

COLCHESTER POLICE DEPARTMENT

		SUBJECT: Interacting with Persons with Diminished Capacities	
EFFECTIVE DATE: July 15, 2015		NUMBER: G.O. #41	
REFERENCE:		SPECIAL INSTRUCTIONS: none	
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POLICY: Responding to situations involving persons who officers reasonably believe to be affected by mental illness or suffering from diminished capacity creates a higher level of complexity than normal and requires officers to make difficult judgments and use special skills designed to de-escalate the situation whenever possible. CPD's primary goal in such encounters is to resolve them in the safest possible manner and hasten the subject's access to professional resources.

Nothing in this policy shall be construed to require officers to place themselves or others at a higher risk for injury simply because the situation involves a person of diminished capacity. It is desirable, however, for officers to alter their tactics **where they can safely do so** in order to de-escalate situations involving persons of diminished capacity. The guidelines below are designed to assist officers in recognizing persons of diminished capacity and provide guidance for dealing with these difficult situations that often unfold quickly and in unpredictable ways.

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I. DEFINITIONS:

Crisis - An individual's emotional, physical, mental, or behavioral response to an event or experience that results in trauma. A person may experience crisis during times of stress in response to real or perceived threats and/or loss of control and when normal coping mechanisms are ineffective. Symptoms may include

emotional reactions such as fear, anger, or excessive giddiness; psychological impairments such as inability to focus, confusion, nightmares, and potentially even psychosis; physical reactions like vomiting/stomach issues, headaches, dizziness, excessive tiredness, or insomnia; and/or behavioral reactions including the trigger of a “fight or flight” response. Any individual can experience a crisis reaction regardless of previous history of mental illness.

Disability – A physical or mental impairment that substantially limits one or more major life activities of the individual. This term is defined because some persons with certain disabilities may present in a manner similar to persons of diminished capacity and require special considerations.

Diminished Capacity - This refers to a segment of the community that officers will be called upon to interact with who exhibit unusual behaviors commonly referred to as irrational, bizarre, unpredictable or violent. These outward observable symptoms could be the result of intoxication, drug use, suicidal indications, mental illness, disability, medical complications or other.

Mental Illness - An impairment of an individual’s normal cognitive, emotional, or behavioral functioning, caused by physiological or psychosocial factors. A person may be affected by mental illness if he or she displays an inability to think rationally (e.g., delusions or hallucinations); exercise adequate control over behavior or impulses (e.g., aggressive, suicidal, homicidal, sexual); and/or take reasonable care of his or her welfare with regard to basic provisions for clothing, food, shelter, or safety. This policy **does not** require officers to make a diagnosis of whether the subject is mentally ill, but rather to use reasonable judgment to recognize behavior that is outside the norm and which poses a danger to the person or others.

II. RECOGNIZING ABNORMAL BEHAVIOR

Only a trained mental health professional can diagnose mental illness, and even they may sometimes find it difficult to make a diagnosis. Officers are not expected to diagnose mental or emotional conditions, but rather to recognize behaviors that are indicative of persons affected by mental illness or in crisis, with special emphasis on those that suggest potential violence and/or danger. The following are generalized signs and symptoms of behavior that may suggest mental illness or crisis or diminished capacity, although officers should not rule out other potential causes such as reactions to alcohol or psychoactive drugs of abuse, temporary emotional disturbances that are situational, or medical conditions.

1. Strong and unrelenting fear of persons, places, or things. Extremely inappropriate behavior for a given context.

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. Delusions, 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, feeling one's skin crawl, smelling strange odors).
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.
7. Unusual or bizarre mannerisms; rapid/pressured speech; unresponsive to social cues; distracted/inattentive behavior, etc.
8. Suicidal statements, hopelessness, irrational guilt or known history of mental illness.

III. ASSESSING RISK

Most persons affected by mental illness or in crisis are not dangerous and some may only present dangerous behavior under certain circumstances or conditions. Officers may use several indicators to assess whether a person who reasonably appears to be of diminished capacity or in crisis represents potential danger to him/herself, the officer, or others. These include the following:

1. The availability of any weapons.
2. Statements by the person that suggest that s/he is prepared to commit a violent or dangerous act. Such comments may range from subtle innuendo to direct threats that, when taken in conjunction with other information, paint a more complete picture of the potential for violence.
3. A personal history that reflects prior violence under similar or related circumstances. The person's history may already be known to the officer or family, friends, or neighbors might provide such information.
4. The amount of self-control demonstrated by the person, particularly the amount of physical control over emotions of rage, anger, fright, or agitation. Signs of a lack of self-control include extreme agitation, inability to sit still or communicate effectively, wide eyes, and rambling thoughts and speech. Clutching oneself or other objects to maintain control,

begging to be left alone, or offering frantic assurances that one is all right may also suggest that the individual is close to losing control.

5. The volatility of the environment is a particularly relevant concern that officers must continually evaluate. Agitators that may affect the person or create a particularly combustible environment or incite violence should be taken into account and mitigated.

Failure to exhibit violent or dangerous behavior prior to the arrival of the officer does not guarantee that there is no danger, but it might diminish the potential for danger. An individual affected by mental illness, diminished capacity or emotional crisis may rapidly change his or her presentation from calm and command-responsive to physically active. This change in behavior may come from an external trigger (such as an officer stating "I have to handcuff you now") or from internal stimuli (delusions or hallucinations). A variation in the person's physical presentation does not necessarily mean he or she will become violent or threatening, but officers should be prepared at all times for a rapid change in behavior and/or demeanor.

IV. RESPONSE PROCEDURES

If the officer determines that an individual is exhibiting symptoms of mental illness/diminished capacity or is in crisis and is a potential threat to himself or herself, the officer, or others, or may otherwise require law enforcement intervention as prescribed by statute, the following responses should be considered:

1. Request a backup officer. Always do so in cases where the individual will be taken into custody. Containment of the subject is a priority and will likely require at least two officers. Containment is designed to reduce outside influences and sources of agitation.
2. Take steps to calm the situation. Where possible, eliminate emergency lights and sirens, disperse crowds, and assume a quiet nonthreatening manner when approaching or conversing with the individual. Where violence or destructive acts have not occurred, avoid physical contact, and take time to assess the situation. Officers should operate with the understanding that time is an ally and there is no need to rush or force the situation.
3. Officers should ensure that on lookers or family members are not in a position to become involved either verbally or physically except in rare circumstances where the lead officer deems that assistance from another may be helpful.
4. Move slowly and do not excite the person. Provide reassurance that the police are there to help and that the person will be provided with appropriate care.
5. One officer at the scene shall assume the role of lead officer. This may be based on skill sets, training, rank or seniority. The lead officer shall

handle all communication/commands and supporting officers shall provide cover as appropriate.

6. Supporting officers should, where possible, gather information on the individual from acquaintances or family members and/or request professional assistance if appropriate to assist in communicating with and calming the person. Attempts should be made to ascertain any existing mental or medical conditions and what precipitated the need for police intervention. This information should be shared with the lead officer.
7. The lead officer should communicate with the individual in an attempt to determine what is bothering him/her. If possible, speak slowly and use a low tone of voice. Relate concern for the person's feelings and allow the person to express feelings without judgment.
8. Do not threaten the individual with arrest, or make other similar threats or demands, as this may create additional fright, stress, and potential aggression.
9. Avoid topics that may agitate the person and guide the conversation toward subjects that help bring the individual back to reality.
10. Always attempt to be truthful with the individual. If the person becomes aware of a deception, s/he may withdraw from the contact in distrust and may become hypersensitive or retaliate in anger. In the event an individual is experiencing delusions and/or hallucinations and asks the officer to validate these, statements such as "I am not seeing what you are seeing, but I believe that you are seeing (the hallucination, etc.)" is recommended. Validating and/or participating in the individual's delusion and/or hallucination is not advised.
11. The lead officer or if present, the Officer in Charge, shall determine if assistance from individuals with specialized training in dealing with mental illness or crisis situations (e.g., crisis mental health personnel or Crisis Negotiator) is necessary and if necessary special equipment or outside resources are necessary.

V. REFERRALS OR TAKING SUBJECTS INTO CUSTODY

- A. When dealing with persons of diminished capacity who do **not** pose an immediate risk of injury to themselves or others, officers can make referrals to available community resources or assist the subject in contacting his/her own health care provider.
- B. In cases where the person clearly needs medical intervention but **refuses** to submit to an examination by a physician and does **not** present any immediate risk of serious injury to themselves or others if not restrained, the officer should advise a family member that family or other interested person can file a non-emergency application for involuntary treatment.

- C. On being called to a situation where a person is believed to be in such a mental condition so as to pose an **immediate risk of serious injury to themselves or to others** if not restrained, the officer will:
1. Request that the person voluntarily go to Crisis Services or an Emergency Medical Department of a local hospital. Transportation to this facility may be provided by the Officer.
 2. Contact the Crisis Services (Howard Center for Human Services) by phone.
 - a. Inform the crisis clinician of the person's name, date of birth, and his/her current problem(s) or behavior.
 - b. Unless there is imminent danger, the clinician may ask to speak with the client on the phone. Information provided by the client and officer may then lead to a possible face-to-face evaluation (which can happen in the client's home, on the street, or the emergency department) or may be taken care of on the phone without a face-to-face meeting (depending upon the situation).
- D. **If the person is unwilling to seek immediate assistance or accompany the officer to seek assistance, the officer may take the person into temporary custody provided that the officer has made personal observation of the proposed patient's conduct and has reasonable grounds to believe that the person is in need of treatment, and that s/he **presents an immediate risk of serious injury to her/himself or others if not restrained**. The person can be transported to headquarters and kept in a safe, secure environment while the officer does the following:**
1. Apply for a Warrant for Immediate Examination (**FORM NO. MH-12A [See Appendix A]**) per 18 VSA 7505.
 - a. The law enforcement officer or mental health professional who makes the Warrant for Immediate Examination Application may take the proposed patient into temporary custody while applying to the court without delay for the warrant.
 - b. If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay and that probable cause exists to believe that the proposed patient is in need of immediate examination, the judge may order the proposed patient to submit to immediate examination at a designated hospital.

2. After the initial consultation with Crisis Services Staff, and after obtaining the Warrant For Immediate Examination, the officer will transport the client/person to the designated hospital (Note: In Chittenden County this will be UVM Medical Center unless otherwise specified by the judge).
 - a. A copy of the Application for Warrant for Immediate Exam and the Warrant for Immediate Examination MUST accompany the proposed patient when he/she is taken to the designated hospital.
 - b. The dispatcher will notify Hospital Security about the officer's arrival.
 - c. The person will be turned over to the care of a qualified medical professional at the designated hospital.

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STATE OF VERMONT

In re: _____ COUNTY, ss.
_____)
_____) An Application for Warrant for Immediate Examination
_____) (18 V.S.A. §7505)
_____) Proposed Patient

WARRANT FOR IMMEDIATE EXAMINATION

Upon consideration of the Application and Supporting Affidavit for Warrant for Immediate Examination of:

_____, filed by _____
(Name of Proposed Patient) (Name and title of Officer or Mental Health Professional)

I find as follows:

1. Probable cause exists to believe that the proposed patient is a person in need of immediate examination in that personal observation of the proposed patient by the applicant, as set forth in the application and affidavit, furnishes reasonable grounds to believe that the proposed patient is a "person in need of treatment" as defined by 18 V.S.A. §7101(17) and, further, presents an immediate risk of injury to him/herself or others if not restrained.
2. Because of the emergency circumstances described in the application, it satisfactorily appears that a certification by a physician is not available without serious and unreasonable delay.

Accordingly, it is hereby ORDERED:

1. The proposed patient, _____, shall submit to an immediate examination at a designated hospital, **to wit:** (check one)

Fletcher Allen Health Center *Central VT Medical Center* *Rutland Regional Medical Center*
 Windham Center *VT State Hospital* *Brattleboro Retreat*

2. Any law enforcement officer or mental health professional may take the proposed patient into custody for the purpose of delivering him/her to said designated hospital.
3. Upon admission to the said designated hospital, the proposed patient immediately shall be examined by a licensed physician. If the physician certifies that the proposed patient is a "person in need of treatment", the proposed patient shall be held for an emergency examination in accordance with 18 V.S.A. §7508.
4. If the physician does not certify that the proposed patient is a "person in need of treatment", the physician shall immediately discharge the proposed patient and cause him/her to be returned to the place from which he/she was taken or to such other place as the proposed patient reasonably directs.

Dated at _____, Vermont, this _____ day of _____, 19_____

(District Judge/Superior Judge)

***** A copy of the application and this warrant MUST accompany the proposed patient when he/she is taken to the designated hospital.**

**APPLICATION FOR
WARRANT FOR IMMEDIATE EXAM**

NOW COMES _____
(Please print full name of applicant)

of _____
(Please print complete address of applicant)

Telephone Number _____

Relationship to or interest in proposed patient* _____

and makes application for the emergency examination of _____
(Please print full name of proposed person in need of treatment)

of _____
(Please print complete address of proposed person in need of treatment)

*NOTE: Only the following persons may make application for an individual's emergency examination: a law enforcement officer (i.e., a sheriff, deputy sheriff, constable, municipal police officer, or state police), or a mental health professional (i.e., a physician, psychologist, social worker, nurse or other qualified person designated by the Commissioner of Mental Health).

REASON FOR APPLICATION: (State the facts which you have gathered from your own or a reliable eyewitness informant's personal observations which lead you to believe that the proposed patient is in need treatment and presents an immediate risk of serious injury to him/herself or others if not restrained.) **BE SPECIFIC!**

(CONTINUE ON REVERSE SIDE)

ADDITIONAL REASONS FOR EMERGENCY EXAMINATION (State any additional facts, including any that may have been reliably reported to you by another person, which lead you to believe that the proposed patient is in need of an Emergency Examination)

REASONS FOR UNAVAIL-AVAILITY OF PHYSICIANS CERTIFICATE: (Describe the emergency circumstances which lead you to believe that a certification by a physician is not available without serious and unreasonable delay.)

(If additional space is required, please continue on a separate sheet of paper)

Signed under the penalties of perjury
pursuant to 18 V.S.A. Section 7612(d)(2)

Date of Application

Signature of Applicant

NOTE:

The law enforcement officer or mental health professional who makes this application may take the proposed patient into temporary custody while applying to the court without delay for the warrant. If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay and that probable cause exists to believe that the proposed patient is in need of immediate examination, he/she may order the proposed patient to submit to immediate examination at a designated hospital.** A copy of this application and the warrant MUST accompany the proposed patient when he/she is taken to the designated hospital.

**Designated hospital means a hospital or other facility designated by the Commissioner of Developmental and Mental Health Services as adequate to provide appropriate care for the mentally ill patient. The Vermont State Hospital in Waterbury is a designated hospital. For a current list of designated hospitals, call the admission office at Vermont State Hospital (telephone 802-241-3054).

PHYSICIAN'S CERTIFICATE
FOR PATIENT ADMITTED ON WARRANT FOR IMMEDIATE EXAM

NOTE TO PHYSICIAN:

If you are considering the proposed patient's admission to a 72 hour hold program: To complete this form you must be a board certified or board eligible psychiatrist, or a resident in psychiatry: **ONLY THESE PHYSICIANS MAY ADMIT PROPOSED PATIENTS TO THE 72 HOUR HOLD PROGRAM.**

If you are considering the proposed patient's admission to Vermont State Hospital: To complete this form you must be a board certified or board eligible psychiatrist, a resident in psychiatry, or a licensed physician designated by the Commissioner of Developmental and Mental Health Services as appropriate to complete Physician' Certificates. Complete Sections 1 and II

SECTION I

I, the undersigned, hereby certify that I am a *(please circle one)* board certified psychiatrist / board eligible psychiatrist / resident in psychiatry/physician designated by Commissioner of Developmental and Mental Health Services as qualified to complete Physician's Certificate. I further state that I am duly licensed to practice medicine in the State of Vermont and I have made careful examination of the mental condition of

_____ of _____
(NAME) (ADDRESS)

in the County of _____, State of Vermont, and that I am of the opinion that **he/she** is a mentally ill person in need of treatment. The following information concerning the proposed patient and **his/her** family is submitted:

DATE OF BIRTH _____ PLACE OF BIRTH: _____ SEX: _____

MARITAL STATUS---Single, Married, Domestic Partner, Divorced, Separated, Widowed, Unknown (Circle One)

NAME AND ADDRESS OF SPOUSE, If any _____

Can the patient speak and understand English? _____ If not, what language? _____

NAME OF FATHER: _____ ADDRESS: _____
(If deceased, so state)

MAIDEN NAME OF MOTHER: _____ ADDRESS: _____
(If deceased, so state _____)

(CONTINUED ON REVERSE SIDE)

SECTION I
(Continued)

1. The following data (A-D) is not required but should be provided if appropriate and available.

(A) Alien Registration No: _____ (B) V.A. Claim No: _____

(C) Medicare No: _____ (D) Medicaid No: _____

2. How long have you known the patient? _____

3. Does the patient have any serious physical illness? _____ If so, describe _____

4. Has the patient been physically injured in the recent past? _____ If so, when, how and to what extent _____

5. List current medications and any drug sensitivities _____

6. Full name and address of guardian, if any, nearest relative or friend _____

Relationship to/interest in patient _____

SECTION II
PHYSICIAN'S CERTIFICATE
FOR PATIENT ADMITTED ON WARRANT FOR IMMEDIATE EXAM

In my opinion this patient _____ is (A) not only mentally ill, but
(NAME)

(B) poses a danger of harm to himself or others and (C) should immediately be admitted to a designated hospital for an emergency examination. I believe the patient meets all three of the above criteria and base this opinion on the facts outlined below. (NOTE: For each of these three criteria, it is required that the physician identify separately facts observed by him or her and those reliably reported to him or her by others. In each case the source must be identified.)

7. What facts have been observed by yourself and/or reliably reported to you which lead you to believe that the patient is mentally ill? What did the patient say? What did the patient do?

Tentative Diagnosis _____

8. What facts have been observed by yourself and/or reliably reported to you which lead you to believe that as a result of the mental illness the patient poses a danger of harm to him/herself or others? What did the patient say or do? To whom specifically and in what way is the patient a danger?

9. It is the obligation of the certifying physician to consider available alternative forms of care and treatment for the person's needs, without requiring hospitalization. List all steps taken in exploring alternative forms or care and treatment. (NOTE: Discussing available alternatives with a representative of an authorized screening agency may assist the physician in complying with this requirement. Screeners can be contacted twenty-four hours a day. For a current listing of the designated screening agents, call the Admissions Office at the Vermont State Hospital, telephone number 802-241-3054)

10. What medications or treatments were administered prior to transporting the patient to the hospital for an emergency examination?

Time administered _____ AM _____ PM

11. Name of person in the hospital Admissions Office (802-241-3054) you have spoken to.

Signed under the penalties of perjury
pursuant to 18 V.S.A. Section 7612(e)(1)

Date of Examination

Signature of Physician

Time of Examination

Please Print or Type Physician's Name

Physician's Address

Physician's Telephone Number

PHYSICIAN'S NOTE: The Application Form and Sections I and II of the Physician's Certificate must accompany the patient to the hospital for an emergency examination. When these forms are completed, the patient may be transported to the hospital.

I hereby waive any right I have to receive a copy of the notice of hearing from the Court pursuant to 18 V.S.A. §7613. I understand that despite this waiver I may be called to testify at a hearing involving the above named proposed patient.

Signature