



Herndon Police Department GENERAL ORDERS

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ENCOUNTERS WITH EMOTIONALLY DISTURBED PERSONS

I. POLICY

Police encounters with persons displaying symptoms of social, mental or behavioral problems require an officer to make an immediate judgment about the mental state and intent of the individual. Determining the best course of law enforcement action is dependent on the nature of the call, the perceived threat of the individual, and available resources. Ideally, contacts with emotionally disturbed persons should result in a referral to an appropriate facility on a voluntary basis; however, if public safety demands otherwise, involuntary detention measures must be initiated. Placing criminal charges for the purpose of taking such persons into custody should only be used if there is probable cause for an arrest and no alternative methods are available to maintain public safety or provide appropriate medical care.

II. TERMINOLOGY

Clinician – a mental health professional skilled in the diagnosis and treatment of mental illness.

Crisis Intervention Team (CIT) – personnel who have received specialized training in responding and resolving situations involving mental illness or developmental disability.

Emotionally Disturbed Person (EDP) – a person exhibiting immediate or persistent signs or symptoms of social, mental, or behavioral problems characterized by abnormal cognitive, emotional, or behavioral functioning.

Emergency Custody Order (ECO) – a civil process that authorizes officers to take a person into emergency custody, based on specific criteria and probable cause, for a mental health evaluation.

Petitioner – any person with firsthand knowledge or probable cause that the EDP needs help; in some cases, officers may become petitioners.

Temporary Detention Order (TDO) – A civil process that authorizes officers to take a person into custody for involuntary mental health treatment.



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III. INDICATORS OF AN EMOTIONALLY DISTURBED PERSON (EDP) <41.2.7a>

- A. Persons exhibiting signs or symptoms of abnormal cognitive, emotional, or behavior functioning must be treated with special care due to their vulnerability or potential for violence. The mental state of an individual may be affected by chemical abuse, a significant life event, or other illness or condition, and as a result will cause them to exhibit certain signs and symptoms which would classify them as a known or suspected EDP. Regardless of the cause or the crisis, officers must pay special attention to the indicators of an EDP and effectively and legally handle the person and the situation for the safest outcome. Given the unpredictable and potentially violent nature of an EDP, officers shall not compromise or jeopardize their safety or the safety of others when confronted by persons exhibiting signs or symptoms of an EDP.
- B. Some signs and symptoms that may indicate an EDP include:
1. Delusions or hallucinations;
 2. Unusual speech patterns such as nonsensical, excited or loud speech, word repetition; responding to voices or objects that are not there;
 3. Acute depression and/or agitation;
 4. Strange posture or mannerisms, repetitive actions;
 5. Suicidal or violent talk or behavior;
 6. Confusion and disorientation;
 7. Lack of emotional response or inappropriate emotional reactions or social withdrawal;
 8. Visual appearance displaying lack of self-care or inability to perform activities of daily living.



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IV. COMMUNICATING WITH EDPs <41.2.7c>

- A. Proper communication skills are key factors to effectively handling or de-escalating a situation involving an EDP. The goal of each encounter with an EDP is to safely control the situation in a professional and compassionate manner and prevent a destructive or violent confrontation. The following procedures shall apply when communicating with persons known or suspected of an EDP:
1. At least two officers shall be dispatched to any call for service involving a person displaying symptoms of an EDP. A “Crisis Intervention Team” (CIT) officer should be dispatched if available.
 2. If a CIT officer responds, they should be responsible for the call, to include dialogue with the person in crisis, determine the appropriate action(s) to be taken, and complete the necessary paperwork.
 3. Individual officers who encounter an EDP on a call should request back-up as soon as practical.
 4. Only one officer should communicate with the EDP. The contact officer should consider the following techniques during the communication process:
 - a. Speak in a clear and calm manner, introduce yourself and ask for their name.
 - b. Assure the person of their safety, acknowledge their actions and ask them to explain what is happening with them.
 - c. Attempt to calm the individual by showing an understanding/empathy of their feelings.
 - d. Encourage communication and allow the person to vent their emotions.
 - e. Ask one question at a time and allow the individual adequate time to answer.



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- f. Maintain eye contact and repeat the question if the individual is distracted, appears confused, or disregards the question.
 - g. Ask the individual to repeat any instructions they are given to ensure comprehension.
 - h. Ask open-ended questions to avoid yes or no answers.
 - i. Avoid whispering and laughing, as this behavior may increase suspicion and decrease cooperation.
5. Secondary officer(s) will:
- a. Act primarily as a cover officer and if the situation/manpower permits, communicate with family, friends, or others regarding the EDP for additional information and medical history of the person.
 - b. Direct the separation of friends, family, and others from the scene if their presence serves to agitate the EDP.
6. All officers should:
- a. Maintain a non-threatening posture and tone of voice;
 - b. Avoid being deceptive as much as practical;
 - c. Utilize appropriate safety tactics and techniques;
 - d. Establish a safe tactical position;
 - e. Avoid physical contact with the person unless force becomes necessary due to the individual becoming violent or dangerous toward themselves or others;
 - f. If feasible, formulate an arrest plan should it become necessary to take the person into custody.



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V. RESOURCES <41.2.7b>

A. Merrifield Center

The Merrifield Center is the primary resource available to the Department for referral and assessment services as well as emergency services for individuals experiencing a psychiatric crisis. Resources to assist persons with mental illness, substance use disorders, and intellectual disabilities are governed and planned by the Fairfax-Falls Church Community Services Board, and services are provided through the Merrifield Crisis Response Center (Merrifield Center). It is a licensed facility staffed by clinicians to provide assessment services, but it also includes a level of security necessary to ensure custody of affected persons. It is advisable to call ahead of any visit. The Merrifield Center provides the following services:

1. Consensual Referrals

Contact information may be given to refer affected persons or family members to Merrifield Center on their own for needed services.

2. Voluntary Referral Assistance

Depending on the need, if an EDP voluntarily agrees to a mental evaluation and a family member or other responsible person is not available, an officer can have them screened by a clinician at Merrifield Center.

3. Involuntary Referrals

If an EDP appears to be in need of emergency mental health treatment based on appropriate criteria outlined in Code of Virginia 37.2-808, the person can be taken to Merrifield Center for an ECO pre-screening.

4. Mobile Crisis Unit

Mobile Crisis is a unit of the Merrifield Center that provides mobile in-person evaluation, treatment or crisis intervention for serious cases, depending on the situation and availability. They are accessible on a 24-hour basis and should be called to respond to hostage, barricade, mass casualty and critical incident situations. They can also be called to follow-up on referrals from police in cases where a mental health consultation and intervention would be beneficial.



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VI. VOLUNTARY PROCESS

- A. Persons who appear to be in need of mental health treatment but have not committed a crime and do not pose an imminent danger to themselves or others, should be referred to local resources for help. Seeking a voluntary solution to resolve the situation is preferable.
- B. A family member or other responsible person should be sought to assist the EDP to obtain needed treatment as they would be helpful and familiar with their medical status, information regarding a private physician, or other personal resources for immediate care.
- C. Persons who have been, or are under the care of a private physician, should be referred to that physician, if possible.
- D. In most cases, the family should transport the EDP to the mental health facility; however, police may be called to assist family members with crisis intervention or safe transportation to the closest available facility. Such cases will be deemed voluntary and family members will be responsible to accept the EDP at the facility, following police transport.
- E. Local mental health referrals include:
 - 1. Merrifield Center
8821 Willow Oaks Corporate Drive
Fairfax, VA
 - 2. INOVA Fairfax Hospital
3300 Gallows Road
Falls Church, VA
 - 3. Northern Virginia Mental Health Institute
3302 Gallows Road
Falls Church, VA



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4. Dominion Hospital
2960 Sleepy Hollow Road
Falls Church, VA
 5. INOVA Mount Vernon Hospital
2501 Parkers Lane
Alexandria, VA
 6. Children's Regional Crisis Response Program (CR2)
CR2 should be referred to families as a resource for juveniles (17 and younger) facing a mental health and/or substance use crisis. Officers can also seek their services in incidents where their trained counselors can provide phone screening and face-to-face assessment, intervention, and support to the family and juvenile following police assistance. CR2 is a private entity which operates at no cost to the family and responds to incidents with the goal of preventing hospitalization. Officers identifying incidents or circumstances which require attention for the juvenile, but do not rise to the level of probable cause for involuntary admission, should contact a representative from CR2.
- E. If a family member or other responsible person is NOT available to assist an EDP who voluntarily agrees to a mental evaluation, an officer can assist by having them screened by a clinician at Merrifield Center. However, consideration should be given to the following:
1. If an officer assists an EDP with a voluntary evaluation, the officer must remain with the EDP until they have completed a clinical evaluation and are released.
 2. If an EDP voluntarily consents to an evaluation, they can change their mind or withdraw their consent at any time in the course of obtaining an evaluation. Unless criteria exist to invoke emergency custody, the officer shall terminate assistance and release the EDP. In such circumstances, the following procedures shall apply:
 - a. Officers shall immediately notify their supervisor regarding a withdrawn consent for a voluntary evaluation.



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- b. Officers shall ensure that the person is returned to the original encounter location, or close to it.
 - c. Officers shall document their action in an incident report and include the date/time of encounter; name of person; whether transport was provided, and the starting and ending locations of the transport.
 - d. Officers should provide pertinent details of the event to the mental health clinician.
- F. During a voluntary process, if the EDP revokes their consent but meets the criteria for emergency custody, officers shall take custody of the EDP and proceed with an involuntary process. Officers must relay pertinent information surrounding the emergency custody to the mental health clinician.

VII. INVOLUNTARY PROCESS

- A. An involuntary process should be sought for persons who appear to be in need of emergency mental health treatment and based on probable cause, there exists a substantial likelihood that:
- 1. The person will, in the near future, cause serious physical harm to themselves or others as evidenced by recent behavior, or based on actions or statements made by the EDP;
 - 2. The person will suffer serious harm due to their lack of capacity to protect themselves from harm or to provide for their basic needs;
 - 3. The person is in need of hospitalization or treatment and is unwilling or incapable of consenting to such treatment.
- B. Officers should refrain from initiating an involuntary process unless law enforcement intervention is required or there is no relative or other responsible person available to pursue the process. Assistance from qualified clinicians must be sought to provide effective screening prior to any involuntary admission,



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especially if there is any reasonable doubt about a person's likelihood to present a danger to themselves or others.

- C. In cases where 1) an ECO has been obtained, 2) custody has been assumed under the 8-hour rule, or 3) a person after voluntarily consenting to be transported revokes their consent but is still kept in custody because probable cause exists that they meet the criteria for emergency custody; the person shall be provided an explanation of the emergency custody process.

D. Emergency Custody

1. Officers may initiate an involuntary process pursuant to the provisions of the 8-hour Emergency Custody rule as outlined in Section 37.2-808 (Adults) and 16.1-340 (Juveniles), Code of Virginia. The determination to initiate emergency custody shall be based upon statements from reliable sources or officer observations that law enforcement intervention is necessary. A TDO must be obtained by the officer for the person taken into custody within 8 hours. If an order is NOT obtained within 8 hours, the person must be released. The officer executing a TDO is not required to attend the subsequent hearing unless they are named as a petitioner.
2. A family member, physician, or other responsible person may petition a magistrate for an ECO for a person who is believed to be in need of emergency mental health treatment. A magistrate will decide, based upon the specific circumstances, whether to issue an ECO or a TDO for execution by law enforcement.
3. As soon as practical after execution of an ECO or after emergency custody has been initiated, the officer shall call the Merrifield Center pre-screener to inform them of the person's name and date of birth, pertinent details of the emergency, and include their estimated time of arrival.
4. Although Merrifield Center has assigned law enforcement to provide security during an evaluation process for persons taken into emergency custody or pursuant to an ECO, the officer remains primarily responsible for the person's custody until it is determined that custody can be transferred to a Merrifield



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Center officer during the process. If a TDO is issued, the officer may be required to provide transportation to the designated facility unless the Fairfax County Sheriff's Office is available to assume custody and provide transportation.

E. Temporary Detention Order (TDO)

TDOs are authorized by Virginia State Code 37.2-809, 37.2-809.1 and 37.2-810.

1. Persons taken into custody pursuant to a TDO remain the responsibility of the officer until custody is assumed by receiving personnel at the designated treatment facility named on the TDO. Under these circumstances, officers do not have to remain at the designated treatment facility (final drop off point) while the screening process takes place.
2. If medical clearance is necessary to be obtained separately from the designated treatment facility (final drop off point), then the officer must obtain medical clearance and remain with the person until custody is assumed at the designated treatment facility.
3. To avoid confusion, officers must read the TDO carefully to determine the location of the designated treatment facility listed on the order. FOR EXAMPLE, if the TDO names the "Northern Virginia Mental Health Center" as the designated treatment facility and it requires medical clearance through the emergency room at Fairfax Hospital, then the transporting officer shall remain with the person in the emergency room until the person is cleared by medical staff, and then transport the person to the "Northern Virginia Mental Health Facility" as the final drop off point.
4. In instances when a transport for individuals under a TDO is required to psychiatric facilities that are located in non-adjointing jurisdictions, the Fairfax County Sheriff's Office (Adult Detention Center Control Booth) should be contacted by the on-duty supervisor to request transportation assistance. Pursuant to the agreement with the Fairfax County Sheriff's Office, if deputies are available and absent exigent circumstances, they will transport persons under a TDO to designated mental health facilities in Virginia beyond the



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territorial limits of Herndon and its adjoining jurisdictions. All pertinent information necessary to facilitate the transportation request shall be provided to the Fairfax County Sheriff's Office personnel. If the Fairfax County Sheriff's Office is unable to assist, two officers will be required to transport the individual to the facility named on the TDO. If the Fairfax County Sheriff's Office can only provide one deputy, another officer will have to go along to assist with the transport.

5. Occasionally, the Department will be contacted by a local agency who has executed a TDO on a person that is a resident of the Town of Herndon to request assumption of custody and transportation to the designated facility named in the TDO. Officers must respond and follow custody and transportation procedures as mandated by law and outlined in this policy.

F. Service of Mental Detention Orders/Warrants, Escape Warrants

1. Communications personnel who receive a request for the service of a warrant/order should record the necessary information for the dispatch of an officer. The warrant control person should be notified of the status of the warrant/order and such warrant/order should be entered into the Department's active warrant file if not served immediately. All internal department paperwork required for processing warrants must also be completed for mental petitions.
2. The officer receiving the warrant/order should immediately verify that it has been properly completed and signed. Special instructions as to the time of service or place of detention should be noted.
3. If the warrant/order cannot be served within the same shift as received or at the time designated, the issuing authority should be notified and provided with the reason service could not be made. The issuing authority determines whether another attempt at service should be made later or whether the warrant/order should be returned to the court or detention facility.
4. Officers are required to fill out the execution block on the lower left-hand corner of the order. The mental detention order is not valid until this is done.



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The hospital or other institution can refuse to accept patients who are presented for admission if the detention order is not properly executed.

G. Commitment Hearings Following Involuntary Detention

1. The officer executing the TDO is NOT required to attend the hearing unless they are named as the petitioner or are subpoenaed. If the officer is the petitioner, they must be present at the commitment hearing which is normally held at the detention facility where the person is being held. This should only occur in cases where immediate detention is necessary and there is no relative or other responsible person available to request detention.
2. A commitment hearing is held within 72 hours of the execution of the TDO. If the 72-hour period terminates on a Saturday, Sunday, legal holiday or day on which the court is lawfully closed, the person may be detained until the close of business on the next day that is not a Saturday, Sunday, legal holiday or day on which the court is closed. At the commitment hearing, the person is provided with the opportunity to accept voluntary admission. If the person accepts voluntary admission, the judge or special justice requires that they accept treatment for a period of 72 hours. If a person is unable or unwilling to accept voluntary admission, they are informed of their right to a commitment hearing and representation of counsel. The petitioner is then provided with adequate notice of the date, place and time of the hearing.

VIII. DIVERSION

- A. EDPs who have committed low level offenses may be referred to the Merrifield Center under the Diversion First Program, as an alternative to arrest. The goal of the program is to intercede whenever possible to provide assessment, treatment, or needed support. The diversion program is not eligible for subjects who have committed violent offenses or felonies.
- B. The decision to use the diversion program shall rest with the investigating officer. The officer, based upon their training and experience and not any formal medical assessment, must determine offenders who indicate signs or symptoms of an EDP.



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- C. Officers who encounter an EDP who has committed a low-level offense must determine if there is a victim in the case who wishes to pursue charges. The officer shall advise the victim of the diversion program and determine if they will forgo charges in lieu of diversion. If the victim refuses to consider diversion, the officer shall follow appropriate arrest procedures.
 - D. EDPs eligible for diversion shall have the process explained to them in an effort to gain their voluntary entry into the program. The explanation should include the alternative treatment at the Merrifield Center in lieu of having criminal charges placed. If the EDP voluntarily agrees to diversion, the officer shall transport them to the Merrifield Center. EDPs who do not agree to diversion and do not meet the criteria for involuntary detention should be processed in accordance with arrest guidelines.
 - E. An EDP who has committed a criminal offense and is transported to the Merrifield Center under voluntary circumstances, may leave the facility at any time. In this event, the investigating officer shall make the decision as to whether to obtain a warrant for the original offense. An EDP who is transported to the Merrifield Center under involuntary means will not be permitted to leave the facility until the evaluation is completed or the time limit has expired for the officer to lawfully detain the person.
 - F. EDPs who are involuntarily detained by an officer for an emergency psychiatric evaluation and who have committed a minor criminal offense may be eligible for diversion and may be transported directly to Merrifield Center for evaluation. This evaluation shall be conducted within the time period permitted for emergency detentions. During this time period, an officer must remain at the facility with the EDP until a TDO is issued, the EDP is released, or the EDP voluntarily agrees to enter the diversion program.
- IX. CRIMINAL ARRESTS OF EDPs
- A. EDPs may still be taken into custody if they have committed an offense warranting a custodial arrest.



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- B. In arrest cases involving violent and serious crimes, EDPs shall be taken into custody and transported to the Fairfax County Adult Detention Center. Officers will advise booking deputies of the arrestee's apparent mental condition so that appropriate monitoring and referral to mental health care while in detention will occur.
- C. If a crime is committed by an EDP that does not involve violence, but the person is considered a danger to themselves or others, the person will be taken into emergency custody and procedures associated with an "Involuntary Process" will be followed. If a TDO is issued, it will be executed, and the person will be transported to the assigned mental health facility. If a TDO is not issued, the person will remain in the officer's custody and transferred to the detention center for processing in accordance with arrest procedures. If the person is remanded for further mental health treatment, criminal warrants may still be obtained, but executed only when the person is no longer detained for mental health reasons.
- D. Interviews and interrogations may be conducted with EDPs. Officers are reminded that while established case law pertaining to Miranda warnings still apply, additional precautions are prudent to ensure that any waiver of rights is given knowingly and within reason. As such, the following should be considered:
<41.2.7c>
 - 1. Officers should not accept simple affirmations when it comes time to assess whether or not a person understands their procedural guarantees under Miranda. Persons should be asked to describe each stipulation of their procedural guarantees against self-incrimination prior to questioning.
 - 2. Video and/or audio taping of interrogations involving EDPs should be conducted. Video or audio-taped interactions with the suspect may significantly aid in establishing the person's level of mental comprehension prior to and during the interrogation.
- X. TRANSPORTATION OF EDPs
 - A. Handcuffs should be used on any person taken into custody. Officers may elect not to use handcuffs for voluntary admissions or transports; however, they must



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be prepared to justify their decision. The decision to use additional restraining devices is based on the totality of circumstances and the potential for violence presented by the detainee.

- B. Persons taken into custody or voluntary transports must be in a cruiser equipped with a safety barrier and one-way door locks.
- C. Based on the totality of the circumstances, if the transporting officer on the scene feels that there has been no potential for violence presented by the detainee, one officer may make the transport with supervisory approval. However, two officers should be used in the transport of EDPs to designated mental health facilities in Virginia beyond the territorial limits of Herndon and its adjoining jurisdictions. Extremely violent persons may require special considerations and/or transportation by ambulance or other means. If local ambulance transportation is used, one officer may, if requested, follow the ambulance crew during transport.
- D. Persons taken into custody who are obviously injured or in apparent need of medical treatment for conditions other than their mental disorder, must be examined by rescue personnel or taken to a hospital emergency room prior to further processing.
- E. In some cases, a magistrate issuing a TDO may require that transportation be provided by an “alternative transportation provider” and will identify this provider in the order. In such cases, the officer shall:
 - 1. Read the order carefully to ensure they have legal authority to execute the order and transfer custody to an alternative transportation provider.
 - 2. Execute the order and take the person into custody.
 - 3. Transfer custody of the person to the alternative transportation provider identified in the order.
 - 4. Ensure that a copy of the ECO or TDO is provided to the person being transported.



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- F. In the case of an apprehended escapee from an institution, the arresting officer must transport the person to the nearest magistrate, who will either find bed space for the person, or make arrangements to transfer custody to the Sheriff's Office. Until the magistrate determines placement, the arresting officer is responsible for custody of the escapee.
 - G. Following transport, officers should make every effort to fully cooperate with and assist personnel at the receiving facility, this includes compliance with any detention facility regulations concerning securing police weapons. Restraining devices should be removed as soon as it is reasonably safe to do so.
 - H. The officer transporting the detainee must advise the Communications Section of their destination and estimated time of arrival so that a telephone call can be made alerting the receiving facility that an EDP is enroute.
- X. REPORTING PROCEDURES
- A. A report must be submitted for all incidents involving EDPs by the assigned officer. All facts and circumstances should be included in the incident report.
 - B. Calls for service that are not originally classified as involving an EDP, must be reclassified as such prior to clearing if the situation results in an officer providing intervention/assistance to someone suffering a crisis.
 - C. A Communications Technician must be advised whenever the detention order/petition is served or returned to the issuer.
 - D. The custody of persons for reasons of alleged mental illness or escape from involuntary commitment must **NOT** be recorded on any Virginia Uniform Summons or CCRE forms. All facts and circumstances should be included in the incident report.
 - E. Any problems that arise concerning court procedures, contact with magistrates, or personnel at the receiving facility, should be brought to the attention of a Lieutenant.



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XI. TRAINING <41.2.7d,e>

- A. Department personnel that interact with the public will receive documented entry level training and annual refresher training on issues related to EDPs.
- B. Crisis Intervention Team training will be provided when available to enhance and supplement EDP training.