
**Section: THREE
Chapter: THIRTY-ONE**

SUBJECT: Emotionally Disturbed Persons Procedures

ISSUE DATE: 03-30-16

REFERENCE: N/A

I. POLICY

Members of the Palmyra Police Department will be attentive to the problems of a person experiencing mental or emotional difficulties and will be prepared to offer police assistance.

II. PURPOSE

- A. To ensure that the members of the Department use sound judgment and discretion when exercising their powers of arrest under the New York State Mental Hygiene Law without compromising the officers' or patients' safety.
- B. To ensure that members of the Department making an arrest or returning an individual to a mental health facility pursuant to the New York State Mental Hygiene Law will share information surrounding the individual's conduct and/or arrest with hospital personnel involved in the evaluation.

III. MENTAL HYGIENE ARRESTS

A. Evaluation by Police

- 1. Section 9.41 of the New York State Mental Hygiene Law allows a police officer to take into custody any individual for evaluation if:
 - a. The individual displays a substantial risk of physical harm to himself\herself as manifested by threats of or attempts at suicide or serious bodily harm or other conduct demonstrating that he\she is dangerous to himself\herself; or
 - b. The individual displays a substantial risk of physical harm to other persons manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

B. Transporting Mental Hygiene Arrests

- 1. Whenever possible, officers will transport a person who is under arrest for a violation of the NYS Mental Hygiene Law in an ambulance with a police officer immediately following the ambulance.
 - a. An officer may transport a person under arrest for a violation of the NYS Mental Hygiene Law in a police vehicle when the officer is positive that the person has **not** ingested any substances, sustained any injuries, or demonstrated any violent behavior.

2. All transports of persons arrested under Section 9.41 of the NYS Mental Hygiene Law will be conducted in accordance with General Order(s) governing prisoner transportation.
3. Before being transported, all persons arrested under Section 9.41 will be searched for weapons, dangerous articles or any other items with which they may harm themselves or others.
 - a) The search will include but is not limited to a pat down of all clothing and body surfaces.
 - b) Any weapons, dangerous articles, or items found will be properly secured.
 - (1) Weapons of any kind and items of evidentiary nature will be turned into the property clerk's office.
 - (2) All other property will accompany the individual to the hospital where it will be turned over to hospital security or returned to the individual after the evaluation and release.

C. Documentation

1. Officers affecting a Mental Hygiene Arrest will complete a NYS Incident Report and Arrest Report.

D. Evaluation by Hospital Personnel

1. Under Section 9.39 of the NYS Mental Hygiene Law, the medical facility is authorized to accept an individual who is under a Mental Hygiene Arrest by a police officer. The facility may retain the individual for up to fifteen (15) days.
2. Before an individual can be admitted to a hospital, he/she must be examined by a staff physician and found to meet hospital admission requirements. If the requirements are not met the individual must be released.
3. Under present law the decision to admit in an emergency situation is entirely up to the staff physician. There exists no procedure to ensure hospital retention of the individual. Therefore, the arresting officer will relate all information concerning the individual to the appropriate medical personnel.
4. There is no minimum time limit after which the officer may leave the Mental Hygiene Arrest. The arrestee is the responsibility of the arresting officer and at no time is the subject to be left unattended unless hospital or security personnel properly relieve the officer.

E. When Criminal Charges are Pending

1. Information must be relayed to hospital personnel when an individual arrested under the Mental Hygiene Law is also to be charged criminally.
2. If the subject is eligible for an appearance ticket, one may be issued.

3. If an appearance ticket cannot be issued and the arrestee must be guarded at the hospital emergency department, the arresting officer's immediate supervisor will make arrangements to have the prisoner arraigned by a Judge/Justice at the most convenient moment available to the Judge/Justice and hospital personnel.
4. When the arrestee has been arraigned by a Judge/Justice and has been evaluated for involuntary admittance to a Community Mental Health Center the arresting officer's immediate supervisor will make arrangements with the Wayne County Sheriff's Office Jail Division to turn custody of the arrestee over to the Office of the Sheriff.
5. The Palmyra Police Department will continue to guard the arrestee until such time that the Wayne County Sheriff's Office takes custody of the subject.

IV. TRANSPORTING MENTALLY ILL PATIENTS BY SPECIAL REQUEST (CPEP)

Under the NYS Mental Hygiene Law Section 9.37 and Section 9.45, the Director of Community Services (Mental Health) of Wayne County (or a designee) is authorized to direct a police officer to take an individual into custody and to transport that individual to a facility for the purpose of observation.

- A. When given the assignment of transporting an individual for observation, action will be taken only after the officer has verified the identity of the "Health Officer Designee" of the Director of Community Services who is requesting the transport. A list of those authorized is posted in the station.
- B. No action will be taken if verification cannot be made (Officers may direct the physician to locate another physician who is in fact a "designee" or contact the Director of the Department of Mental Health for approval and follow-up).
- C. Officers must also be presented a copy of the State of New York Office of Mental Health Form 474A/476A (3/93) with section II completed and signed by the "designee" before transporting the subject. A Fax is acceptable.
- E. Officers may be assigned to transport a patient from a non-Community Mental Health Center to a Community Mental Health Center facility for observation at the request of a mental health professional from the non-Community Mental Health facility. Officers will comply with the request only if they are given a verified copy of form 474A/476A(3-93).
- F. Transport of the subject will be made by ambulance or by patrol vehicle. Officers transporting an individual by patrol vehicle will follow transporting procedures as per General Order.

By Order the of:

David B. Smith
Chief of Police

Attachment A

Form OMH 474A/476A (3-93)

State of New York
Office of Mental Health

<p align="center">EMERGENCY or C.P.E.P. EMERGENCY ADMISSION (Sections 9.41, 9.45, 9.55 and 9.57 Mental Hygiene Law)</p> <p align="center">Custody/Transport Of A Person Alleged To Be Mentally Ill To A Hospital Approved To Receive Emergency or C.P.E.P. Emergency Admissions</p>	<p>Person's Name (Last, First, M.I.) _____</p> <hr/> <p>Sex _____ Date of Birth _____</p> <hr/> <p>Address _____</p>
<p>I. § 9.41 Mental Hygiene Law Custody/Transport By Certain Peace Officers and Police Officers</p>	
<p>I, _____ (Name), a Peace Officer/Police Officer of _____ (Department/Location),</p> <p>hereby acknowledge that I have taken into custody _____ (Name of Person), who appears to be mentally ill and is conducting him/herself in a manner which is likely to result in serious harm to him/herself or others.</p> <p>A. I have removed or directed the removal of this person to _____ (Name of § 9.39 Hospital/C.P.E.P.)*</p> <p align="center">OR</p> <p>B. I am temporarily detaining this person at _____ (Location), a safe and comfortable place, pending examination or admission to _____ (Name of § 9.39 Hospital/C.P.E.P.)*. I am notifying _____ (Director of Community Services)</p> <p>or _____ (Health Officer) of _____ (City) OR _____ (County)</p> <p>of this detention/removal.</p> <p>(Signature of Peace Officer/Police Officer) _____ Title/Badge Number _____</p> <div style="display: flex; justify-content: space-between;"> <div> <p>Mo. Day Yr. Hr. Min.</p> </div> <div> <p><input type="checkbox"/> AM <input type="checkbox"/> PM</p> </div> </div>	
<p>II. § 9.45 Mental Hygiene Law Request By A Director of Community Services or Designee</p>	
<p>I, _____ (Name), am the Director of Community Services for _____ (City or County).</p> <p align="center">OR</p> <p>I, _____ (Name), am the designee of the Director of Community Services for _____ (City or County).</p> <p>It has been reported to me that _____ (Name of Person) has a mental illness for which immediate care and treatment in a hospital is appropriate and which is likely to result in serious harm to him/herself or others.</p> <p>This information was reported to me by _____ (Name), who is:</p> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <p><input type="checkbox"/> a licensed physician</p> <p><input type="checkbox"/> a licensed psychologist or certified social worker currently responsible for providing treatment services to the person</p> <p><input type="checkbox"/> a registered professional nurse</p> </div> <div style="width: 33%;"> <p><input type="checkbox"/> the health officer</p> <p><input type="checkbox"/> a peace or police officer</p> <p><input type="checkbox"/> the spouse of the person</p> <p><input type="checkbox"/> the child of the person</p> </div> <div style="width: 33%;"> <p><input type="checkbox"/> the parent of the person</p> <p><input type="checkbox"/> the adult sibling of the person</p> <p><input type="checkbox"/> the committee of the person</p> </div> </div> <p>I hereby direct, under the Mental Hygiene Law, that peace/police officers of _____ (Department/Location) take this person into custody and transport him/her to _____ (Name of § 9.39 Hospital/C.P.E.P.)*</p> <p align="center">OR</p> <p>I hereby request, under the Mental Hygiene Law, that _____ (Name of Ambulance Service) transport this person to _____ (Name of § 9.39 Hospital/C.P.E.P.)*</p> <p>Signature of Director of Community Services or Designee _____</p> <div style="display: flex; justify-content: space-between;"> <div> <p>Mo. Day Yr. Hr. Min.</p> </div> <div> <p><input type="checkbox"/> AM <input type="checkbox"/> PM</p> </div> </div>	

* A hospital approved by the Commissioner of OMH, under MHL Section 9.39, as maintaining adequate staff and facilities for admitting patients on an emergency basis; or, a C.P.E.P. licensed by OMH to provide psychiatric emergency services to patients admitted under MHL Section 9.40.