

PROCEDURE MANUAL

05-09



MICHIGAN STATE POLICE

Mentally Ill Persons – Apprehension, Admission, Escapes

Purpose: This manual provides guidance and procedures for members involved in the investigation or apprehension of mentally ill persons.

Effective Date: April 19, 2022

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Definitions:

None

Section 1: Mentally Ill Persons: Apprehension, Admission, Escapes

1.1 County Community Mental Health Officials to be Contacted

- a. Post commanders shall contact officials of the County Community Mental Health program in their post area to establish procedures for handling persons requiring treatment. Policy shall be developed for handling those persons requiring treatment in each of the counties covered by each post.
- b. Pre-admission screening units are a service component of a Community Mental Health services program. Post commanders shall maintain a list of pre-admission screening units and hospitals designated by the Community Mental Health Department in their county of service.

1.2 Protective Custody (MCL 330.1426, 330.1427, 330.1427a)

- a. When presented with a court order, an enlisted member shall take the named individual into protective custody and transport them immediately to a pre-admission screening unit or hospital for examination.
- b. When presented with a clinical certificate and an application for admission completed by a physician, licensed psychologist, or private citizen, an enlisted member shall take the named individual into protective custody and transport them immediately to the preadmission screening unit or hospital designated by the community mental health services program for examination. The enlisted member shall verify the clinical certificate with the issuing doctor before taking the named individual into custody.
- c. If an enlisted member observes an individual conducting themselves in a manner that causes the enlisted member to reasonably believe that the individual is a person requiring treatment as defined below, the enlisted member may take the individual into protective custody and

transport them to a pre-admission screening unit designated by a community mental health services program for examination or notify the Community Mental Health Emergency Service Unit to request mental health intervention services. If notified, the Community Mental Health Emergency Services Unit shall provide mental health intervention services that it considers appropriate, unless the individual declines the services.

- d. If the individual declines the services, the enlisted member shall immediately transport the individual to a hospital. These services may be provided at a site mutually agreed to by the enlisted member and the Community Mental Health Emergency Service Unit. In the course of providing services, the Community Mental Health Emergency Service Unit may provide advice and consultation to the enlisted member which may include recommendation to transport the individual to a hospital for examination. However, the enlisted member is not constrained from exercising their reasonable judgment. On arrival at the pre-admission screening unit or hospital, the enlisted member shall execute a [Petition/Application for Hospitalization](#) of the individual.
 - i. A person requiring treatment is defined as any of the following:
 - 1. A person who, as a result of a mental illness, can reasonably be expected within the near future to intentionally or unintentionally seriously physically injure themselves or another person, and who has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.
 - 2. A person who, as a result of a mental illness, is unable to attend to their basic physical needs, such as food, clothing, or shelter, that must be attended to in order to avoid serious harm in the near future, and who has demonstrated that inability by failing to attend to those basic physical needs.
 - 3. A person who, as the result of a mental illness, has judgment that is so impaired they are unable to understand the need for treatment and whose continued behavior as the result of this mental illness can reasonably be expected, on the basis of competent medical opinion, to result in significant physical harm to themselves or others.
- e. Enlisted members taking an individual into protective custody may use that kind and degree of force that would be lawful were the enlisted member making an arrest for a misdemeanor.
- f. Enlisted members shall inform the individual that they are being held in protective custody and is not under arrest.
- g. An entry shall be made in the incident report indicating the date, time, and place of taking, but the entry shall not be treated for any purpose as an arrest or criminal record.
- h. Arrest records, mug shots, or fingerprint cards shall not be prepared unless an individual has been charged with a criminal offense.
- i. A person requiring treatment who commits a criminal offense shall be taken into protective custody and transported to a hospital or Community Mental Health Emergency Service Unit. The amount of force which an enlisted member may use depends on the criminal offense committed and the particular circumstances of the case. The prosecutor may be contacted later to request a warrant for the criminal offense committed. Enlisted members are, however, not restricted from using personal judgment to determine the proper course of action.

1.3 Notification

- a. The post commander or designee shall be notified and shall give authorization before an individual is transported or an application for commitment is prepared.
- b. During regular working hours, members shall contact the superintendent of the nearest designated pre-admission screening unit or hospital by telephone before transporting an individual for whom an application for commitment has been prepared by an enlisted member. On weekends and after 5:00 p.m., the admitting office shall be contacted. This call is to advise staff members that our enlisted members are in route, not to obtain authorization to transport.

1.4 Transportation

- a. Potential patients shall be transported to the nearest pre-admission screening unit willing to accept involuntary admissions. A designated pre-admission screening unit or hospital must accept for examination, but not necessarily for detention, any individual, regardless of their residence when presented by an enlisted member.
- b. The department shall not transport patients from one hospital to another unless the pre-admission screening unit authorizes hospitalization. The department shall transport the individual to a hospital designated by the community mental health services program, unless other arrangements are provided by the pre-admission screening unit.
- c. All individuals shall be thoroughly searched and transported to the hospital following the guidelines in directives on searches and prisoner transport. A minimum of two enlisted members shall take part in transporting mental patients.
- d. Violent patients or physically incapacitated persons shall be transported to hospitals by ambulance. Enlisted members shall go to the hospital and complete an application for commitment, since ambulance attendants have no authority to complete the application for commitment.
- e. Enlisted members shall not relay patients for other police departments.
- f. Enlisted members shall not transport patients between hospitals and courtrooms for preliminary exams and court hearings unless served with a court order to do so.

1.5 Application for Admission

- a. Enlisted members shall remain with a subject at the pre-admission screening unit or hospital for a period of not more than two hours, following their arrival and completion of an application, to wait for medical certification. If a medical diagnosis is not made during this two-hour period, enlisted members shall leave the subject to the care of the hospital. The department's responsibility, other than testifying at the preliminary and court hearings, shall end when a hospital approves an application and receives a patient from the enlisted member.
- b. Once enlisted members have left the hospital, they shall not return to transport the subject home or elsewhere, even if it is determined later that the subject is not an acceptable applicant. This includes a reversing of the medical certification by the hospital psychiatrist. If an individual is deemed not acceptable during the two-hour period, enlisted members shall return the individual to the location from which they were originally transported, unless the subject has committed a lodgeable criminal offense.

1.6 Reports

Whenever an individual is transported to a pre-admission screening unit or hospital and an application for admission is completed by an enlisted member, a copy of the complaint shall be forwarded to the prosecutor of the county in which the committed individual permanently resides.

1.7 Escapes

- a. The term “escape” refers to any unauthorized leave from an institution, community living facility, or family care home operated by the MDHHS or operated by or under contract with a community mental health program, as well as from a Veterans Administration Hospital.
 - i. Failure to return on termination of convalescent leave, failure to report as required by convalescent status conditions, failure to return from an authorized leave, breakout, or walkaway of an involuntarily committed patient are considered escapes.
- b. Notification of escapes shall be made by the hospital director or designee.
 - i. Within 12 hours of such verbal notification, a written notification shall be sent by the hospital to the post involved. The written notification shall include the individual’s full name, address, date of birth, physical description, date of original admission, leave date from hospital, and the date the subject was to have returned to the hospital.
 - ii. Within 72 hours a follow-up letter from the hospital director shall be submitted to the post. The MDHHS shall send Form 1660, Unauthorized Leave of Absence Patient Report, with the follow-up letter. A Veterans Administration Hospital shall use Form 10-2331, Report of Unauthorized Absence, in addition to the follow-up letter.
- c. An enforcement member receiving notification of an escape from an institution shall complete the following steps:
 - i. Enter the information about the subject into the LEIN/NCIC system as a Missing Person Disabled, with the hospital as the requesting agency. See the LEIN Operations Manual under the Missing Persons Section for entry procedure.
 1. Entry into LEIN will automatically generate an NCIC entry. This is a notification to out-of-state agencies that the person is a missing person with a proven disability who may be dangerous to themselves or others. It is not an extradition notice. The MDHHS will not pick-up patients found out of state.
 - ii. Make a local radio broadcast.
 - iii. Notify local police and sheriffs in the area of the individual’s home or former place of residence.
 - iv. Immediately begin an investigation of the individual’s whereabouts if they are considered dangerous.
- d. Criminal Offenders
 - i. Prisoner

1. A prisoner is a person who is serving a criminal sentence in a penal institution and has been confined to a mental health facility for treatment. That person continues to serve the criminal sentence while being treated.
 2. If a prisoner escapes from the custody of a treatment facility, the escape shall be treated in the same fashion as if the prisoner had escaped from the corrections facility where they were serving a criminal sentence. The person could be charged with criminal escape and shall be entered into LEIN/NCIC accordingly.
- ii. Incompetent to Stand Trial
1. The court may rule that a person is incompetent to stand trial for criminal charges by reason of insanity. That person may be ordered by the court to be held in a mental health treatment facility for treatment until they are ruled competent to stand trial, or until the prosecutor dismisses the charges, or for not more than 15 months.
 2. A person in this status, who escapes from a treatment center, shall be immediately entered into LEIN/NCIC as a criminal escapee. A check shall be made with the prosecutor of the jurisdiction as soon as possible to determine if extradition will be made. If the prosecutor will not extradite, the entry shall be modified to reflect an extradition limitation of "NOEX" in NCIC.
- e. When an escapee is apprehended, enlisted members shall proceed as follows:
- i. An arrest form, mug shots, or fingerprint card shall not be prepared unless the individual has been charged with a criminal offense. The appropriate incident forms shall be completed and closed. If during or after the escape the individual has committed a criminal offense, a secondary file class number shall be used to reflect the nature of the offense committed.
 - ii. The institution from which the patient escaped shall be notified, advising them where the patient will be taken. A record of the notification shall be made.
 - iii. The record shall be removed from the LEIN/NCIC system.
 - iv. The patient of a state mental health institution, if in State Police custody, shall be transported to the nearest state mental health institution, unless the director of the institution from which the patient is absent makes other arrangements. An escapee from a Veterans Administration Hospital shall be returned to the nearest Veterans Administration Hospital or state mental health institution, if nearer.

Escapees from a community health facility apprehended within the Second District shall be transported to the same type of facility from which the person left without authorization.
 - v. The MDHHS will not extradite patients (escapees) who are on unauthorized leave as described in Section 1.7. If a patient who is on unauthorized leave (an escapee) is picked up out of state, the out-of-state locating agency will send a hit confirmation. The out-of-state locating agency shall be advised not to enter a locate message on the NCIC

record, preventing the automatic cancelation of the LEIN/NCIC record. The hospital shall be notified that the patient was located.

- vi. This department shall not provide transportation when a subject is apprehended by another agency.
- f. When the individual has not been found, the following steps shall be followed:
 - i. Continue the investigation for up to 30 days.
 - ii. Submit a follow-up complaint every three months and request local police agencies to renew their investigations; notify the institution.
 - iii. Make a follow-up investigation every three months if local police agencies are unable to do so.
 - iv. A patient on unauthorized leave (an escapee) who does not return to the institution at the end of one year or is not given convalescent leave before that time will be discharged by the facility director. At this time, the incident shall be closed. Criminal offenders shall not be discharged at the end of one year.
- g. When the patient (escapee) is known to be in another state, the following steps shall be taken:
 - i. Authorities in that state shall be notified by administrative message through LEIN/NLETS.
 - ii. The institution shall be notified, and a record of the notification shall be made.
 - iii. Enlisted members shall not travel out of state to pick up individuals who are subject to return.

1.8 Investigations

- a. Facilities Covered
 - i. The department shall conduct investigations of crimes occurring on property owned by the MDHHS, whether located outside or inside city limits when such crimes are against recipients of services provided by the MDHHS owned and operated hospitals/centers, provided the criteria of Section 1.8(C) are met.
 - ii. The department shall conduct investigations of crimes occurring against patients of homes or facilities under contract with primary facilities only if the home or facility is located outside the corporate limits of a city.
 - 1. If the contracted home or facility is located within the corporate limits of a city having an organized police department, the local department shall be contacted and requested to conduct an investigation.
- b. Requests
 - i. Requests for State Police investigations should be initiated by the facility director or designee on recommendation of the local rights advisor.
 - ii. The local rights advisor may request an investigation through the State Office of Recipient Rights.

c. Criteria for Initiation of a State Police Investigation (one or more)

- i. Per MCL [330.1723](#), a mental health professional employed by or under contract to the department, a licensed facility, or community mental health services program or a person employed by a provider under contract to a community mental health services program who has reasonable cause to suspect the criminal abuse of a recipient shall immediately make an oral report of the suspected criminal abuse to the law enforcement agency for the county or city in which the abuse is suspected to have occurred or to the State Police.
- ii. Within 72 hours after making the oral report, the reporting person shall file a written report with the law enforcement agency to which the oral report was made, and with the chief administrator of the facility or agency responsible for the recipient.
- iii. The written report required by subsection (2) shall contain the name of the recipient and a description of the criminal abuse and other information available to the reporting individual that might establish the cause of the criminal abuse and the manner in which it occurred. The report shall become a part of the recipient's clinical record. Before the report becomes part of the recipient's clinical record, the names of the reporting individual and the individual accused of committing the criminal abuse, if contained in the report, shall be deleted.
- iv. The identity of an individual who makes a report under this section is confidential and is not subject to disclosure without the consent of that individual or by order or subpoena of a court of record.
- v. As used in this section, "criminal abuse" means one or more of the following:
 1. An assault, which is a violation of [MCL 750.81 to 750.90](#), including an attempt or a conspiracy to commit a violation of those sections. Abuse does not include an assault that is a violation of [MCL 750.81](#) and is committed by an individual who receives services in a facility against another recipient or resident or an individual who receives mental health services from the MDHHS, a Community Health Service program, or a facility or from a provider that is under contract with the MDHHS or a Community Health Services program.
 2. A criminal homicide, which is a violation of [MCL 750.316, 750.317, and 750.321](#), including an attempt or a conspiracy to commit a violation.
 3. Criminal sexual conduct, which is a violation of [MCL 750.520b to 750.520e](#), or assault with intent to commit criminal sexual conduct, which is a violation of [MCL 750.520g](#), including an attempt or a conspiracy to commit a violation.
 4. Vulnerable adult abuse, which is a violation [MCL 750.145n](#), including an attempt or a conspiracy to commit a violation.
 5. Child abuse, which is a violation of [MCL 750.136b](#), including an attempt or a conspiracy to commit a violation.
- vi. [MCL 330.1723b](#) does not prohibit any individual who has reasonable cause to suspect the criminal abuse of a recipient from making a report to the appropriate law enforcement agency or the MDHHS, or Community Mental Health Service program.

- d. The results of an investigation shall be reviewed with the appropriate hospital/center director or regional director. Enlisted members shall provide evidence and testimony, if requested, at administrative or Civil Service hearings.
- e. Copies of investigative reports shall be released to the hospital/center only by the Records Resource Section. Local commanders should inform the hospital/center that a request for the report can be submitted via email to msprecs@michigan.gov.

Review Responsibility:

Special Investigation Division; Field Operations Bureau

Accreditation Standards:

CALEA