

General Order

Houston Police Department



ISSUE DATE:

January 28, 2021

NO.

500-12

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 500-12, dated March 21, 2014.

SUBJECT: RESPONSE TO MENTAL HEALTH INCIDENTS

POLICY

Incidents involving persons displaying symptoms of a mental health crisis may be volatile and unpredictable. In all emergencies stemming from a mental health crisis, department employees shall utilize the least coercive measures to secure the welfare of all those concerned, unite consumers with needed services, and divert them from the criminal justice system whenever appropriate. Employees shall be professional and respond humanely to individuals in a mental health crisis.

Whenever reasonably possible, the department will utilize Crisis Intervention Trained (CIT) officers to respond to incidents or calls for service involving persons displaying symptoms of a mental health crisis. For safety purposes, and when resources allow, two officers shall be dispatched to incidents when available information indicates the involvement of persons who are exhibiting symptoms of a mental health crisis.

This General Order applies to only classified employees and Emergency Communications Division employees.

DEFINITIONS

Crisis Intervention Response Team (CIRT). A team comprised of a uniformed CIT officer partnered with a licensed mental health professional to respond to persons exhibiting a *mental health crisis*.

Crisis Intervention Trained (CIT) Officer. An officer who has successfully completed the Texas Commission on Law Enforcement (TCOLE) 40-hour Mental Health Officer or TCOLE 40-hour CIT course.

Medical Condition. For the purposes of this General Order, a *medical condition* is a physical injury, illness, or condition other than a psychological disorder or *mental illness*.

Mental Health Crisis. A condition in which a person is a substantial risk of harm to themselves or others due to a *mental illness*. A substantial risk may be demonstrated by the person's behavior, or by evidence of severe emotional distress and deterioration of the person's mental condition.

Mental Illness. An illness, disease, or condition, other than epilepsy, dementia, substance abuse, or intellectual disability, that substantially impairs a person's thought, perception of reality, emotional process, or judgment, or grossly impairs behavior as demonstrated by recent disturbed behavior. A person with mental illness may not be denied admission or commitment to a mental health facility because the person also suffers from epilepsy, dementia, substance abuse, or intellectual disability.

Notification of Emergency Detention (NED). For the purpose of this General Order, a *NED*, which is also referred to as an Emergency Detention Order (EDO), is a standard notification form that allows a Texas peace officer to detain a person who is mentally ill for psychological evaluation because the person is an immediate threat to self or another person. This form, which is available on the department's Intranet Portal, does not require notarization. The *NED* only guarantees an evaluation will be done; it does not guarantee any form of treatment.

1 AUTHORITY TO APPREHEND

The authority to apprehend a person in a *mental health crisis* by using the *Notification of Emergency Detention (NED)* is granted by the Texas Health and Safety Code, Section 573.001. A peace officer, without a warrant, may take a person into custody, regardless of age, if the officer has reason to believe and does believe both of the following apply:

- a. The person is a person with *mental illness* and because of that *mental illness* there is a substantial risk of serious harm to the person or others unless the person is immediately restrained, and;
- b. The officer believes that there is not sufficient time to obtain a warrant before taking the person into custody.

A "substantial risk of serious harm to the person or others" may be demonstrated by either of the following:

- c. The person's specific recent behavior, overt acts, attempts, or threats.
- d. Evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.

Officers may form the belief that the person meets the above criteria for apprehension based on either of the following:

- e. Information from a credible person.
- f. Conduct of the person or the circumstances under which the person is found.

2 PERSONS EXHIBITING A MENTAL HEALTH CRISIS WITHOUT CRIMINAL CHARGES

Officers who take into custody any person exhibiting a *mental health crisis* shall follow the procedures outlined in General Order 500-02, **Handling and Transporting Prisoners and Other Persons**.

If a person who is believed to be in a *mental health crisis* is in need of emergency mental health treatment and the District Attorney's Office does not accept Class B or higher charges, then the officer shall take the person into custody without a warrant. When a person is apprehended under a *NED*, consent of the person is not required. Officers who take a person into custody in this manner shall immediately inform the person in simple, non-technical terms the reason for and location of the detention, that a staff member of the facility shall inform the person of the person's

rights within 24 hours after the person is admitted to a facility, and that the detention could result in a longer period of involuntary commitment.

Officers shall first attempt to utilize the Neuropsychiatric Center (NPC) if there are no co-existing *medical conditions*. If the NPC is on diversion, officers may utilize the services of any hospital with a dedicated emergency department, or, if eligible, the VA Medical Center. A private psychiatric facility may also be utilized if officers have confirmed there is a bed available and the person has an accepted health insurance.

If a person exhibiting a *mental health crisis* also has a co-existing *medical condition* that requires treatment by a medical facility, the person shall be taken directly to a hospital with a dedicated emergency department.

Upon arrival at the appropriate mental health facility, the officer shall complete the *NED* and provide it to the medical staff. Once the person has been accepted by facility staff under emergency detention, the officer shall complete an incident report and return to duty. Officers should be aware that the person shall undergo a preliminary examination by the facility and shall be admitted under emergency detention only if the examining physician believes that the person meets the criteria discussed in Section 1 of this General Order and that emergency detention is the least restrictive means by which the necessary restraint may be accomplished. Officers should be aware that the person shall be released by the facility if the above criteria are not met or within 48 hours, whichever occurs first. Officers shall not file Class C misdemeanor charges if the person is admitted to a treatment facility.

If officers have knowledge that the person taken into custody under a *NED* has been declared a ward by a probate court, the officer shall notify the applicable probate court as soon as practicable.

Persons Not in Need of Emergency Mental Health Treatment

If a person undergoes preliminary examination by the facility while the officer is present and it is determined that the person is not eligible for emergency detention, the officer shall transport the person back to the location of the person's apprehension, the person's local residence, or another suitable location. The officer shall not transport the person if the person objects to the transportation or if the person wants to voluntarily seek admission for mental health treatment. Any person 16 years of age or older may voluntarily request admission for inpatient mental health treatment. The officer shall not transport the person to a second facility for a second mental health examination.

Juveniles Exhibiting Mental Health Crisis

In addition to the requirements above, officer shall contact a Juvenile Division supervisor for guidance and to coordinate all juvenile dispositions per General Order 500-06, **Disposition of Arrested Juveniles** when dealing with juveniles exhibiting *mental health crisis*.

When taking a juvenile into custody for emergency detention, officers shall first attempt to utilize the NPC. If the NPC is on diversion, officers may utilize the services of Texas Children's Hospital or any hospital with a dedicated emergency department. Whenever possible, a parent or guardian should accompany the juvenile to the treatment facility. If a person is under the age of 18 and his or her behavior meets the elements for emergency detention under Chapter 573 of

the Health and Safety Code, consent of the person or a parent or a guardian is not required. Nevertheless, officers should obtain parental consent whenever possible before transporting a person under the age of 18 for emergency mental health treatment.

A parent or guardian may voluntarily sign the juvenile in for treatment. A private psychiatric facility may also be used if officers have confirmed there is a bed available and if the juvenile has an accepted health insurance.

Juveniles Not in Need of Emergency Mental Health Treatment

If a person under the age of 18 is transported to NPC or another treatment facility for psychiatric evaluation, but is found not to be in need of immediate mental health treatment, hospital staff will not be able to provide voluntary treatment to juveniles 15 years of age or under without parental consent. For this reason, the officer shall remain with the juvenile until a parent or guardian is contacted and arrives. A person 16 years of age or older may consent to voluntary treatment, with or without the consent of a parent or guardian.

If a parent or guardian of a person under the age of 18 cannot be located, the officer shall contact the Statewide Intake Division of Child Protective Services (CPS) and the Special Victims Division for further instructions. Officers shall list the CPS case number and the name of the person taking the report in the incident report. Because each situation involving a juvenile is different, officers should adhere to the requests of the NPC or other facility staff when releasing custody of a juvenile, with authorization from the Juvenile Division supervisor.

3 PERSONS EXHIBITING A MENTAL HEALTH CRISIS WITH CRIMINAL CHARGES

Officers shall thoroughly investigate all reported crimes, including crimes of family violence, regardless of any history of or reported *mental illness*. Officers shall be reminded that only a court of proper jurisdiction may determine the mental competency of a suspect charged with a criminal offense.

When the District Attorney's Office accepts charges (Class B misdemeanor or higher) against an adult who is exhibiting a *mental health crisis*, the officer shall not transport the suspect to the NPC. The officer shall do the following:

- a. Follow the procedures outlined in General Order 500-07, **Filing Proper Charges** and General Order 500-02, **Handling and Transporting Prisoners and Other Persons**.
- b. Notify the concerned division.
- c. Upon arrival at the jail, inform jail personnel that the prisoner is exhibiting a *mental health crisis* and secure the prisoner in accordance with jail procedures. Officers are responsible for the direct care, custody, and control of a prisoner until the prisoner is accepted by jail personnel.
- d. Complete the jail booking process required by the jail facility as outlined in General Order 500-08, **Required Booking Information and Procedures**.

Charges Filed Against Juveniles Exhibiting Mental Health Crisis

When the District Attorney's Office accepts charges (Class B misdemeanor or higher) against a juvenile who is exhibiting a *mental health crisis*, the officer shall transport the juvenile suspect to the Juvenile Division for expedited processing. The transporting officer shall then transport the juvenile to the NPC for a mental health evaluation.

If the NPC determines that the juvenile does not require emergency mental health treatment, the officer will receive a *Brief Psychiatric Assessment Form* completed by the NPC personnel documenting any treatment and the release of the juvenile. The officer shall then inform the Juvenile Division of the NPC's mental health determination and transport the juvenile to Harris County Juvenile Probation (HCJP).

If the NPC determines the juvenile requires emergency mental health treatment, the officer shall complete a *NED* for the juvenile suspect, inform the NPC personnel that the juvenile suspect has pending charges, and advise the Juvenile Division. Juvenile Division personnel will contact HCJP and confirm if the juvenile should be transported to HCJP after the juvenile has received treatment or be released to a parent or guardian. Juvenile Division personnel shall advise the officer so that the officer can inform the NPC that the juvenile will be released to a parent, guardian, or be held and taken to HCJP when released from the NPC.

In either circumstance, the arresting officer shall complete the incident report and charges. If the juvenile is to be left in the custody of the NPC, then the first line in the charges shall state "Juvenile is at the NPC under a *NED* for mental health treatment."

4 CRISIS INTERVENTION RESPONSE TEAM (CIRT)

Officers requiring the assistance of a *CIRT* unit at a scene shall follow the procedures described in General Order 600-01, **Response Management**. *CIRT* units are not to be utilized as "wagon units" for *mental health crisis* calls. *CIT* patrol officers shall continue to be the first responders to *mental health crisis* calls when possible.

5 JAIL DIVERSION

Officers may consider jail diversion services through the Mental Health Diversion Center when an officer believes that symptoms of *mental illness* are a contributing factor to the offense and the individual does **not** pose a public safety threat. Officers may divert non-violent, low-level misdemeanor offenders who are **not** in crisis and **not** a danger to themselves or others to the Mental Health Diversion Center instead of filing charges or writing a citation.

To be eligible for jail diversion, the suspect must be 18 years of age or older and must agree to go to the Diversion Center. Driving while intoxicated (DWI), assault (including domestic violence), and weapons offenses are not eligible for consideration for jail diversion. The officer shall determine, based on the totality of the facts, whether or not the suspect would be appropriate for jail diversion. The officer shall consider the following when determining the totality of the facts:

- a. The complainant's decision to press charges on the suspect or utilize jail diversion services.

- b. The District Attorney's decision to press charges on the suspect or utilize jail diversion services.
- c. The suspect does not have a violent criminal history.
- d. The suspect is not a sex offender, does not have open warrants, or a pending detainer from Immigration and Customs Enforcement.
- e. Whether the suspect has previously participated in the jail diversion program without a good faith effort to seek voluntary assistance.

If an officer needs additional information (e.g., mental health history, diagnosis) to help determine if jail diversion is appropriate, they may consult with the Joint Processing Center (JPC) Triage Diversion Desk to inquire about the person's mental health history, if available.

6 DOCUMENTATION

Incident Report

Officers shall complete an original incident report for any incident in which a person is exhibiting a *mental health crisis*. Officers shall articulate in the narrative of their incident report why they believe the person is mentally ill and why the person is a substantial risk of serious harm to self or others. Substantial risk shall be supported based on specific recent behaviors, overt acts of self-harm, attempts to harm others, severe emotional distress and deterioration in the person's mental health condition, or threats observed by the officer or reliably reported from a credible person. Additionally, evidence of severe emotional distress and deterioration should be thoroughly documented, if used as a basis for determining substantial risk. Officers should avoid using only generic or vague statements such as "consumer was a danger to self and others" or "consumer needed psychiatric treatment." Such statements do not adequately detail the justification for the apprehension by an officer without a warrant, as required by the Texas Health and Safety Code, Chapter 573.

The title of the incident report shall always be listed by the highest criminal offense and "*Investigation - Mental Illness*" shall be listed as a secondary title. If a criminal offense was **not** reported, the incident report shall be titled "*Investigation - Mental Illness*."

If a person is reported to have committed a criminal offense, regardless of whether or not charges are filed, the person shall be listed as a suspect and the offense shall be thoroughly investigated per General Order 600-27, **Preliminary and Follow-Up Investigations**. If the person is not reported to have committed an offense and is being handled for only mental health purposes, the individual shall be listed as a complainant.

Officers shall document all license information pertaining to individuals who hold a License to Carry (LTC), Private Security Armed Registration, or Peace Officer License. Officers shall include the LTC license number, Private Security license number, or Peace Officer Personal Identification Number (PID) in the report narrative. This documentation should also list the company or employing agency of the individual.

Officers shall properly document items (e.g., knives, rope, pill bottles) located at a mental health scene within the narrative of the incident report and contact the appropriate concerned division for guidance, but shall **not** tag the items as evidence under the Mental Health Division (MHD).

If the incident involves a completed suicide or an attempted suicide that may cause the death of an individual, officers shall contact the Homicide Division for guidance and authorization to tag the items. Officers are reminded to follow the guidelines of General Order 700-01, **Property and Evidence Control Regulations**, and consult with the concerned investigative division to receive their authorization to tag firearms or property that may have evidentiary value due to involvement in a criminal investigation.

Notification of Emergency Detention (NED)

In accordance with the Texas Health and Safety Code, Section 573.002, the *NED* must contain specific and detailed information that shows that the substantial risk of harm is imminent unless the person is immediately restrained. The *NED* must contain:

- a. A statement that the officer has reason to believe and does believe that the person shows signs of *mental illness* and is a substantial risk of serious harm to self or others;
- b. A description of the risk of harm;
- c. A statement that the officer has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;
- d. A description of the person's recent behavior, acts, attempts, or threats observed by the officer or reported by a credible person to the officer; **and**
- e. If applicable, the name of the credible person, address, and relationship to the apprehended person, who reported or observed the behavior, acts, attempts, or threats.

For any incident resulting in a *NED*, officers shall document the name of the mental health facility or hospital where the person is to be evaluated, the name of the person who accepted the *NED*, and, if applicable, the Medical Record Number (MRN) in the incident report. Officers shall request a copy of the *NED* from facility personnel, then scan and upload the copy of the *NED* into the incident report via Intellinetics.

7 SEIZURE OF FIREARMS FROM PERSONS EXHIBITING MENTAL HEALTH CRISIS

No Criminal Charges

Pursuant to Texas Health and Safety Code, Section 573.001(h), officers are authorized to seize firearms **only** when the following criteria are established:

- a. The person is exhibiting a *mental health crisis*, taken into custody for a *NED* as specified in section 1, *Authority to Apprehend*;

- b. Upon detention the person is in possession of the firearm; *and*
- c. A criminal offense involving the use of the firearm has *not* been committed.

Firearms that were not within the person's immediate possession at the time of the person's detention cannot be legally seized (e.g., firearms stored in a bedroom closet). The MHD shall *not* authorize the seizure of firearms that do not meet the above criteria.

Officers shall obtain authorization to tag such firearms from an MHD *CIRT* supervisor. If unable to contact an MHD *CIRT* supervisor, officers shall contact a jail HPD supervisor for authorization. Officers shall tag the seized firearm in the Property Division. Seized firearms and other firearm components (e.g., magazines, ammunition) shall be entered into the property tab in ARS utilizing the involvement code "MHF." The required forms can be accessed on the department's Intranet Portal.

Officers who seize a firearm from a person taken into custody shall comply with the requirements of the CCP, Article 18.191, and immediately provide the person with the following:

- d. A written copy of the receipt for the firearm (*Receipt and Notice of Rights for Seized Firearms*).
- e. A written notice of the procedure for the return of a firearm.

Officers shall upload copies of the seizure forms along with a copy of the *NED* into the incident report via Intellinetics. Officers shall put the original *Receipt and the Notice of Rights for Seized Firearms* form, along with a copy of the *NED*, in the MHD Drop Box at the Property Division. The seized firearms shall be tagged in the Property Room following the procedures outlined in General Order 700-01, **Property and Evidence Control Regulations**.

Firearms Related to a Criminal Offense

Firearms used in the commission of a crime (e.g., Aggravated Assault with a Deadly Weapon, Deadly Conduct, Places Weapons Prohibited, Unlawful Possession of Firearm) shall be treated as evidence and shall not be seized under the CCP, Article 18.191. Instead, officers shall follow the guidelines of General Order 700-01, **Property and Evidence Control Regulations**, and consult with the concerned investigative division to tag firearms with evidentiary value.

8 PREMISE HISTORY PROCEDURES

If there is reason to believe that the mental health related information indicates a possible risk to the safety of responding officers, the mentally ill person, or another person at the location, then a premise history request shall be completed. Premise histories shall not be placed on a location solely because a person who resides at that location suffers from *mental illness*.

Officers can access the *Premise History Request* form on the department's Intranet Portal and email it to HPD.CIT@Houstonpolice.org. Officers and supervisors shall not contact the

Emergency Communications Division (ECD) to request that a mental health premise history be placed on a location.

The MHD shall authorize, enter, and maintain all mental health related premise history entries.



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