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41.11 Dealing with Persons of Diminished Mental Capacity


Officers will encounter persons of diminished mental capacities in the performance of their duties. This group of special needs persons presents *officers* with different and often complex issues. These individuals, whether as a result of intoxication, suicidal ideations, medical complications or mental illness, present *officers* with a wide range of behaviors often though not always different than those exhibited by others in the community or other persons involved in criminal activities.

Persons of diminished capacities *may* display conduct that is bizarre, irrational, unpredictable and threatening. They *may* not receive or comprehend commands or other forms of communication in the manner that *officers* would expect. They *may* not respond to authoritative persons or the display of force. It is the primary task of *officers* confronting these special needs persons to resolve the encounter in the safest manner. It is the primary task of *officers* confronting these special needs persons to resolve the encounter in the safest manner.

41.11.1 Dealing with Intoxicated Persons

- A. It is not against the law in Arizona for a person to be intoxicated; *officers may* not book an intoxicated person into jail solely because the person is intoxicated. If an intoxicated person is not a danger to him/herself, not endangering anyone else, and not breaking any laws, the person *will* be allowed to go on his or her way.
- B. However, if the person is so intoxicated that the person represents a danger to self or others or if the person is experiencing a medical *emergency* (e.g., alcohol withdrawal or alcohol poisoning), then police intervention is necessary. In those situations, *officers should* consider the following issues:
 1. is medical care necessary?
 2. can the person be admitted at the local alcohol rehabilitation center (if any)?
 3. is there a family member, *employee*, co-worker, or friend who can take responsibility for the person?

If no resources appear available to deal with the person, a *supervisor should* be contacted. Intoxicated persons who are a danger to themselves or others are not

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to be released into their own care until sufficiently sober to no longer be a danger to self or others.

41.11.2 Dealing with Vulnerable Adults

A vulnerable adult is an individual who is eighteen years of age or older and who is unable to protect him/herself from *abuse*, neglect or exploitation by others because of a mental or physical impairment. When an *officer* comes in contact with a vulnerable adult who is not under appropriate supervision, is in a vulnerable situation, or who is the *victim* of a crime, the *officer should* make every effort to contact the person's guardian, family member, neighbor, residential provider, Adult Protective Services, or the local Public Fiduciary for assistance.

Vulnerable adult *abuse* is a mandatory reporting crime and a felony. A.R.S. § 13-3623.

41.11.3 Dealing with the Mentally Ill

- A. Mental illness is a substantial disorder of a person's thought, mood, perception, orientation or memory that impairs judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life. Mental illness behavior covers a wide range of emotions and behaviors, including but not limited to: depression, violence, withdrawal, suicidal acts, homicidal acts, paranoia and unorganized conversation.
- B. *Officers must* be aware that some medical conditions have symptoms which mimic mental illness (i.e., stroke, diabetes, head injuries, *dementia*, etc.). When appropriate, paramedics *should* be called to the scene, once the person is in police custody, to examine the person.
- C. The *Department* recognizes that *officers* are not qualified to solve the underlying problems of people who exhibit abnormal behavior, however, *officers* can learn to recognize behaviors that are indicative of persons affected by mental illness. The following are generalized signs and symptoms that may suggest mental illness, although officers should not rule out other potential causes such as reactions to alcohol or psychoactive drugs, temporary emotional situations, or medical conditions:
 1. Strong and unrelenting fear of person, places, or things. Extremely inappropriate behavior for a given context.



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2. Frustration in new or unforeseen circumstances; inappropriate or aggressive behavior in dealing with the situation.
 3. Abnormal memory loss related to such common facts as name or home address (although these may be signs of other physical ailments such as injury or Alzheimer's disease).
 4. The belief in thoughts or ideas that are false, such as delusions of grandeur ("I am Christ") or paranoid delusions ("Everyone is out to get me").
 5. Hallucinations of any of the five senses (e.g., hearing voices commanding the person to act, feeling one's skin crawl, smelling strange odors); and/or
 6. The belief that one suffers from extraordinary physical maladies that are not possible, such as persons who are convinced that their heart has stopped beating for extended periods of time.
- D. The officer's course of action at the initial encounter can calm the existing situation. Responses to situations that involve abnormal behavior should reflect sensitivity to the needs of the people involved, as well as concern for the safety of the involved person, others at the scene and officers. The goal when encountering a person of diminished capacity is to de-escalate the situation, control the encounter and then determine the best course of action for the involved individual. Responding officers should focus on containment, coordination, communication and time. If circumstances allow, officers should:
1. request back-up as soon as it is apparent that the person is of diminished capacity. If that information is known when the call is dispatched, two *officers should* be dispatched, if available.
 2. avoid the use of emergency lights and siren when responding to this type of call for service, as this *may* agitate the subject. Upon arrival, *officers should* move deliberately and, if possible, slowly.
 3. focus on containment as the first goal; work to separate the subject from others at the scene but try to respect the subject's comfort zone. Containment is meant to reduce outside influences and sources of agitation, including family and on-lookers.



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4. make an effort to coordinate among responding *officers*; one *officer should* take the lead. Another *officer should* be designated to gather from those involved any available information about the individual and the individual's disability that *may* assist the *officer* in de-escalating the incident.
 5. limit displays of force or of weapons, if safety permits.
 6. communicate in a manner that is both planned and controlled. One *officer should* be the primary person speaking with the subject. Verbal communication *should* be non-threatening. Avoid threats of force. Be truthful at all times.
 7. take their time. Usually, the longer the encounter is allowed to go on, the better the chance for a successful and safe resolution.
 8. when available, request assistance from those with specialized training in dealing with mental illness (crisis intervention trained officers or community crisis mental health professionals, for example).
 9. when use of force is necessary and circumstances allow, consider the use of *non-deadly force* options.
- D. Officers must remember that mentally ill subjects may be a danger to themselves or others, including the officers, and must continuously assess the potential danger the person presents to him/herself, the officers and others. When feasible officers will seek information about the availability of weapons, listen carefully for direct or indirect threats of force, and seek information from others on the scene about the person's history for use of force.
- E. *Arizona law places a number of responsibilities upon peace officers in the mental health context. Title 36 provides that peace officers shall apprehend and transport persons for emergency admission; may take an apparently seriously mentally ill and/or dangerous person into custody and transport for screening; are required to safeguard personal and real property of the person; and are not subject to civil liability if acting in good faith.*



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- F. In cases where a person is obviously distressed or disoriented but not in danger, officers are encouraged to refer patients back to their treatment agency if they have one, or to refer them to an authorized adult mental health facility if they do not. Officers should provide the individual with contact information for the local public mental health provider or local hospital, or should ask the local mental health crisis team, if one is available, to respond.
- G. Mentally ill persons may be considered disabled under the Americans with Disabilities Act (ADA). Officers are required to reasonably accommodate a person's disability when providing police services, including when making an arrest and when using force. Doing so may require deviation from generally accepted police practices (for example, taking more time in handling a situation than might otherwise be expected, so that consideration of the person's disability may occur).

41.11.4 Mental Health Detentions

An *officer* is authorized to take persons into custody pursuant to the following statutes:

- A. A.R.S. § 36-525.A "on the advice of the admitting *officer* of the evaluation agency pursuant to section A.R.S. § 36-524.E". See G.O. 41.11.5 below.
- B. A.R.S. § 36-525.B when the *officer* has *probable cause* to believe a person, as a result of a mental disorder, is a danger to self or others, and that during the time necessary to complete the screening procedures the person is likely without immediate hospitalization to suffer serious physical harm or serious illness or to inflict serious physical harm on another person. See G.O. 41.11.6 below.
- C. A.R.S. § 36-540 upon receipt of a signed court order. See G.O. 41.11.7 below.
- D. A.R.S. § 36-540.E.4 upon the written request of the medical director when patient's outpatient treatment has been rescinded See G.O. 41.11.8 below.
- E. A.R.S. § 36-544 upon the oral or written request of the medical director of a mental health treatment facility, when a patient who is absent without proper authorization from the facility needs to be taken into custody for transport to the facility. See G.O. 41.11.9 below.


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41.11.5 Emergency Petition Process when Evaluation Agency Available (A.R.S. § 36-524)

- A. When an *officer* comes to the conclusion that a person is a danger to self or others, and that the person is likely, without immediate hospitalization, to suffer serious physical harm or serious illness, or is likely to inflict serious physical harm on another person, the *officer may* apply for an order for emergency admission of the person to a mental health facility. A.R.S. § 36-524.
- B. *Officers may* rely on their own observations, or the observations of another person who witnessed the actions of the person. After reviewing the facts and circumstances with a *supervisor*, the *officer should* contact the hospital where the patient is going to be taken and ask to speak to the admitting *officer (generally a psychiatrist or other physician or a psychiatric and mental health nurse practitioner. A psychiatric social worker does not have the authority to approve an emergency admission.)*
- C. The admitting *officer should* be advised of the facts and circumstances. If not personally making the call, the *officer must* be in the presence of the person making the call and *shall* speak to the admitting *officer* and verify the admission approval before the call is completed.
- D. Once the admitting *officer* advises the *officer* that grounds exist to take the person into custody and transport the person, the *officer shall* either transport the person or arrange for the person's transport. If the witness to the person's behavior is not the *officer*, the witness *will* be directed to respond to the hospital to assist in completing and signing the petition for evaluation.

41.11.6 Emergency Petition Process when Evaluation Process not Available or Immediate Action is Necessary (A.R.S. § 36-525)

- A. If no evaluation agency is available, an admitting *officer* is not available to review the application, or the person presents an immediate danger such that making an application is not practicable, and an *officer* believes a person to be in need of immediate hospitalization, A.R.S. § 36-525 permits *officers*, based upon *probable cause* that the person is a danger to self or others, to independently make the decision to transport, based upon *probable cause* that the person is a danger to self or others, a person to a local mental health screening or evaluation agency.

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- B. *Officers should* do so only when the procedures outlined above are not available and no other reasonable option for resolving the situation is apparent.
- C. The *officer shall* either transport the person or arrange for the person's transport.

41.11.7 Court-Ordered Commitments (A.R.S. § 36-540)

- A. *Officers may* receive court orders for commitment (valid until served unless otherwise stated on the order), court orders for custodial evaluation (valid for 14 days) and amended orders requiring transportation of a person to an outpatient or inpatient facility for treatment. These orders *must* be confirmed prior to service and are to be considered emergency orders.
- B. When necessary, these orders *may* be relied upon to make forcible entry into a person's home to take the person into custody. As with other forcible entry situations, *officers will* make every effort to secure the person's home and property before leaving the scene, including notification to the next of kin, guardian (if any), or the Public Fiduciary's Office.
- C. Once the person is served with the order, he/she *will* be transported to the listed mental health facility. The service of mental health orders *shall* be fully documented in a *DR* and an Arizona Superior Court Notice of Service form *shall* be completed and filed with the Court.

41.11.8 Order of Medical Director Rescinding Outpatient Treatment (A.R.S. § 36-540)

- A. The medical director of a facility that is providing outpatient treatment to a person under court order *may* verbally rescind the outpatient treatment and order a peace *officer* to detain the patient and transport the patient to an in-patient facility. A.R.S. § 36-540.E.5.
- B. Prior to responding, *officers should* require that the medical director provide the following information to the *officer*: the date of the original commitment order, the basis of the commitment, the name of the committing judge or commissioner, a physical description of the patient, the approximate location of the patient, a description of the patient's current mental status and potential for resisting an *officer* and any other pertinent information that is available.

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- C. A request for apprehension in this situation remains valid for the duration of the inpatient's commitment.

41.11.9 Patients who are Absent Without Leave (AWOL) (A.R.S. § 36-544)

- A. The medical director of a facility *may* direct, either in writing or verbally, a peace officer to locate and return a patient who is currently under court order for evaluation or treatment and who goes AWOL.
- B. Prior to responding, *officers should* require that the medical director provide the following information to the *officer*: the date of the original commitment order, the basis of the commitment, the name of the committing judge or commissioner, a physical description of the patient, the approximate location of the patient, a description of the patient's current mental status and potential for resisting an *officer* and any other pertinent information that is available.
- C. *Officers may* be asked to request an order for emergency commitment (see above) so that persons who voluntarily entered treatment but are now AWOL and are considered by the facility to be a danger to self or others *may* be taken into custody.

41.11.10 Violent or Potentially Violent Subjects

If a person is violent or there appears to be a potential of violence, *officer(s)* delivering the person *shall* remain at the facility to provide security until facility staff have the person under their control.

41.11.11 Transportation

Transportation of the mentally ill to a mental health facility *should* be handled based upon the circumstances of each case and *may* be made by the *officer* or by ambulance, with the *officer* following.

41.11.12 Mentally Ill Juveniles

Officers shall attempt to notify a parent or guardian when in contact with a mentally ill juvenile who is in need of *emergency* treatment, so that the juvenile *may* be



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accompanied to the mental health facility. If a guardian/parent cannot be identified or located, DCS *should* be contacted to assume temporary guardianship of the juvenile.

41.11.13 Firearms Seizure

- A. When dealing with the mentally ill, that person's possession or control of a firearm(s) raises special concerns. When an officer is making any mental health transport based upon the finding that the person is a danger to self or others, the officer should consider taking custody of any firearms to which the officer has legal access that are owned or possessed by the person.
- B. An officer may also seize a firearm when the owner or possessor consents to allow the officer to take possession of the firearm(s).
- C. Firearms seized under this subsection shall be impounded into property and evidence as "safekeeping," unless the firearm was used in the commission of a crime, in which case the firearms shall be impounded as "evidence."