




WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This directive is for internal use only, and does not enlarge an employee’s civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

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| Number 2-60 | | Effective Date March 30, 2022 | Review Date March 22, 2022 | Reviewing Division Administration |
| Subject MENTALLY ILL PERSONS | | <input type="checkbox"/> New Policy <input type="checkbox"/> Amends <input type="checkbox"/> Replaces <input type="checkbox"/> Revised: | This directive shall apply to personnel assigned to the following divisions: <input type="checkbox"/> All Personnel <input checked="" type="checkbox"/> Patrol Division <input checked="" type="checkbox"/> Administration Division <input checked="" type="checkbox"/> Investigation Division <input checked="" type="checkbox"/> ECC Personnel | |
| References VLEPSC CALEA | | | | |
|  <hr/> Chief of Police or Designee | | <hr/> March 23, 2023 Date | | |

I. PURPOSE

This policy establishes the policies and procedures applicable to the issuance and service of civil mental emergency custody orders (ECO) and civil mental temporary detention orders (TDO).

II. POLICY

It is the policy of the Winchester Police Department to execute and initiate, when necessary, civil mental emergency custody orders and civil mental temporary detention orders, take the served person into custody, and deliver that person to a location for evaluation by a person designated by the Community Services Board, who is skilled in the diagnosis and treatment of mental illness, and can assess the need for hospitalization. These civil orders and the associated civil processes exist to handle mentally ill persons who have become a danger to themselves or others. Public safety and social order are the intentions of these processes. Officers are frequently agents for the initial apprehension of the person and should initiate the process on their own initiative and judgment when appropriate

III. DEFINITIONS

A. Mentally Ill

Any person professionally diagnosed or currently displaying apparent abnormalities in normal psychological, emotional, or behavioral functioning which causes unnecessary stress to the healthy living and safety of that person. A person who is suffering with addiction is considered mentally ill for these purposes.

B. Mental Health Crisis

A person is in crisis when he/she is unable to cope with internal or external stimuli which causes an alteration of reasonable thoughts, emotions and behavior.

C. Civil Mental Emergency Custody Order (ECO)

A document issued by a magistrate or other authorized judicial authority, under certain circumstances and in accordance with Virginia Code, ordering a person thought to be mentally ill to have a face to face evaluation by a health care professional.

D. Civil Mental Temporary Detention Order (TDO)

A document issued by a magistrate or other authorized judicial authority, in accordance with Virginia Code 37.2-808, allowing detention of a person in an institution for a specified time period, for further evaluation in preparation for a formal commitment hearing by a judge.

E. Emergency Custody by Law Enforcement (ECO)

Any sworn law enforcement officer may establish a need to have a mental health evaluation completed on any subject displaying mental illness or mental crisis and they are unwilling or incapable to volunteer for assistance.

IV. EMERGENCY CUSTODY ORDER (ECO)

A. Issuance

1. In cases where a person is incapable of volunteering or is unwilling to volunteer for treatment due to mental illness, a magistrate or other authorized judicial authority upon probable cause, the sworn petition of any responsible person, or their own motion, may issue an ECO if:

a. The person is mentally ill and in need of hospitalization; and

b. The person presents a substantial likelihood that, as a result of mental illness, the person will in the near future cause serious harm to him or her self or others, as evidenced by recent behavior causing,

attempting, or threatening harm, and other relevant information, if any; or

- c. The person may suffer serious harm due to the lack of capacity to protect him or her self from harm, or to provide for his or her basic human needs.

2. A magistrate or other authorized judicial authority may issue an ECO requiring any person within his or her jurisdiction to:

- a. Be taken into custody;
- b. Be transported to a convenient location; and
- c. Be evaluated by a person designated by the Community Services Board, who is skilled in the diagnosis and treatment of mental illness and can assess the need for hospitalization.

B. Officer Responsibilities

1. When an ECO has been issued by a magistrate or other authorized judicial authority, officers shall serve the ECO, take the person the ECO has been served on into custody, and transport the person to:

- a. The Winchester Medical Center; or
- b. The location specified in the ECO.

2. Officers have the Emergency Communications Center (ECC) notify the on-call mental health evaluator for the designated community services board.

3. Officers will maintain a presence and visual contact with the person in custody throughout the evaluation process to preserve the safety of the person in need of evaluation and provide information to the evaluator.

4. Once the person is taken into custody, the maximum specific time per Virginia code 37.2-808 allowed to maintain custody of the individual to conduct an evaluation shall be followed. This time period begins at the point of custody by the officer. The person shall remain in custody until a TDO is issued or until the person is released, but in no event will the period of custody exceed what the Virginia Code allows.

5. After an evaluation by the mental health evaluator, officers will:

- a. If the person is released, transport the person back to the location they were taken into custody or another suitable location, if appropriate;
- b. If a TDO is issued, notify the law enforcement agency presiding for the jurisdiction where the person resides for transport to any facility other than the Winchester Medical Center;

6. If an ECO is not executed within the specified time the ECO should be

returned unexecuted to the issuing judicial authority.

7. An officer may lawfully go to or be sent beyond the jurisdictional limits of the City of Winchester, to any point in the Commonwealth of Virginia for purposes of executing an ECO.

V. TEMPORARY DETENTION ORDER (TDO)

A. Issuance

1. A magistrate or other authorized judicial authority may issue a TDO upon the advice of, and only after in person evaluation by, a person designated by the Community Services Board who is skilled in the diagnosis and treatment of mental illness, and if:
 - a. The person is mentally ill and in need of hospitalization; and
 - b. The person presents a substantial likelihood that, as a result of mental illness, the person will in the near future cause serious harm to him or her self or others, as evidenced by recent behavior causing, attempting, or threatening harm, and other relevant information, if any; or
 - c. The person is so seriously mentally ill as to be substantially unable to care for him or her self; and
 - d. The person is incapable of volunteering or is unwilling to volunteer for treatment.
2. A magistrate or other authorized judicial authority is authorized to issue a TDO without a prior in person evaluation, if evidence is readily available to indicate the same conditions listed in sections a. through d. above
3. The TDO may include transportation of the person to such other medical facility as may be necessary to obtain emergency medical evaluation or treatment prior to placement.

B. Officer Responsibilities

1. When a TDO is issued, an Emergency Communication Specialist shall notify the law enforcement agency presiding for the jurisdiction where the person resides for transport to any facility other than the Winchester Medical Center.
2. If a TDO is not issued by a magistrate or other authorized judicial authority and the person is released, the person may be transported back to the location they were taken into custody or another suitable location, if appropriate.
3. An officer may lawfully go to or be sent beyond the jurisdictional limits of the City of Winchester, to any point in the Commonwealth of Virginia for

purposes of executing a TDO.

4. If a TDO is not executed within specified time the TDO shall be void and returned unexecuted to the issuing judicial authority.

VI. PROCEDURES

A. Emergency Custody by Law Enforcement

1. An officer is authorized to take emergency custody of a person thought to be mentally ill without an ECO when the officer observes, or based on the reliable reports of others, develops probable cause to believe that a person:
 - a. Has a mental illness and there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future,
 - i. Cause serious physical harm to himself/herself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any,
 - OR
 - ii. Suffer serious harm due to his/her lack of capacity to protect himself/herself from harm or to provide for basic human needs.
 - b. Is in need of hospitalization or treatment,
 - AND
 - i. Is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.
2. Once in custody, the maximum time allowed for an evaluation shall not exceed what is specified in Virginia Code 37.2-808. The time period begins at the point of custody by the officer. The person shall remain in custody until a TDO is issued or until the person is released, but in no event shall the period of custody exceed what is designated by code. In the event a mental health professional releases the officer from the ECO, and later requests to engage a new ECO, the officer must have new probable cause and a new event must have taken place.
3. While in custody, the officer is authorized to obtain emergency medical treatment or further medical evaluation for the person at any time.

4. When a person is taken into custody under the circumstances listed in this order, officers must complete an incident report which includes information on the person taken into custody and the disposition of the situation.
5. Officers will immediately notify the on-duty supervisor of any unusual or sensitive issues related to taking a person into custody for an ECO or TDO.
6. In cases where the individual is a juvenile and is mentally ill and in need of hospitalization, the juvenile procedure will remain the same as for an adult until arrival at the medical center. Upon arrival at the medical center, officers may allow parents/legal guardians to assume responsibility for the juvenile. Officers may release from the ECO and allow the juvenile to remain at the medical center with the parent/guardian

C. Voluntary Mental Health Evaluations

An individual may volunteer or elect to be transported to a medical facility for a mental health evaluation. An officer may transport the individual to the medical center and assist them in entering the facility as well as completing the initial sign in process. This is an opportunity to advise medical staff of any statements made by the individual which may be pertinent to the mental health evaluator. Officers transporting a subject to any location for a voluntary mental health evaluation must notify their immediate supervisor/OIC.

D. Custody and Transportation

1. Proper restraining devices will be used, if necessary, to prevent injury to the individual or the officer. The decision to use handcuffs will be based on the totality of circumstances and the potential for violence exhibited by the detainee.
2. The individual taken into custody will be transported in a cruiser equipped with a safety cage, and if possible, two officers should handle the custody and transport of individuals. Exceptions to this must be approved by the on-duty supervisor. Extremely violent or physically impaired individuals may require special restraints and transportation by ambulance to the medical center. If ambulance transportation is requested, ECC will be notified to contact the private contracted ambulance service. The officer will need to accompany the ambulance crew during transport.
3. Once at the medical facility the detainee will be restrained. If there is a request by the officer to remove the restraints, it must be approved by a supervisor. In the event, a detainee is removed from restraints it must be documented in the officer's report, as to the justification of reason the restraints were removed.
4. Once a TDO has been issued and if no immediate transfer to facility is available, which would require an officer to guard the detainee, a Winchester Police Department TDO Officer Log will be completed and

maintained throughout the duration of the TDO by each officer having contact. Notes on this log will include any concerns observed by the officers. The on duty supervisor will do an initial review of the TDO paperwork and an in person check every 12 hours and verify completion and noted concerns.

E. Special Transportation Procedures

1. When officers transport persons to the Winchester Medical Center Behavioral Health Unit, they may be required to have the person medically cleared at the medical center emergency room before the Behavioral Health Unit will admit the person.
2. If an officer should find it necessary to enter the Behavioral Health Unit, a lock box is provided at the unit for the officer to secure his or her firearm and any other weapons. An officer's firearm or other weapons must not be taken into the Behavioral Health Unit.