providers and community mental health support groups.
2. CIT Member Selection Criteria:

- a. Minimum of two (2) years experience as a law enforcement officer.
 - b. Recommendation by the chain of command.
 - c. Above average verbal communications skills.
 - d. Successful completion of an approved forty (40)-hour CIT training class.
3. CIT members are specially trained deputies who are designated to handle situations involving the mentally ill in crisis; however, the Hostage Negotiation Team will be the primary unit to handle those incidents that involve weapons, hostages, and/or barricaded subjects.
 4. CIT members shall be assigned a unique radio dispatch identifier "Charlie" in conjunction with their radio call sign to allow Communications Section members to readily identify them. When CIT members come on duty, they must notify Communications of their CIT status.
 5. Whenever possible, a CIT member shall be dispatched to calls involving a confirmed or suspected mentally ill person in crisis. A crisis could consist of, but is not limited to: a person having delusions, refusing to take prescribed psychotropic medications, erratic behavior, suicidal thoughts or ideation, causing a disturbance, talking to themselves, or other activity that causes alarm or concern to the average person.
 6. The CIT member shall complete a Crisis Intervention Tracking Form in every circumstance within the scope of crisis intervention. The form shall be forwarded to the CIT Coordinator within for inclusion in the monthly CIT status report.
 7. CIT members are approved to display the recognized CIT service pin above the right side pocket flap of the class A or B uniform.
- K. Marchman Act (Hal S. Marchman Alcohol and Other Drug Services Act of 1993, F.S.S. 397.677)
1. A member 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. Any law enforcement officer acting in good faith may not be held criminally or civilly liable for false imprisonment when initiating protective custody measures. {CFA 2.04}
 2. Upon meeting with such a person, the member must have a good faith reason to believe the person is substance abuse impaired and, because of such impairment has lost the power of self-control with respect to substance abuse, and either; {CFA 2.04}
 - a. Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or another; or
 - b. Is in need of substance abuse services and, by reason of substance abuse impairment, his judgment has been so impaired that the person is incapable of appreciating his/her need for such services and of making a rational decision in regard thereto. Mere refusal to receive such services does not constitute lack of judgment with respect to his or her need for such services.

3. **Protective Custody With Consent (F.S.S. 397.6771)**
With the consent of the person meeting the above criteria, a member may assist the person to his home, to a hospital, or to a licensed detoxification or addictions receiving facility. The member will determine which is the most appropriate action to take. For officer safety reasons, handcuffing will be per Policy 403.0.
4. **Protective Custody Without Consent (F.S.S. 397.6772)**
 - a. A member may initiate protective custody without the consent of the impaired person when:
 - (1). The person fails or refuses to consent to assistance, and
 - (2). The member has determined that a hospital or a licensed detoxification or addictions receiving facility is the most appropriate place for the person.
 - b. The member will, after giving due consideration to the expressed wishes of the person, take the person to a hospital or detoxification facility.
 - c. If circumstances prevent admission into a hospital or detoxification facility (e.g., lack of bed space), the member will:
 - (1). Detain an adult in the county jail and notify the nearest relative, unless the adult requests that there be no notification.
 - (2). Notify the nearest relative of a juvenile for involuntary assessment and emergency admission.
 - d. The member must not use unreasonable force to take the person into custody, but, for officer and individual safety reasons, will handcuff the person during transport.
 - e. A person taken into protective custody under the Marchman Act will be confined in a detoxification holding cell until evaluated by medical personnel to be sober. In no case can protective custody extend beyond 72 hours.
5. **Reports/Records**
Any person taken into protective custody under the Marchman Act will not be considered an arrestee for any purpose, and no entry or other record will be made to indicate that the individual has been arrested or charged with a crime. The member will document the incident on an incident report and complete a booking report titled, "Marchman Act", to show that the person was in the care of the jail. The report narrative will indicate that no crime was committed.

Approved by: Sheriff Robert E. Hansell