

HEALTH OF PERSONS IN CUSTODY

STANDARD NO(S)

NYSLEAP 43.8

DATE: 12-15-2020

December 2020

REFER TO:

Undersheriff & Chief Deputy

I. OBJECTIVE:

To establish policies and procedures that outlines a response to medical and mental health of persons in custody pursuant to New York Civil Rights Law Article 3 §28 and in accordance with the MPTC Use of Force Model Policy.

II. POLICY:

The OCSO recognizes the critical importance of public safety, to include the medical and mental health of persons taken into custody by sworn members of this office. As such, it is the policy of the OCSO when a person is under arrest or otherwise in the custody of a police officer, peace officer or other law enforcement representative or entity, such officer, representative or entity shall have a duty to provide attention to the medical and mental health needs of such person, and obtain assistance and treatment of such needs for such person, which are reasonable and provided in good faith under the circumstances. This shall include addressing any injury of such person when any use of force is applied, or any injury to such person prior to arrest, when taking such person into custody.

III. DETAILS:

A. **Arrest:**

MEDICAL CONSIDERATIONS

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. The on-scene supervisor, or if not

available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called “excited delirium”), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

When an individual refuses medical treatment, such refusal, whenever possible, should be in the presence of/witnessed by medical personnel and so noted by the officer on the related report(s). In instances where the subject has an apparent serious physical injury and refuses medical treatment due to possible mental illness, intoxication, or drug impairment the officer shall consider applying Section 9.41 of the New York State Mental Hygiene Law. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

MENTAL HEALTH CONSIDERATIONS

When a person is taken into custody for any reason, a special duty relationship exists and reasonable care must be exercised to ensure the mental health needs of the subject are addressed. Through observation and/or report if it is determined that the subject in custody appears to be suffering from mental illness, or is otherwise exhibiting indicators of being an emotionally distressed person (EDP), it is incumbent upon the officer to ensure the needs of the subject are addressed.

When a subject who is believed to be an EDP is transported to jail for commitment or to be held for CAP (Centralized Arraignment Process), prior to the exchange of custody, the transporting officer must convey his or her observations to the officer taking custody of the subject verbally and in writing. The conveyed information may include, but is not limited to, observations made by the officer, statements made by the suspect (i.e. suicidal statements), third party reports, known history of the subject, or any other information that may assist the jail staff in addressing the mental health needs of the subject. In some situations the officer may determine a mental hygiene arrest (MHL9.41) and transport to a 9.39 hospital is

more appropriate than taking the subject directly to jail. To assist in making this determination the officer may consider the following:

1. The seriousness of the crime the subject is in custody for
2. The lethality of risk to the subject or others
3. The capability of the jail to manage or treat the individual
4. Wishes of the victim (s)
5. The subjects mental health history

In instances where a subject meets the criteria for a MHL 9.41 arrest, they appear to be mentally ill and are conducting themselves in a manner that is likely to result in serious harm to themselves or others, the officer may transport the subject to a MHL9.39 hospital. In these situations it is important that the officer's observations, along with any other pertinent information relating to the person's mental health status, be reported in writing (MHA 9.41 Form) and verbally to the hospital staff. The officer is relieved of his or her special duty upon the transfer of physical custody to hospital staff.

In situations where a subject that is in custody is highly intoxicated or under the influence of a drug(s), it is the duty of the officer to ensure the subject is medically cleared prior to transporting them to the jail for commitment or CAP. This may be accomplished by transporting the subject to F.F Thompson Hospital to have the subject evaluated in the emergency department. Following the medical evaluation, if the subject is released, and upon the transfer of custody to the jail the officer will notify the jail staff verbally and in writing of the findings of the medical evaluation. In the situations where a subject is determined by medical evaluation to need further treatment the officer shall notify the duty Sergeant to determine if the subject will be released from custody with an appearance ticket, or if arrangements will need to be made to have the subject guarded while being treated at the hospital. Similarly, in circumstances where a subject is in custody and determined to meet the criteria of MHL 22.09 the officer may transport the subject to a hospital emergency department for evaluation. In these situations the officer may elect to release the subject with an appearance ticket and transfer custody to the hospital. In determining the appropriateness of this course of action the officer needs to consider the following:

1. Seriousness of the crime the subject is in custody for
2. OCSO staffing capabilities

B. Transports:

When transporting sick or injured person who are in custody the following guidelines should be adhered to:

1. Bearing in mind that an officer having custody of an arrested person is, from that point, legally responsible for the arrestee's welfare; consideration should be given to deferring the arrest of a seriously sick or injured person provided he presents no threat or danger which would mandate his being taken into custody immediately. An alternative may be to obtain a warrant (or criminal summons) for service after the person has sought medical treatment.

2. Once in custody, an arrested person who is sick or injured must be afforded immediate medical attention commensurate with their affliction. Those in obvious need of treatment shall be transported to the closest emergency facility before being brought to the jail. If transportation is by ambulance, an officer shall ride with the transported prisoner. Arrested persons/prisoners transported to health facilities for medical treatment typically do not require more than one arm to be unrestrained in order to receive medical care. However, in the event that both arms are required to be unrestrained during the care delivery period, there will be a second law enforcement officer present during such time as both arms are unrestrained. Having the second officer present in the event of a prisoner having both arms unrestrained will result in a more secure environment for medical staff, visitors and law enforcement personnel. This does not preclude the decision to add a second officer if other security risks warrant such action.

3. Whenever a person in custody (not a booked inmate) is admitted to a hospital, the officer having custody must notify the supervisor immediately. Thereafter, the supervisor has two options:

a. Place the prisoner under guard until release. If this option is selected, the supervisor shall notify the Corrections Bureau (CB). Responsibility for security of the prisoner shall remain with said supervisor while the arresting officer completes the appropriate paperwork at the CB, after which this responsibility is transferred to the CB.

b. As an alternative to the above, the arresting officer may request notification prior to the hospital's release of the patient, at which time he will be taken into custody or served with an appropriate document directing his appearance in court at a later time.

4. When a prisoner is taken to a medical facility, treated and released, and thereafter transported and booked into the jail, all pertinent information should be provided to the jail's Medical Division so that any further treatment can be arranged.

5. Sick and injured prisoners should be restrained in accordance with the policy stated herein, except upon the risk of aggravating the affliction. As a matter of policy, pregnant women should not be placed in waist chains.

6. Officers should also be cognizant and make use of proper PPE for the protection of themselves and the subject(s) in custody. Officers are equipped with masks and gloves that may be used by both the officer and the subject.