



## MAINE STATE POLICE GENERAL ORDER

### M-3

**SUBJECT:** MAINE STATE POLICE POLICY REGARDING RESPONSE TO INCIDENTS INVOLVING INDIVIDUALS EXPERIENCING ACUTE MENTAL HEALTH CRISES

**EFFECTIVE DATE:** 09.24.2021

**EXPIRATION DATE:** 09.24.2028

**RECENT HISTORY:** AMENDED (09.24.2021); AMENDED (08.20.2021); AMENDED (08.01.2020); AMENDED (08.28.2019); AMENDED (06.07.2017); AMENDED (03.09.2016); AMENDED (10.17.2014); REVISES MSP GO M-3 (05.25.2010); TITLE CORRECTED, DATES IN TITLE SECTION REFORMATTED (09.04.2008); RESCINDS S.O. 95-9 (12.15.1998)

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MCJA MINIMUM STANDARDS POLICY 5

**SIGNATURE OF COLONEL:**

A handwritten signature in blue ink, appearing to read "John A. Cote", is written over a light blue rectangular background.

#### I. PURPOSE

1. The purpose of this General Order is to establish the policy of the Maine State Police regarding response to incidents involving individuals who are or may be experiencing acute mental health crises.

*Note: Because this is a statutorily-mandated policy, officers shall abide by the policy as it applies to all standards of the Maine Criminal Justice*

*Academy Board of Trustees. Any violation of these standards may result in action by the Board of Trustees. MCJA MS 5.18*

## **II. POLICY**

1. The policy of the Maine State Police is to assist individuals who are or may be experiencing acute mental health crises, including, but not limited to, by placing such individuals in protective custody and – when determined by a qualified, licensed clinician to be medically necessary – ensuring that the individuals are involuntary committed to a health care facility so they can receive treatment.

## **III. DEFINITIONS MCJA MS 5.2(a), (b), (C), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m)**

1. For the purposes of this General Order, the terms included in this section are defined as follows, unless otherwise indicated in the order.
  - A. Acute mental health crisis. "Acute mental health crisis" means behavior – such as loss of contact with reality, extreme agitation, severe depression, imminent suicidal or homicidal statements or actions, or an inability to control actions – that creates a threat of imminent and substantial physical harm to the individual engaged in the behavior or to others, and that appears to be of sufficient severity to require a professional mental health evaluation.
  - B. Advanced healthcare directive. "Advance healthcare directive" means a written instruction from, or a written power of attorney for health care by, an individual with capacity for use when the individual in fact lacks, or objectively seems to lack, capacity.
  - C. Capacity. "Capacity" means healthy, lucid cognitive understanding and awareness.
  - D. Crisis Intervention Officer. "Crisis Intervention Officer" means an officer trained to identify and assist an individual who is or may be experiencing an acute mental health crisis.
  - E. Crisis Intervention Team. "Crisis Intervention Team" means group of Crisis Intervention Officers.
  - F. Crisis Service System. "Crisis Service System" means a program of the Maine Department of Health and Human Services ("DHHS") that provides mobile crisis services anywhere in the State of Maine on a twenty-four-hour, seven-days-a-week basis.
    1. The Crisis Service System may be contacted by telephone by dialing 2-1-1.
  - G. Dangerous weapon (or weapon). "Dangerous weapon" or "weapon" has the same meaning as in [Title 17-A, section 2, subsection 9, paragraph C](#), including a firearm as defined in [Title 17-A, section 2, subsection 12-A](#).

H. Involuntary commitment process. "Involuntary commitment process" (often informally referenced as the "Blue Paper" process) means the three-step emergency process by which:

1. STEP ONE: Using an [Application for Emergency Involuntary Admission to a Mental Hospital, MH-100 Form](#), a person (as examples, a friend, relative, social services worker, or law enforcement officer) applies for the involuntary admission to a mental health treatment facility of an individual who there is probable cause to think is experiencing an acute mental health crisis;
2. STEP TWO: A licensed, qualified clinician is presented with the [Application for Emergency Involuntary Admission to a Mental Hospital, MH-100 Form](#) completed in STEP ONE and evaluates the individual identified in the form; and
3. STEP THREE: If the licensed, qualified clinician certifies on the [Application for Emergency Involuntary Admission to a Mental Hospital, MH-100 Form](#) that the individual identified in the form is experiencing an acute mental health crisis and poses a likelihood of harm to her- or himself or others, then a judicial officer reviews the form and, if he or she determines it to be appropriate, endorses the *form*.

The three steps listed above are reflected on sections 1, 2, and 3 of the [Application for Emergency Involuntary Admission to a Mental Hospital, MH-100 Form](#).

- I. Least restrictive form of transportation. "Least restrictive form of transportation" means the vehicle used for transportation and any restraining devices that may be used during transportation that impose the least amount of restriction, taking into consideration the potentially stigmatizing impact upon the individual being transported. The safety of the officer and the person being transported is paramount; therefore, if a Maine State Police vehicle is used during transport, the transport must comply with Maine State Police General Order E-112. **MLEAP 7.33-C**
- J. Likelihood of foreseeable harm. "Likelihood of foreseeable harm" means a substantial risk in the foreseeable future of serious physical harm to the person as manifested by recent behaviors or threats of, or attempts at, suicide or serious self-inflicted harm; or a substantial risk in the foreseeable future of serious physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct or statements placing others in reasonable fear of serious physical harm.
- K. Mental health crisis. "Mental health crisis" means behavior – such as loss of contact with reality, extreme agitation, severe depression, imminent suicidal or homicidal statements or actions, or inability to

control actions – that creates a threat of imminent and substantial physical harm to the person experiencing the behavior or to others and that appears to be of sufficient severity to require professional evaluation.

L. Probable cause. "Probable cause" means the basis of a law enforcement officer's judgment about the appropriateness of taking an individual into protective custody.

1. The officer's judgment must take into account totality of the circumstances of each given situation, following applicable, accepted professional standards, and include consideration of the following:

- a. The officer's personal observations of the individual alleged or thought to be experiencing an acute mental health crisis;
- b. Reliable information provided by third parties, as long as the officer has confirmed that the third parties have reason to believe – based on recent personal observations or conversations with the individual alleged or thought to be experiencing an acute mental health crisis – that the individual may be experiencing an acute mental health crisis and that, due to that circumstance, the individual presents a threat of imminent and substantial physical harm to her- or himself or others; and
- c. The health history, if known, of the individual alleged or thought to be experiencing an acute mental health crisis.

J. Protective custody. "Protective custody" means custody taken by a law enforcement officer either:

1. When the officer has determined that there is probable cause to believe that an individual is experiencing an acute mental health crisis and that, due to that circumstance, the individual presents a threat of immediate and substantial physical harm to her- or himself or others; or
2. When the officer knows that an individual has an advance healthcare directive authorizing mental health treatment, and the officer has probable cause to believe that the individual lacks capacity such that the applicable terms of the advance healthcare directive are to be given effect.

K. Restricted person. "Restricted person" means a person taken into protective custody by a law enforcement officer who the officer has probable cause to believe possesses or controls or may acquire a

dangerous weapon and who is found by a medical practitioner to present a likelihood of foreseeable harm.

- L. Threat-based restriction. "Threat-based restriction" means a prohibition on a restricted person from purchasing, possessing, or controlling or attempting to purchase, possess or control a dangerous weapon during the period of the restriction.
- M. Threat of imminent and substantial physical harm. "Threat of imminent and substantial physical harm" means a reasonably foreseeable risk of harm to someone, taking into consideration the immediacy of the potential harm, the seriousness of the potential harm, and the likelihood that harm will occur.
  - 1. Threatened harm may include:
    - a. Threat of suicide or serious self-injury;
    - b. Threat of homicide or injury to another person;
    - c. Violent behavior;
    - d. Placing others in reasonable fear of serious physical harm;
    - e. Reasonable certainty of severe impairment or injury because an individual is unable to avoid harm or protect her- or himself from harm.

#### IV. PROCEDURE

##### 1. GENERALLY MCJA MS 5.1, 5.3, 5.4, 5.5, 5.6, 5.8, 5.16

- A. Maine State Police officers shall be generally familiar with the following provisions of law:
  - 1. [15 M.R.S. §393, "Possession of firearms prohibited for certain persons"](#);
  - 2. [34-B M.R.S. § 3862, "Protective Custody"](#);
  - 3. [34-B M.R.S. § 3862-A, "Protection from substantial threats"](#);
  - 4. [34-B M.R.S. § 3863, "Emergency procedure"](#);
  - and
  - 5. [34-B M.R.S. § 3864, "Judicial procedure and commitment"](#).
- B. Maine State Police officers shall duly assess situations involving individuals who are or may be experiencing acute mental health crises and determine the appropriate action to take.
  - 1. If an individual is or may be experiencing an acute mental health crisis, then the officer shall determine whether the individual needs to be taken into protective custody (including, but not limited to, by assessing whether the person presents a risk to the safety of any member of the public or to

her- or himself), provided that the individual is unwilling to accept immediate voluntary commitment to a mental health treatment facility.

- a. In making this assessment, the officer shall assess whether the person presents a risk to the safety of any member of the public or to her- or himself, and, when appropriate, may consult with a Crisis Intervention Team, Crisis Intervention Officer, or a DHHS State Crisis Service.
2. If an officer determines that taking an individual into protective custody is **not** warranted, then the officer may refer the individual to a medical or mental health practitioner, and provide the contact information for such if available; leave the individual in the care of friends, relatives, or medical service providers; and/or take other steps necessary to maintain public safety.
    - a. Resources to which the individual might be referred include:
      - (1) Local mental health agencies;
      - (2) Local hospitals with voluntary inpatient capacity;
      - (3) Regional DHHS staff;
      - (4) Licensed mental health professional in private practice, with contact information if available;
      - (5) Local DHHS contract crisis providers.
        - (A) Call toll free **(1-888-568-1112)** to connect with the local DHHS contract crisis provider.
        - (B) See also [\*Maine DHHS - Hotlines/Crisis Numbers - Maine.gov\*](#)
  - C. Officers are responsible for assessing the difference between criminal conduct and non-criminal conduct as it relates to individuals who are or may be experiencing an acute mental health crisis.
    1. If, in accordance with this policy, a determination is made by an officer that taking an individual into protective custody **is** warranted, and that individual has committed a criminal act, and therefore may be subject to a warrantless arrest pursuant to [\*17-A MRSA § 15, "Warrantless arrests by a law enforcement officer"\*](#), then the officer shall determine the

most appropriate confinement condition to satisfy the protection of the individual and the public, and to ensure that individual receives appropriate medical treatment.

- a. In making that determination, the officer may consult with a CIT, CIS, DHHS, and, when applicable, the licensed, qualified clinician involved in the involuntary commitment process.
2. PROTECTIVE CUSTODY (*See generally* 38-B M.R.S. §§ 3862, 3862-A)<sup>1, 2</sup> MCJA MS 5.1, 5.3, 5.4, 5.5, 5.6, 5.7, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16
- A. If an officer, based on her or his personal observations, determines that taking an individual into protective custody **is** warranted either because the officer believes the person is mentally ill and presents a threat of imminent and substantial physical harm to her- or himself or others or because the individual has an advance healthcare directive, and the applicable terms of that directive are given effect by the situation, then the officer may take the individual into custody **MLEAP 7.33-A**
    1. The officer shall bring the individual for an evaluation by a licensed, qualified clinician pursuant [34-B M.R.S. §§ 3862-A and 3863](#), and the second step of the involuntary commitment process. **MLEAP 7.33-B**
  - B. The officer shall fill out the “State of Maine Protective Custody Intake Form” and, when applicable, provide it to the clinician evaluating the individual.
    1. The officer shall retain a copy of the form, or – if necessary – shall later obtain a copy of the form, for inclusion in Spillman.
  - C. The safety of the officer and the person being transported is paramount therefore if a Maine State Police vehicle is used during transport, the transport must comply with Maine State Police General Order E-112. **MLEAP 7.33-C**
  - D. Notwithstanding any provision of law to the contrary, the officer who has taken the individual into protective custody shall provide to the medical practitioner to whom the individual is brought for evaluation the information that led to the protective custody including, but not limited to, the information that gave rise to the probable cause determination, the individual’s pertinent criminal history record

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<sup>1</sup> <https://legislature.maine.gov/legis/statutes/34-B/title34-Bsec3862.html>

<sup>2</sup> <https://legislature.maine.gov/legis/statutes/34-B/title34-Bsec3862-A.html>



information and other known history and recent or recurring actions and behaviors.

E. If the medical practitioner who evaluated the individual notifies the officer that, based on the medical practitioner's assessment, the individual is found to present a likelihood of foreseeable harm, then the officer shall take the actions required under 34-B M.R.S. § 3862, including, but not limited to:

1. As soon as practicable, seeking endorsement by a Superior Court Justice, District Court Judge, judge of probate, or justice of the peace of the medical practitioner's assessment and officer's declarations that the person was taken into protective custody and that the officer has probable cause that the person possesses, controls or may acquire a dangerous weapon;
2. No later than 24 hours after the judicial endorsement:

a. Notifying the restricted person that the restricted person:

- (1) Is prohibited from possessing, controlling, acquiring, or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing;
- (2) Is required to immediately and temporarily surrender any weapons possessed, controlled, or acquired by the restricted person to a law enforcement officer who has authority in the jurisdiction in which the weapons are located pending the outcome of a judicial hearing; and
- (3) Has a right to a judicial hearing within 14 days of the notice under this paragraph;

3. Notifying the contact person, if any, disclosed by the restricted person to the medical practitioner and the district attorney in the district of the restricted person's residence of the person's restricted status; and
4. Reporting the person's restricted status to the Department of Public Safety.

F. When collecting, storing, caring for, and returning surrendered weapons, officers shall followed applicable Maine State Police General Orders, including, but not limited to, Maine State Police General Order E-126, *Maine State Police Policy Regarding Release of Firearms in the Custody of the Agency*, as well as the following:

1. An officer shall verify a restricted individual's claim, if made, that he or she previously transferred possession of weapons to a third party for storage.
2. An officer shall coordinate the collection of weapons with appropriate law enforcement authorities when such weapons



must be collected pursuant to an order issued to a restricted person who resides in a different jurisdiction over which those law enforcement authorities have jurisdiction.

- G. If an officer has probable cause to believe that a restricted person (as set forth in 34-B M.R.S. §3862-A) possesses or controls but has not surrendered a weapon (or weapons), the officer shall search for and seize the weapon(s) pursuant to a warrant or other circumstance approved by law; shall notify of appropriate federal law enforcement agencies (including but not limited to the Bureau of Alcohol, Tobacco, Firearms and Explosives (A.T.F.)); and shall criminally charge the restricted person as appropriate.
- H. Officers shall be familiar with the relevant criminal offenses for a restricted person who possesses a weapon, including, but not limited to, *Possession of a Firearm by a Prohibited Person* (15 M.R.S. §393).

- 1. Officers shall also be aware that a restricted person who makes all practical, immediate efforts to voluntarily comply with a surrender notice is not subject to arrest or prosecution as a prohibited person.

3. INVOLUNTARY COMMITMENT PROCESS (*See generally* 34-B M.R.S. §§ 3863, 3864)<sup>3, 4</sup> MCJA MS 5.1, 5.9, 5.10

- A. If the licensed, qualified clinician evaluating an individual as part of the involuntary commitment process determines that the individual **does not satisfy** the criteria for involuntary commitment, or that the individual **does not lack capacity** such that the individual's advance healthcare directive would be given effect, then the officer shall release the individual who was taken into protective custody from such custody and, with that individual's consent, either:

- 1. Take the individual to her or his residence (if that is in the officer's jurisdiction); or
  - 2. Return the individual to the location from which the individual was taken into protective custody –

**EXCEPT** that, if the individual who was taken into protective custody and then released from such custody also is under arrest, then the officer shall keep the individual in custody until he or she is released in accordance with applicable law.

- B. If the licensed, qualified clinician evaluating an individual as part of the involuntary commitment process determines that the individual

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<sup>3</sup> <https://legislature.maine.gov/legis/statutes/34-B/title34-Bsec3863.html>

<sup>4</sup> <https://legislature.maine.gov/legis/statutes/34-B/title34-Bsec3864.html>

***does satisfy*** criteria for involuntary commitment, then the officer who presented the individual to the clinician shall secure a judicial endorsement of the application form as soon as possible, and then shall transport (or cause to be transported) the individual to the mental health treatment facility authorized or specified by the endorsing judicial officer.

1. Such transport must occur with the use of the least-restrictive form of transportation.

#### 4. BILLING

- A. The Maine State Police shall bill appropriate agencies for transportation-related expenses pursuant to [34-B M.R.S. § 3863, sub-§ 4, “Custody and transportation”](#).

1. The total cost for such expenses must include mileage and the hourly rate of each officer involved in the transport, including fringe benefits.

#### 5. REPORTING

- A. If an officer responding to an incident involving an individual who is or may be experiencing an acute mental health crisis takes any action, then the officer shall document such action in an incident report.

1. If the officer takes the individual into protective custody, then the report must sufficiently state in her or his report the basis – i.e., the probable cause – for having done so.

- B. The primary officer responding to an incident involving an individual who is or may be experiencing an acute mental health crisis shall complete the questionnaire accessible at the following website maintained by the National Alliance on Mental Illness – Maine: <https://namimaine.socialsolutionsportal.com/login?redirectUrl=/>.

#### 6. ANNUAL TRAINING & REPORTING MCJA MS 5.17

- A. Each year, at least twenty percent (20%) of all full-time Maine State Police officers shall receive at least eight (8) hours of nationally-recognized or best-practice, in-person training in Mental Health Identification Awareness for Law Enforcement Officers.
- B. As part of the agency's annual reporting requirements made to the Maine Criminal Justice Academy, the Maine State Police shall report the status of its compliance with this section 6.

**ATTACHMENTS:**

- *Application for Emergency Involuntary Admission to a Mental Hospital, MH-100 Form*
- *State of Maine Protective Custody Intake Form*
- *DHHS Hotline/Crisis Numbers*
- *APPLICATION FOR WEAPONS RESTRICTION ORDER*

**NOTICE**

**THIS GENERAL ORDER IS FOR USE OF THE MAINE STATE POLICE AND NOT FOR ANY OTHER AGENCY. THE GENERAL ORDER IS NOT INTENDED TO BE RELIED UPON BY ANY OTHER INDIVIDUAL OR PRIVATE OR PUBLIC AGENCY. THE GENERAL ORDER EXPRESSLY DOES NOT CREATE, AND IS NOT INTENDED TO CREATE, A HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS ORDER ONLY MAY FORM THE BASIS FOR ADMINISTRATIVE SANCTIONS BY THE MAINE STATE POLICE.**