

ASHEVILLE POLICE DEPARTMENT POLICY MANUAL

Chapter: 5 - Law Enforcement Operations

Original Issue: 3/15/1997

Policy: 502 - Involuntary Commitments

Last Revision: 5/23/2022

Previously: 1411 - Involuntary Commitments



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INTRODUCTION

This policy establishes procedures for assisting individuals seeking voluntary admission to a mental health facility, as well as guidelines for involuntary and/or emergency commitments for individuals requiring hospitalization due to mental illness or substance abuse. [74.2.1]

POLICY STATEMENT

It is the policy of the Asheville Police Department to assist individuals with mental illness or substance abuse problems in obtaining treatment by encouraging voluntary admission to a treatment facility. It is also the policy of this department to assist with and/or initiate involuntary or emergency commitment of the mentally ill or substance abuser who is dangerous to themselves or others.

DEFINITIONS

Dangerous to Self:

Within the relevant past, the individual has done any of the following:

- 1) The individual has acted in such a way as to show:
 - a. The individual would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of their daily responsibilities and social relations, or to satisfy their needs for nourishment, personal or medical care, shelter, or self-protection and safety; and
 - b. There is a reasonable probability of the individual suffering serious physical debilitation within the near future unless adequate treatment is given. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and judgment creates a reasonable inference that the individual is unable to care for themselves; or
- 2) The individual has attempted or threatened suicide and there is a reasonable probability of suicide unless adequate treatment is provided; or
- 3) The individual has mutilated or attempted to mutilate themselves and there is a reasonable probability of serious self-mutilation unless adequate treatment is provided.

Dangerous to Others: within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining the reasonable probability of future dangerous conduct.

Mental Illness:

- 1) When applied to an adult, illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his/her affairs and social relations to make it necessary or advisable for the individual to be under treatment, care, supervisor, guidance, or control.
- 2) When applied to a minor, a mental condition, other than an intellectual disability alone, that so lessens or impairs capacity to exercise age adequate self-control and judgment in the conduct of the minor's activities and social relationships so that the minor is in need of treatment.

Substance Abuser: an individual who engages in the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. Substance abuse may include a pattern of tolerance and withdrawal.

24-hour Facility: a facility that provides a structured living environment and services for a period of 24 consecutive hours or more with the primary purpose of providing services for the care, treatment, habilitation, or rehabilitation of [individuals with mental illness or intellectual or other developmental disabilities or substance abusers](#).

RULES AND PROCEDURES

502.1 GENERAL GUIDELINES

- A. A supervisor's approval is required before serving custody orders.
- B. Any officer responding to a call involving an individual that an officer reasonably believes may have a mental illness should consider, as time and circumstance reasonably permit, conflict resolution and de-escalation techniques and community or other resources available to assist in dealing with mental health issues (see [Policy 501 – Crisis Intervention](#)).
- C. Officers will use their best judgment to determine if an individual is in need of emergency services based on factors such as:
 - 1. The person appears to be an imminent danger to themselves or others.
 - 2. The person appears to be unable to care for themselves. They are unable or refuse to accept intervention that would meet minimum needs for food, clothing, shelter, or physical well-being.
 - 3. The person appears to be suffering substantial mental deterioration and exhibits an inability for reasonable comprehension and normal adjustments in lifestyle.
- D. [In taking custody and providing transportation for commitment proceedings, officers will only use reasonable force to restrain the individual if it appears necessary to protect the officer, the individual, or others, see \[Policy 402 – Response to Resistance\]\(#\).](#)

502.2 VOLUNTARY ADMISSIONS

- A. Officers will attempt to seek non-arrest resolutions in cases involving individuals suffering from mental illness or in crisis whenever possible. Referral to appropriate facilities on a voluntary basis is the desired result. [1.2.6]
- B. Officers should refer persons who appear to be in need of mental health treatment and do not pose an imminent danger to themselves or others to a mental health facility or, when

necessary, provide a family member or other responsible person with the information necessary to secure the needed assistance.

- C. Referrals within the city can be made via the Communications [Center](#) who can contact on-call regional and area providers for assistance. Persons who are or have been under the care of a private physician should be referred to that physician. [41.2.7 b]

502.3 INVOLUNTARY COMMITMENTS

- A. In accordance with [N.C. Gen. Stat. § 122C-261](#) and [N.C. Gen. Stat. § 122C-281](#) any person, including an officer, may initiate commitment proceedings if they have knowledge that an individual is:
 - 1. Mentally ill and dangerous to self or others; or
 - 2. Mentally ill and in need of treatment to prevent further disability or deterioration [that would predictably result in dangerousness](#); or
 - 3. A substance abuser who is dangerous to self or others.
- B. In appropriate cases, officers should encourage family members or other responsible persons with knowledge of the individual to initiate involuntary commitment proceedings; however, if family members or other responsible parties are unable or unwilling to assist, the officer will proceed in accordance with this policy.
 - 1. Officers may not detain an individual to allow another officer, family member, or another responsible person to obtain an involuntary commitment order unless other permissible grounds for detaining the individual exists.
 - 2. If an officer is on the scene with an individual who cannot be safely released while an involuntary commitment order is sought due to the subject posing a threat to themselves or others officers should proceed with an emergency commitment as outlined in [Section 502.4](#).
- C. The person initiating involuntary commitment proceedings must appear before an appropriate clerk or magistrate to execute an affidavit and to petition for the issuance of a custody order.
- D. Officers can only take an individual into custody within 24 hours of the issuance of a commitment order issued by a clerk or a magistrate. [74.2.1]
- E. [Officers must have a physical copy of the commitment order before taking an individual into custody.](#)

- F. Upon arrival at the facility, the officer will present the individual and papers to the available Buncombe County Sheriff's Deputy, qualified physician, or charge nurse to initiate evaluation proceedings. The examining physician may recommend the following:
 - 1. To commit the individual for in-patient treatment; or
 - 2. Release the individual to family, friends, or others with a recommendation for outpatient treatment; or
 - 3. Release the individual without treatment.
- G. Whether the individual is committed or released, the officer must execute the reverse side of the original and copy of the custody order and return the original to the magistrate or clerk's office. [74.2.1]
- H. If the individual is committed, the following documents will be left with the appropriate hospital staff:
 - 1. A copy of the petition.
 - 2. A copy of the properly executed custody order.
- I. Until commitment proceedings are finalized, under no circumstances will an officer leave an individual with facility staff in an unsecured area within that facility, when in the opinion of the officer and/or supervisor, the individual is exhibiting behavior that is violent or reasonably expected to become violent.
- J. During the admission process, the examining physician may recommend the person for outpatient treatment. In this case, the transporting officer must return such released patients to their residence, the residence of a consenting person, or other safe location within the City as necessary.

502.4 EMERGENCY COMMITMENTS

- A. Per [N.C. Gen. Stat. § 122C-262](#), emergency commitment procedures are available in those circumstances where an officer is confronted by an individual who requires immediate hospitalization to prevent harm to themselves or others.
- B. Officers taking individuals into emergency custody must immediately transport them directly to a mental health facility for examination.
- C. [Before officers transport a **combative subject** to Mission Hospital for an emergency commitment, if feasible, Mission Hospital personnel should be contacted and provided with requested and available information so staff can prepare to assist officers upon arrival.](#)

- D. If the examining physician finds the individual to be mentally ill and dangerous to self or others and in need of treatment, he must so certify in writing. The notarized physician's certificate will serve as the custody order. Appearance before a magistrate is not required.
- E. If the examining physician finds the individual to be a substance abuser, an appearance before a magistrate **is** required. Appearance before a magistrate must be by the officer or petitioner who accompanied the respondent to the hospital. Another officer will be required to stand by with the respondent until the petitioning officer returns with a custody order.

502.5 TRANSPORTATION

- A. APD officers are only responsible for the transport of individuals with valid involuntary commitment orders residing in or taken into custody within the city limits, and only to a treatment facility within the city limits of Asheville.
- B. Whenever feasible, officers who serve an involuntary commitment order will advise the individual that they are not under arrest for a criminal violation but are being taken into temporary custody for their own safety and that of others. The officer must transport the individual to the designated facility for examination by a physician or eligible psychologist without unnecessary delay. [74.2.1]
- C. To the extent feasible, officers who transport an individual for the purpose of [an involuntary commitment](#) will be of the same sex as the individual ([N.C. Gen. Stat. § 122C-251\(d\)](#)).
- D. The transporting officer should have the Communications [Center](#) notify the receiving facility of the estimated time of arrival, the level of cooperation of the transported individual, and whether any special medical care is needed.
- E. [Any use of restraints will be as reasonably determined by the officer to be necessary under the circumstances for the safety of the individual, the officer, and other persons. Every effort to avoid restraint of a child under the age of ten \(10\) will be made by the transporting officer unless the child's behavior or other circumstances dictate that restraint is necessary \(N.C. Gen. Stat. § 122C-251\(e\)\).](#)
- F. If the individual requires transport in an ambulance or other medical transport vehicle and the safety of any person, including the transported individual, requires the presence of an officer during the transport, the officer will accompany the individual.

502.6 CRIMINAL OFFENSES

- A. Officers investigating a person who is suspected of committing **an infraction or non-violent misdemeanor**, and **who is being taken into custody** [for](#) an involuntary or

[emergency](#) commitment, should resolve the criminal matter by issuing a citation, as appropriate.

B. When an individual **who may qualify** for an involuntary [or emergency](#) commitment has committed **a serious criminal offense** that would normally result in an arrest and appearance before a magistrate, the officer should:

1. Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the commitment.
2. With supervisor approval, the officer should follow the steps outlined in this policy. If the petition is denied, the officer will consult with a supervisor as to the criminal charges.
3. Thoroughly document in related reports the circumstances that indicated the reason the individual qualified for an involuntary commitment.
4. At the conclusion of any involuntary commitment proceeding, consult with the appropriate supervisor as to the criminal charges.

C. In the event that **an individual under arrest** requires [emergency commitment](#), procedures outlined in [SOP 3007 - Hospital Guard Duty](#) will be followed until the individual is under appropriate supervision and a 24-hour facility has taken custody of the individual.

BY ORDER OF:

A handwritten signature in black ink, appearing to read "David J. Zack". The signature is fluid and cursive, with the first name "David" and last name "Zack" clearly distinguishable.

David Zack
Chief of Police