# City of Virginia Beach
# Police Department

## Police Response to Persons with Mental Illness


### A Guide for Department Members

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***This Field Guide is Prepared and Updated by the Virginia Beach Police Department Detective Bureau***

***Under the Approval of the Chief of Police:*** Paul W. Neudigate

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**Policy**

In accordance with the Mission and Values of the Virginia Beach Police Department, the Department is committed to the compassionate treatment of the mentally ill or those suffering a mental health crisis. Though it may be necessary, at times, to enforce the law, officers shall strive to refer mentally ill persons for treatment, in lieu of criminal charges, when and where possible and appropriate. When necessary, officers will take the proper action to detain and/or transport mentally ill persons or persons suffering a mental health crisis for treatment, to properly identified mental health and/or medical facilities as required by law.

**Purpose**

It is the purpose of this field guide to provide guidance to law enforcement officers when encountering persons with mental illness or who may be suffering a mental health crisis, in accordance with the Code of Virginia which governs civil mental detention procedures, and the commitment of minor respondents. This field guide further establishes guidelines for the utilization of members assigned to the Crisis Intervention Team by outlining specific training and deployment procedures. All officers will follow the policies set within this field guide when dealing with individuals that display symptoms of a mental disability, illness, injury, or crisis.

**Definitions**

A. Mental Illness - Any of the various conditions characterized by impairment of an individual's normal cognitive, emotional, or behavioral functioning, and caused by social, psychological, biochemical, genetic, or other factors, such as infection or head trauma.

B. Mental Health Crisis - A person is in crisis when he or she is unable to cope with internal or external stimuli creating an inability to function at their normal level, thus creating a risk of harm to themselves or others.

C. Respondent - The individual alleged to be mentally ill, emotionally distraught, mentally disturbed, or is otherwise suffering a mental health crisis.

D. Petitioner - The individual with the information, "Probable Cause," that the respondent needs help. The petitioner can be a police officer.

E. Community Service Board (CSB) - Community services boards (CSB) provide comprehensive mental health, developmental, and substance abuse services by acting as the single point of entry into publicly funded mental health, developmental, and substance abuse services. Services offered by a CSB shall include emergency services and, subject to the availability of funds appropriated for them, case management services. The core of services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, intellectual disability, or substance abuse. Community services boards may establish crisis stabilization units that provide residential crisis stabilization services.

F. DHS MHSA ES – This is the Department of Human Services – Mental Health Substance Abuse Emergency Services program, the City's operational mental health component of the Virginia Beach Community Services Board (CSB). DHS MHSA was formerly referred to as Comprehensive Mental

Health (CMH); however, CMH is now a defunct term. The new term for common use will be Emergency Services (as the agency will be referred to throughout the rest of this field guide).

G. Clinician - A Department of Human Services (DHS)-Mental Health Substance Abuse Emergency Services employee, or a designee of this agency, who is skilled in the diagnosis and treatment of mental illness and used to assess the need for hospitalization.

H. ECO Form- Three (3) part (white), Civil Mental Emergency Custody Order, (Form DC-492) - This form is to be completed by the magistrate when probable cause has been presented by the petitioner on the DMH 1006 form. The ECO can also order the respondent to obtain emergency medical evaluation or emergency medical treatment prior to pre-admission screening. This form is good for up to 8 hours from its time of issuance.

I. TDO Form- Four (4) part (white), Civil Mental Temporary Detention Order, (Form DC-894 A (for adults) or 894 for juveniles) - This form is completed by the magistrate after the clinician provides the magistrate with probable cause that the respondent is in need of hospitalization. The TDO can also order the respondent to obtain emergency medical evaluation or emergency medical treatment prior to placement in a detention facility. The TDO is good for 24 hours from the time of issuance.

J. Crisis Intervention Team Officer- An officer who has received and completed specialized training in recognizing symptoms of mental illness and identifying persons suffering a mental health crisis. CIT officers possess communication skills to assist in the de-escalation of potentially dangerous situations. CIT officers will be the "first responders" for calls for service involving persons with mental illness or in mental health crisis.

K. CIT Coordinator – A police supervisor selected by the Chief of Police or his designee to coordinate all CIT certification training or CIT-related training – to include muster training and training bulletins related to police interaction with the mentally ill. The CIT Coordinator will also be responsible for coordinating the selection and retention of CIT officers and will act as a Department liaison with Mental Health agencies and service providers.

L. Mental Health Receiving Facility – A mental health facility that is both legally willing and able to provide sufficient security to accept a transfer of custody of mentally ill respondents from police officers during the ECO process.

M. Bed Registry – A state-wide registry that provides real-time information to local CSBs that allows them to search for available acute care beds in public and private inpatient psychiatric facilities and residential crisis stabilization units to facilitate identification and designation of facilities for temporary detention of individuals who meet the TDO criteria. This registry will identify the number of beds available, the type of patient that may be admitted, the level of security provided and any other information to allow identification of appropriate facilities for temporary detention.

N. PD Form 175 – The PD Form 175, entitled, *Crisis Intervention Team Incident Report*, is a form utilized to compile statistics to help assess the effectiveness of the CIT program as well as to document the resources utilized by the Police Department assigned to mental health related calls. **It is the original case Officer's responsibility to "START" the PD175 form, regardless of the amount of time spent on the case**. If the case is transferred to a CIT officer, is relieved by another zone unit, or CIT

supplemental unit they will provide the PD175 as part of the pass off/ pass down report. The officer relieving another unit will require and receive the PD175 prior to transferring custody. Just as it is the responsibility of the original case officer to start the PD175, **it is the clearing Officers responsibility to "complete and submit" the PD175 to their supervisor.** Once the supervisor reviews the PD175 and ensures that it is complete then it should be forwarded to CIT Coordinator in Ops Admin.

O. PERS Clinician - A PERS clinician is a Sentara employee that screens voluntary patients that come to the hospital seeking mental health treatment and are not in police custody. PERS clinicians have no legal authority to detain a person nor can they insist an officer initiate a paperless ECO.

**Responsibility of the Department**

It is important to remember that the vast majority of persons suffering mental illness will have little to no contact with police. However, handling individuals who are known or suspected to be mentally ill or who may be suffering a mental health crisis carries the potential for violence. This will require an officer to make difficult judgments about the mental state and intent of the individual, and requires special attention and understanding to effectively and legally deal with the person so as to avoid violence or other potential issues. For this purpose, the Police Department has established a mental health Crisis Intervention Team (CIT) to provide a higher quality of service to members of our community and to mitigate the sometimes difficult situations and persons that officers may encounter, as well as to divert mentally ill persons from the criminal justice system when mental health treatment would be a more appropriate option. Given the unpredictable and sometimes violent nature of some individuals, officers should never compromise or jeopardize their safety or the safety of others when confronted with individuals displaying symptoms of emotional instability or mental illness. In the context of enforcement and related activities, officers shall be guided by the Code of Virginia regarding the detention of the mentally ill or subjects suffering a mental health crisis. Officers should utilize discretion when encountering possibly mentally ill subjects who are engaging in, or have committed, minor crimes (Ex: trespassing, public intoxication, disturbing the peace) when deciding whether criminal charges or mental health diversion is the most appropriate course of action.

**Involuntary Hospitalization Process by an Officer**

§37.2-808 provides police officers with the authority to take a person into non-judicial custody for the purpose of a mental evaluation when probable cause exists. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated §37.2-808 G (in the following pages) may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization. This is often referred to as a non-judicial custody order or a "paperless ECO". Such evaluation shall be conducted immediately. Officers encountering such persons shall request the assistance of an available CIT officer(s) (if available) who should then take over the case and assist the subject.

Persons requiring mental health pre-screening may be taken into custody via a judicial order otherwise known as an Emergency Custody Order (an issued paper ECO) or a non-judicial order (paperless ECO) as described in the pages following. Upon executing the ECO (either with an issued paper or a paperless ECO) the primary officer assigned shall notify the Emergency Services (DHS MHSA) as soon as practicable after taking the person into custody. Any person taken into custody as a result of an emergency custody order shall be given a written summary of the emergency custody procedures and the statutory protections associated with those procedures. The Virginia Supreme Court has developed a standardized

form (DC-4050) to accomplish the notification. The officer should supply this form to the respondent as soon it is safe and practical to do so.

**Crisis Intervention Team (CIT)**

**Objectives:**

A. Pre-arrest diversion of the mentally ill from the criminal justice system.
B. Provide law enforcement with the tools needed to handle encounters with mentally ill persons.
C. Delivery of proper care for the individual in crisis through collaboration between the mental health and criminal justice systems.

**Crisis Intervention Team Member Selection**

A. Members of the Crisis Intervention Team will be sworn members of the Department who have volunteered to serve as a Crisis Intervention Team Officer. Those officers seeking to become a CIT officer shall complete a CIT candidate application and questionnaire that will be forwarded for review before a selection committee. The selection committee will be comprised of the CIT Coordinator, CIT Officer, Mental Health Representative from Emergency Services, a PD&T staff member and any other CIT certified officer or supervisor assigned by the CIT coordinator to serve on the committee. The names of the officers whose applications are approved will be forwarded back to the officers' command. The command will then decide when the approved candidate will attend which up-coming 40 hour certification training course.

B. Applicant officers seeking appointment as a CIT member shall possess the following traits:

    1. Good communication skills
    2. Active listening skills
    3. Ability to work well under pressure
    4. Ability to maintain a positive attitude under stressful conditions
    5. Ability to absorb verbal abuse without negative responses
    6. Ability in exercising good judgment and decisions making skills

**Crisis Intervention Team Training**

A. Each member will be required to attend a basic 40 hour CIT training course.
B. Additional/Advanced training may be required annually.

**Departmental Training (CALEA 41.2.7 D, E)**

As part of initial mental health response training, all personnel will receive instruction regarding the handling of mentally ill persons, to include basic Crisis Intervention Team concepts and de-escalation techniques. All personnel will receive annual refresher training regarding encounters with mentally ill person/persons. All training shall be conducted and documented by Professional Development and Training.

**Recognizing Abnormal Behavior (CALEA 41.2.7 A)**

Mental illness is often difficult for even the trained professional to define in a given individual. Officers are not expected to make judgments of mental or emotional capacity but rather to recognize behavior that is

potentially destructive and/or dangerous to self or others.

The following are generalized signs and symptoms of behavior that may suggest mental illness or indicate a person suffering a mental health crisis, although members should not rule out other potential causes such as reactions to, or withdrawal from, drugs or alcohol or temporary emotional disturbances that may be motivated by a given situation:

1. Delusions or hallucinations
2. Nonsensical speech patterns and disorientation
3. Severe depression and/or severe agitation
4. Suicidal talk or acts
5. Violent talk or behavior resulting from mental illness
6. Social withdrawal
7. Dramatic changes in eating or sleeping habits
8. Strong feelings of anger
9. Increased inability to cope with daily problems and activities
10. Denial of obvious problems and/or many unexplained physical problems
11. Abuse of drugs and/or alcohol

Signs of mental illness/mental health crisis may manifest themselves in several ways, to include verbal clues, behavioral clues, or some environmental clues:

1. Degree of Reactions - Mentally ill persons or persons suffering a mental health crisis may show signs of strong and unrelenting fear of persons, places, or things. The fear of people or crowds, for example, may make the individual extremely reclusive or aggressive without apparent provocation.

2. Appropriateness of Behavior - An individual who demonstrates extremely inappropriate behavior for a given context may be emotionally ill. For example, a motorist who vents his frustration in a traffic jam by physically attacking another motorist may be emotionally unstable.

3. Extreme Rigidity or Inflexibility - Emotionally ill persons may be easily frustrated in new or unforeseen circumstances and may demonstrate inappropriate or aggressive behavior in dealing with the situation.

4. Mentally ill persons may exhibit one or more of the following characteristics:

    a. 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);

    b. 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.");

    c. Hallucinations of any of the five senses (e.g., hearing voices commanding the person to act, feeling one’s skin crawl, smelling strange odors, etc.);

    d. 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;

    e. Extreme fright or depression.

5. Mentally ill persons may show environmental clues of mental illness by living in extreme filth, failing to practice basic hygiene and personal care, or failing to seek medical care for obvious injuries. If medical care is required, all such care should be sought immediately. EMS personnel shall transport any persons with signs of physical injury.

**Calls received by E-911 Emergency Communications Division**

By agreement with the E-911 Emergency Communications Division, the communications officer receiving the initial call concerning a possibly mentally ill subject/or a person suffering a mental health crisis, should gather as much information as possible, to include but not limited to:

1. What were the actions of the persons in question
2. Was a crime committed, and if so, what kind
3. Is/are the person(s) armed
4. Were there any acts of violence
5. Did the person(s) take any drugs and/or drink alcohol recently
6. Name, age, and/or mental condition/diagnosis of the subject(s), if known
7. History of mental illness/ Possible medications the subject(s) may be on
8. Relationship of the subject(s) to the caller
9. Subject(s) treating physician and/or social worker if known

E-911 Emergency Communications Division will enter a case for a possible mentally ill subject, dispatch any available CIT officer or officers first, and code the case in CADS as a CIT-related call for service. If no CIT officers are available, the dispatched police officers shall further evaluate these complaints. At least two officers shall be sent to any such case involving a possible mentally ill subject.

**Police Management of the Mentally Ill (CALEA 41.2.7 B, C)**

Police personnel should adhere to the following when handling those persons who appear to be in need of treatment for mental issues, may be suffering a mental health crisis, or when the magistrate issues an Emergency Custody Order (ECO) and/or a Temporary Detention Order (TDO).

A minimum of two (2) officers or detectives will be present initially during the call to include the entire ECO/TDO process (if issued) for the safety of the officers as well as the safety of the respondent and the community. Upon executing the ECO (either with an issued paper or a paperless ECO) the primary officer assigned shall notify Emergency Services (DHS MHSA) as soon as practicable after taking the person into custody. Any person taken into custody as a result of an emergency custody order shall be given a written summary of the emergency custody procedures and the statutory protections associated with those procedures. The Virginia Supreme Court has developed a standardized form (DC-4050) to accomplish the notification. The officer should supply this form to the respondent as soon it is safe and practical to do so.

If, during the process, the subject is, and remains non-violent, and the officers have no reason to believe or information that the subject has been violent in the past, the primary officer shall have the discretion to determine if the assist officer(s) need to remain during the remainder of the process/encounter.

**Crisis Intervention Team (CIT) Response:**

A. **High priority calls involving possibly mentally ill subjects or those suffering a mental health crisis:**

If available, any CIT officer working within the affected precinct should be dispatched along with the assigned beat officer(s) in which the incident occurs. CIT officers may respond across precinct boundaries with permission from a supervisor. First responders may request assistance from CIT Officers as they become available.

B. **Non-priority calls involving possible mental illness:**

C. ECCS will broadcast all CITE related cases. This means that if the system prompts the response of a CIT Officer to a case, then a general announcement – over the air - will be broadcast so that all listening to the associated precinct frequency will know that officers are responding. The announcements are being conveyed as follows:

- After an Alert 1 tone (similar to burglar alarm): "CIT Case Alert - Unit and Unit responding to the 1000 block of address reference case number .1111" will be broadcast.

D. CIT officers should be dispatched and/or volunteer for these calls for service in any adjacent beat. If the CIT officer(s) are unavailable, the beat unit, assigned to the call, will respond, assess the situation and if needed, request a CIT officer when one is available.

E. Daily Precinct Shift Lineups shall designate current CIT officers. Emergency Communications may refer to the line-up for dispatch or may request a CIT officer over the radio.

F. The first CIT officer on the scene shall be responsible for the entire call or incident to include dialogue with the mentally ill person, determining appropriate action to be taken and all necessary paperwork. Other officers on the scene shall provide necessary assistance as needed. The CIT officer shall maintain responsibility for the call or incident unless otherwise directed by a supervisor. The supervisor will then take full responsibility of the scene.

G. Members of the Crisis Intervention Team may be dispatched as first responders prior to the arrival of the Crisis Negotiations Team if a mentally ill person is involved.

H. The Crisis Negotiations Team will be deployed to incidents involving the mentally ill that meet the Barricaded Suspect criteria (refer to Hostage Barricade Field Guide for further instruction). Upon arrival to such an incident, the Crisis Negotiation Team will make the decision as to how to further proceed, to include utilizing the assistance of a CIT officer.

I. All CIT related calls will be coded and tracked by Emergency 911 dispatchers.

J. Crisis Intervention Team members will be dispatched when the mentally ill consumer, family member or a recognized agency specifically requests a CIT trained officer.

K. For tracking purposes, calls for service that are not originally classified as a mental health crisis/CIT related call, will be reclassified as such prior to clearance if the situation results in an officer providing intervention/assistance to someone suffering from mental illness or a mental health crisis.

L. Use of force incidents that occur as a result of a CIT-related call require the completion of UOF documentation via Blue Team (the on-line reporting system); the completing officer will include the fact that the incident was a CIT-related call in the narrative.

**Mental Health Emergency Custody and Civil Admissions/ Mental Health related calls for service**

CIT officers will not always be available to respond to or to assist with mental health related calls. Therefore, all officers shall be familiar with the civil admissions process as required by law.

**The primary officer assigned to any mental health related call for service or encounter shall contact the Department of Mental Health Emergency Services pre-screeners prior to clearing any call involving an alleged mentally ill person, or a person suffering a mental health crisis, for further direction when family members, a police officer on scene, or the complaining party has ANY concern about the respondent. Pre-screeners can then provide further direction or may choose to speak with the respondent, his or her family members, or any party that called police with a concern about the respondent to determine if further action is needed.**

Generally, the civil commitment process is the primary responsibility of the Warrant & Fugitive Unit of the Detective Bureau. Uniformed CIT officers (from the precinct handling the process) will have the secondary responsibility for handling a civil commitment process when Warrant/Fugitive Unit detectives are not available. If either the Warrant & Fugitive Unit or a uniformed CIT officer is unavailable, uniformed officers from the precinct will assume responsibility. The Warrant & Fugitive Unit will handle all civil commitment processes during normal business hours (0700-2300) unless:

- The officer is the complainant on a criminal charge against the respondent.
- A member of the Warrant & Fugitive Unit are unavailable.
- The officer acts as the petitioner.
- The case only involves a paper transfer from the magistrate to one of the Detention Facilities.
- If Uniform Patrol is handling the ECO/TDO and extenuating or unusual circumstances (such as physical ailments or disabilities) exist, a supervisor should contact the Warrant & Fugitive Unit supervisor to determine what assistance might be available. This will include any TDO that requires the officer to take a respondent outside the Hampton Roads Area (anywhere farther than the Hampton/Newport News area).
- For TDO transports outside the Hampton Roads Area (anywhere farther than the Hampton/Newport News area), the Warrant & Fugitive Unit will respond and transport during their normal business hours.
- If a TDO transport outside the Hampton Roads area is needed after normal business hours, the Virginia Beach Receiving Facility will hold the consumer until 0500 hours when on-coming day-shift Warrant/Fugitive Unit personnel can provide this transport. An on-duty uniformed patrol officer shall be called to the Receiving Facility to assist the security officer at that location with additional security so the facility can continue to operate and accept consumers for mental health screenings.

**Voluntary/Consensual Crisis Intervention Process:**

**Police officers are in no position to deem a person who is exhibiting symptoms of mental illness or is suffering a mental health crisis as capable of making a voluntary informed consent for admission to a treatment facility. Any such determination will be made by an Emergency Services pre-screener.** For the purposes of this field guide, a voluntary/consensual commitment process is one in which a respondent is willing to seek treatment voluntarily and has already contacted a facility that is willing to accept them as a

patient. In most cases the family may provide their own transportation to the mental health facility in which the subject is to receive treatment. Police may be called, however, to provide assistance to family members with crisis intervention and with transportation if the family has no transportation of their own, or if the family member, needing or seeking treatment, refuses to go with his or her family members.

**Voluntary and eligible to be dropped off at the Emergency Room**

- Three things must happen:
    1. The person has to voluntarily want treatment and be in the right state of mind to make an informed decision and;
    2. Emergency Services has to agree the person can go to the hospital voluntarily for treatment and;
    3. The charge nurse in the Emergency room has to be willing to accept the patient without an ECO.
        - Normally the Charge Nurse will request that PD remain until the person is registered, triaged and placed in a room.

***We are never permitted to drop off a patient at an ER without the above guidelines being met.***

**Revocation of Consent**

If officers receive a call for service that begins as a potential voluntary/consensual process, but the subject revokes his or her consent and he or she meets the criteria for emergency custody under §37.2-808 (ECO Process ) the officers shall remain with the subject and proceed under the guidelines provided for a paperless ECO. The officer will contact a Mental Health Emergency Services clinician to provide an evaluation. The evaluation shall be designated by the community services board or behavioral health authority who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department. The officers will then remain with the subject until other officers either relieve them or until the subject is handed over to a proper mental health receiving facility, via a TDO. **Officers are not to simply drop off potential patients/mental health consumers at local hospital emergency rooms and leave them unsupervised.**

**Emergency Custody Process and Emergency Custody Orders (§37.2-808):**

The Code of Virginia mandates that the magistrate issuing an emergency custody order shall specify **the primary law-enforcement agency and jurisdiction** to execute an emergency custody order and provide transportation. As the Virginia Beach Police Department is the primary law enforcement agency in the City of Virginia Beach, the Police Department shall execute all emergency custody orders (ECO).

A police officer may take a subject into emergency custody, commonly referred to as a non-judicial process or "paperless ECO", based upon his or her observation or through the reliable report of others, when he or she has probable cause to believe that any person within his or her judicial district (**i) has a mental illness, (ii) and there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious bodily harm to himself or others as evidenced by recent behavior causing, attempting, threatening- harm and other relevant information, if any, or (b) suffer serious harm due to lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.** Any emergency custody order entered pursuant to this

section shall provide for the disclosure of medical records pursuant to §37.2-804.

A magistrate may issue an Emergency Custody Order based upon the probable cause stated above based upon the sworn petition of any responsible person, treating physician, or upon his own motion.

Upon executing the ECO (either with an issued paper or a paperless ECO) the primary officer assigned shall notify the Emergency Services pre-screener responsible for conducting an evaluation as soon as practicable after taking the person into custody. Officers shall transport a respondent, taken into custody and subject to a judicial or non-judicial emergency custody order, to a convenient location to be evaluated to assess the need for hospitalization or treatment. This evaluation shall be made by a person designated by the community services board or behavioral health authority who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department. Once taken into custody subject to the ECO, the respondent shall be given a written summary of the emergency custody procedures and statutory protections associated with those procedures. **This may be done during the screening/evaluation process with the mental health pre-screener.**

**The ECO is valid for a period of time not to exceed 8 hours from the time of execution (when the person is initially taken into custody. This 8 hour period applies to issued (paper) and non-judicial (paperless) ECOs. The ECO will remain valid for execution for 8 hours from its time of issuance.**

Transportation under §37.2-808 shall include transportation to a medical facility for medical evaluation if a physician at the hospital in which the person subject to the emergency custody order may be detained requires a medical evaluation prior to admission. Nothing herein shall preclude officers from obtaining emergency medical treatment or further medical evaluation at any time for a person in his or her custody as provided in this section.

**State Facility Safety Bed**

**An individual may be detained in a state facility at the expiration of the 8-hour period because a facility of temporary detention could not be identified. The state facility will be identified and named on the Temporary Detention Order (TDO) that will be issued for the Subject. In those cases, the Community Service Board (CSB) and the state facility may continue to attempt to identify an alternative facility. The state facility and an employee or designee of the community services board as defined in § 37.2-809 may, for an additional four hours, continue to attempt to identify an alternative facility that is able and willing to provide temporary detention and appropriate care to the individual.**

If the clinician chooses not to support the ECO, the primary officer shall either return the person to the location in which he or she was taken into custody or release the person upon their request. At the conclusion of the case, the primary officer shall complete a PD Form 175 and forward it to his or her supervisor for review. The supervisor shall then forward the form, once all corrections are made, to the CIT Coordinator or the coordinator's designee.

**Paperless ECO vs a paper ECO?**

A paperless ECO (non-judicial) has the same legal authority as one issued by a magistrate (judicial). If possible, prior to initiating a paperless ECO an officer should contact Emergency Services (ES) to determine if it is the best course of action. It is important to note if ES directs an officer to take a person into custody the officer should take the subject into custody. State Code §37.2-808, allows an officer to initiate a paperless ECO based on the reliable reports of others, this of course includes ES clinicians.

The officer does not have to personally witness the actions.

**Voluntary Admission Based on Mental Competency after Emergency Custody**

There will be occasions when subjects taken before a mental health pre-screener, may be deemed by the screener to be competent to seek voluntary admission to a psychiatric facility or may be deemed a candidate for less restrictive follow-up mental health care and treatment. This will include subjects initially taken into custody pursuant to a judicial order or who may be in non-judicial custody. In such cases, it will be permissible for officers to relinquish control of the subject once the pre-screener has advised officers that they will no longer need to stand by and provided that the officers feel comfortable doing so. It is also permissible for officers to provide a ride back to the site from which the police officer's intervention originated. Prior to clearing the case, the officers will be required to get the name of the mental health pre-screener and add the pre-screener's name to the case comments, and notify their respective on-duty supervisor(s) and advise that they have been cleared by mental health.

**Transfer of Custody to a Receiving Facility**

Law enforcement may transfer custody to facility or location if the facility is:

1. Licensed to provide level of security necessary to protect the person or others from harm
2. The facility/location is actually capable of providing security; and
3. Has entered into an MOU with law enforcement setting forth terms and conditions under which it will accept custody transfer – no fee may be charged to law enforcement.

Virginia Beach Psychiatric Center (VB Psych.), located as 1100 First Colonial Road, is only one receiving facility with which the Virginia Beach Police Department has entered into a MOU. This facility is licensed, able, and willing to accept transfers of custody of mental health respondents that are subject to an ECO provided the following conditions and requirements are met:

- **The respondent is in the custody of a certified CIT officer (the receiving facility will only accept transfer from CIT officers).**
- The CIT officer has called ahead to VB Psych. and determined a pre-screener is on duty and is able to conduct an ECO pre-screening.
- The CIT officer shall relay the respondent's current demeanor and medical health, and shall inquire from the pre-screener the respondent's propensity towards violence based on the respondent's past history and information received from family members and/or friends to determine the respondent's suitability for placement into the receiving facility.
- The final decision to accept the respondent will be made by the pre-screener at the facility.
- Officers shall remain with the respondent if requested to do so by the pre-screener and will only clear with the consent of the pre-screener.
- Officers should initially remain at the scene if requested to do so by the security staff and render assistance as may be needed prior to clearing.
- CIT officers are reminded that transfers of custody are only for pre-screening purposes pursuant to an ECO. Police may be called back to pick up the respondent and provide transportation to an identified treatment facility pursuant to a TDO or transport for medical clearance.
- Officers will note the time that the transfer of custody took place and ensure the time is added to the case comments in CADS as well as on the PD-175 Form.

**Cases of Suspected Excited Delirium/Extreme Agitation and Mania**

The term, Excited Delirium (ED), is extremely controversial in both the medical and legal community as there is no medical consensus as to its existence and no official diagnosis for this condition from the American Medical Association (AMA) or American Psychological Association (APA). However, there may be occasions, albeit rarely, where officers may encounter a subject who may display extremely bizarre and unusual behavior. According to the University of Miami, victims of excited delirium display sudden onset of paranoia and alternate between calm behavior and extreme agitation. When confronted by police, who are invariably called to the scene, the victim intensifies the violence and paranoia. An intense struggle ensues, when the victim exhibits incredible "superhuman" strength and is impervious to the usual police techniques of pain control, including pepper spray, peroneal baton strikes, and in certain cases, TASER deployment. The intense struggle requires the efforts of many police officers, who are finally able to restrain the victim and apply ankle and/or wrist restraints. Often, within minutes of being restrained, the victim loses all vital signs. Core body temperatures average 105 degrees. Resuscitation of these cases often results in a failed course of hospital treatment, characterized by a fatal sequence of rhabdomyolysis and renal failure. Symptoms of this condition may include but are not be limited to:

- Aggressiveness
- Combativeness
- Hyperactivity
- Extreme paranoia
- Unexpected Strength
- Incoherent shouting
- Animal-type grunts
- Partially or totally unclothed
- Sweating profusely
- Unusual attraction towards shiny objects

**Handling of Subjects Suspected of Suffering from Excited Delirium (As suggested by IACP)**

If an officer suspects that he or she is responding to an ED incident, he or she shall contact a supervisor to respond to the scene and do the following:

1. Coordinate in advance with EMS. ED is a medical emergency that presents itself as a law enforcement problem. Officers have the dispatcher contact EMS to respond and standby at a position in which the rescue personnel are both safe and yet can respond quickly once the subject is taken into custody. If possible any such case of suspected ED should be coordinated by a responding supervisor.

2. When ED is suspected any available crisis intervention teams should be promptly notified to respond.

3. Unless there is an immediate public safety threat, the first responding officers should focus on containing the subject in an environment that offers him or her maximum possible safety and protects others as well. Unless there are compelling reasons to do otherwise, officers should not approach the individual until substantial backup and medical personnel are on the scene.

4. As soon as the first responding officers believe they are dealing with ED, they SHALL ensure that SEVERAL officers are sent as backup. If physical restraint becomes necessary, they'll be needed for the protection of everyone involved.

5. Once sufficient numbers of officers are on hand, including medical personnel, the supervisor shall ensure that police efforts be focused on getting the subject under control as quickly and safely as possible.

6. In considering tactics, keep in mind that ED is often characterized by superhuman strength and imperviousness to pain. Thus, control through empty-hand, mechanical techniques may be more difficult to achieve, and pain-based techniques may be relatively ineffective. The subject is typically unresponsive to verbal direction. The effectiveness of pepper spray and impact techniques (baton strikes and beanbag rounds) will likely be diminished with individuals who are unresponsive to pain.

7. If at all possible, units with Tasers shall respond. However, current research cautions about a possible link between MULTIPLE such applications and death in persons with symptoms of ED. To mitigate this risk, a SINGLE Taser application should be made before the subject has been exhausted. The Taser should be used not in the hope of gaining compliance but to create a window of disablement during which officers can establish physical control of the subject. One Taser firing in the probe mode, followed by a restraint technique that does not impair respiration, may provide the optimum outcome. NOTE: The Taser should not be used in the pain-distraction (push/stun) mode in dealing with ED individuals, since that is primarily a pain-reliant technique.

8. The subject should be taken into custody as quickly and safely as possible and once restrained, shall not be placed in the prone position but onto their side (preferably the left side) until the subject can be placed on a gurney for transport to the hospital. The subject should then be restrained to the gurney for transport to the hospital, under direction of EMS, with at least one officer riding in the rear of the ambulance with other officers following.

9. The goal is to get the subject into the hands of Advanced Life Support personnel or into a hospital as quickly as possible. ED subjects shall never be transported in a police car, unless waiting for an ambulance would cause unreasonable delay.

**Involuntary Hospitalization Process by Citizen**

- Officers assigned to assist citizens with persons that may require an assessment for involuntary hospitalization will advise the prospective petitioner to contact an Emergency Services clinician before entering into an ECO hearing with a magistrate. Emergency Services clinicians may be reached via the Department of Human Services emergency contact telephone number, 385-0888. Clinicians may determine less restrictive alternatives for the respondent than involuntary hospitalization. Petitioners, as of July 1, 2008 are no longer required to appear before a magistrate to sign a petition. However, a sworn petition must be signed and witnessed by a notary public or magistrate prior to the execution of a TDO.

- After the petitioner consults with a clinician, the clinician will call in his or her recommendation for the issuance of an Emergency Custody Order to a magistrate. Based on the clinician's recommendation a magistrate should issue an ECO.

- Police supervisors shall advise officers, who have taken a person into civil mental custody for safety reasons, to call Emergency Services first, before advising a complainant (responsible person/petitioner) to go to the magistrate's office. Officers may find that the amount of time spent with the mental health consumer (respondent) will increase if they refer the complainant to the magistrate's office first. To save time, the officer may be advised by the pre-screener to bring the

respondent to an evaluation site without a magistrate issued ECO. The pre-screener will be able to notarize the sworn petition and then provide advice to the magistrate to request a TDO.

- Upon the issuance of the ECO/TDO, the Magistrate will call E-911 Emergency Communications Division and ask for an available Warrant & Fugitive Unit detective, available CIT officers, or if both are unavailable, an officer to respond to pick up and execute the ECO.

- If a Warrant & Fugitive Unit detective, or CIT officers are not available, the case shall be assigned to Uniform Patrol officers. Patrol Officers shall execute the ECO/TDO unless one of the following conditions are present which would require a member of the Warrant & Fugitive Unit to be called to duty by the Warrant & Fugitive Unit supervisor:

  - Calls for service are such that uniformed officers may not be available.
  - The respondent is incapacitated and must be transported in an ambulance.
  - The case involves a TDO where the respondent is to be transported outside the immediate Hampton Roads area (Any area other than Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, or Suffolk).

- When responding to the call by the Magistrate, at least one officer will respond to the magistrate's office, to pick up the ECO/TDO form. Information should be obtained about weapons, exact location of the respondent, how entry can be gained into the residence, medical condition of the respondent, whether the petitioner will be available to escort the officers to the respondent, via a form PD-255, etc. All information from the petitioner should be recorded on a CMCO form if the petitioner has not filled out this form beforehand.

- If the petitioner completes a CMCO form and leaves prior to the arrival of the detective or officer, the magistrate shall furnish the officer and/or detective with the CMCO form that was filled out, as well as a phone number where the petitioner can be contacted. Prior to responding to the respondent's location to execute the ECO/TDO, the respondent should be checked in PISTOL, LINX and NCIC/VCIN to determine if there is any information in reference to previous committals, prior arrests and/or outstanding warrants.

- Based upon the information from the petitioner, the detective or officer should determine the number of officers required to safely detain the respondent. Regardless of the conditions, a minimum of two (2) officers should be present during the entire ECO/TDO process, unless the subject is non-violent, there has been no history of violence with the subject, and the primary officer feels he or she can handle the subject alone. If needed, additional officers will be requested through a supervisor.

- Officers will respond to the known location of the respondent. The DMH 1006 (if issued) and ECO must be carried by the officer and must be executed upon safely detaining the respondent.

- The seizure of the individual identified in ECO/TDO must occur within the mandates set forth in the Code of Virginia (§16.1-340 and §37.2-809). The City Attorney's Office finds that a valid ECO or TDO documents exigent circumstances, and in and of itself, constitutes a direct order from the Court to take custody of the person identified in the court order wherever he or she may be found. In other words, the court order constitutes both a search and seizure order. Therefore, forced entry may be authorized when there is probable cause to believe a ECO/TDO respondent is

refusing to cooperate with law enforcement, and is in a particular residence, whether the respondent is in their own home or that of a third party. Officers should base the decision to enter a private residence on the totality of the circumstances, weighing factors similar to those considered for entry under the Community Caretaker exemption to the search warrant requirement. Except in the most dire of emergencies, a supervisor should be consulted prior to any forced entry to serve an ECO/TDO, and in all cases of forced entry, a supervisor should respond to the scene. Tactical considerations shall be given prior to any forced entry including the use of SWAT to take the subject(s) into custody should the situation dictate. If SWAT is to be utilized, and time and circumstances permit, a paper copy (judicial order) of the ECO shall be obtained from a magistrate.

- Once the respondent is in custody, the detective or officer should determine if the respondent is injured. If medical attention is required, EMS shall be summoned to the scene and a supervisor should be notified. If injured as a result of the use of force in order to affect the detention, a UOF report shall be completed in accordance with General Order 5.01. If the respondent refuses treatment for injuries, a new ECO may be sought "for medical reasons". State Code Section §37.2-808 allows for a respondent to be taken into custody for emergency medical treatment if the person is so seriously mentally ill, they are unable to care for themselves. Additionally, nothing within §37.2-808 or §37.2-810 shall preclude a law enforcement officer from obtaining emergency medical treatment or further medical evaluation at any time for a person who has been taken into custody under these code sections. Upon executing the ECO (either with an issued paper or a paperless ECO) the primary officer assigned shall notify Emergency Services clinician responsible for conducting an evaluation as soon as practicable after taking the person into custody. Officers will also ensure a written summary of the emergency custody procedures and the statutory protections associated with those procedures is provided to the respondent as soon it is safe and practical to do so. If admitted into the hospital, the clinician who may cancel the previous ECO and/or the TDO, and all paperwork should be returned to the magistrate, where the new ECO may be retrieved.

- After determining whether the respondent is injured or requires medical attention the ECO Form, DC-492 shall be executed on the respondent. The detective or officer shall complete the lower left box of the form, in a legible manner. Both of the Officer's names as well as date and time of execution are extremely important. The date and time reflected on the ECO should be the date and time that
  The respondent was safely detained. Print the name of the Police Chief in place of the sheriff on the line marked for the sheriff.

- The time an ECO is issued by a magistrate or court starts an eight (8) hour period during which the respondent may be in custody while an evaluation is made by a clinician to determine the need for a Temporary Detention Order (TDO). After service of the ECO, the officer must transport the respondent to a screening location and meet with a MSHA ES Clinician for a mental health screening. Should the mental health pre-screener determine that a TDO should be issued the pre-screener may utilize the state Bed Registry to locate an available facility if one has not already been identified. The respondent shall remain in custody until a temporary detention order is issued or until the ECO expires. If a facility of temporary detention cannot be identified before the expiration of the 8-hour emergency custody period, the respondent shall be detained in a state facility. The state facility shall be identified on the TDO.

- If the clinician determines that the respondent does not need further service, the officers should offer to transport the respondent back to the site of the pickup. The clinician should mark on the original ECO and/or TDO issued, **MAGISTRATE'S OFFICE NOTIFIED**. Return all forms back to the Correctional Center magistrate.

If a police officer is the sworn petitioner and a TDO is issued for the respondent to be detained in an institution (as described below) the officers may be asked to attend the commitment hearing before the special justice at the location designated.

**Temporary Detention Order Process (§37.2-809)**

A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in §37.2-804.1 by an employee or a designee of the local community services board to determine whether the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician or clinical psychologist treating the person, that the person:

(i) has mental illness, and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider the recommendations of any treating or examining physician licensed in Virginia if available either verbally or in writing prior to rendering a decision.

Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to §37.2-804.2.

**Probable Cause for the issuance of a TDO**

When considering whether there is probable cause to issue a TDO, the magistrate may, in addition to the petition, consider:

- Recommendations of any treating or examining physician or psychologist
- Past actions of the person
- Past mental health treatment
- Relevant hearsay
- Affidavits if the witness is unavailable and the affidavit so states
- Any other relevant information

A magistrate may issue a temporary detention order (TDO) without a preceding emergency custody order (ECO). A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local community services board or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.

The duration of temporary detention shall be sufficient to allow for completion of the examination required by §37.2-815, preparation of the prescreening report required §37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, or legal holiday, the person may be detained, as herein provided, until the next day that

is not a Saturday, Sunday, or legal holiday. The person may be released, pursuant to §37.2-813, before the 48-hour period herein specified has run.

Whether a family member of someone known to the respondent has obtained an ECO, or the officer is serving as the petitioner and acting under the authority of the Code of Virginia, the respondent must be brought before a Clinician for a mental health screening. The following details the actions to be taken by officers at the prescreening through the completion of the civil commitment process:

**Emergency Services Clinician Prescreening Leading to a Temporary Detention Order**

- If the clinician determines that the respondent service, the clinician will call the magistrate and provide probable cause for the issuance of a Form DC- 894 (a), A Civil Mental Temporary Detention Order (TDO). The magistrate does not have to issue a TDO even though in the clinician's opinion the respondent is in need of service.

- The TDO must be issued by the magistrate within the 8-hour limit set for the ECO process. The TDO does not have to be in hand within the 8-hour limit, but must merely be signed and available for pickup at the magistrate's office.

- The officers will transport the respondent and all documents to the issuing Magistrate's Office and pick up the TDO, Form DC- 894 (a), or they may have another officer pick up the TDO and meet them at a pre-determined location. If the remote video hearing system was utilized the officers will transport directly to the designated Detention Facility.

- Virginia State code provides that a law enforcement agency transport a respondent to a medical facility for a medical evaluation or treatment when it is requested by a physician in the process of the Emergency Custody Order or it is requested by a physician at the receiving facility in the process of the Temporary Detention Order. The magistrate will note on the Emergency Custody Order (Form DC-492) and Temporary Detention Order forms (Form DC- 894 (a) if a medical evaluation or treatment is mandated and which facility the respondent is to be transported.

- Many TDO's are issued for elderly patients at medical facilities who are suffering from Alzheimer's/Dementia or age-related brain degenerative diseases. As many of these people may have underlying medical issues, and because officers are not trained to provide medical assistance for any such underlying issue, it is STRONGLY RECOMMENDED that a private ambulance service be utilized to conduct transport to the facility designated on the TDO. A private ambulance can be requested through DHS MHSA ES personnel and/or through the medical facility that requested the TDO.

**§37.2-810 Transportation of Person in the Temporary Detention Process**

A. The magistrate issuing the temporary detention order shall specify the law-enforcement agency and jurisdiction that shall execute the temporary detention order and provide transportation (In most cases this will be the Virginia Beach Police Department). The magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides to execute the order and provide transportation. However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in

which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation. The order may include transportation of the person to such other medical facility as may be necessary to obtain further medical evaluation or

treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

B. Assigned officers may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he or she serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

**Mental Health Temporary Detention Facility Arrival Procedure**

- Provide the institution with all copies of the TDO, Form DC-491. Upon delivery of the TDO and the respondent, the respondent becomes the responsibility of the receiving institution.

- When the process is complete (the respondent has seen the clinician and has been placed in an institution or released), the envelope that was handed to officers at the beginning of the process must contain the following items as a minimum: Two (2) DMH 1006 petitions completed (if the process began before a magistrate); one (1) ECO DC-492 form completed; and one (1) TDO DC-491 form completed, if respondent is institutionalized.

- Once it is confirmed that all the paperwork is completed and contained in the envelope, all paperwork shall be left with the intake person at the facility receiving the subject.

- The sheriff's office will transport the subject to the site identified for the Civil Commitment Hearing with the Special Justice.

- The sheriff's office will notify the Virginia Beach Courts of the need for hearings. This will be done by the following afternoon.

- If the respondent is a minor, officers will ensure that a copy of the petition for the mental commitment, along with a notice of the commitment hearing is served on the minor and his/her parents, immediately, in accordance with Virginia State Code §16.2-341.

- At the conclusion of the case, the primary officer shall complete a PD Form 175 on the T-Drive of their MDT. Once completed, this form will be sent electronically to DHS for data collection and storage.

Safety Measures: The officer's responsibility for the custody of the respondent, clinician, medical staff, etc., does not end upon the arrival at the institution. The officer must maintain custody and control of the respondent at all times until the respondent is turned over to the institution. One officer should be responsible for control of the respondent, while the second officer will responsible for all other business, such as paperwork, interviews, etc., while providing assistance to the first officer when necessary.

**Respondents who are in Criminal Custody**

Officers, who during the course of a criminal investigation, or after the arrest of a criminal suspect, determine that the arrested subject is in need of mental health care and should be evaluated for involuntary hospitalization, shall take the individual directly before a magistrate and present probable cause for an arrest warrant. After the execution of the arrest warrant, the suspect shall be delivered to the Virginia Beach Sheriff's Department. The arresting officer shall convey to the booking deputy the circumstances surrounding the individual's conduct so that proper placement within the jail may be made.

Once the arrested subject is incarcerated, the Virginia Beach Sheriff's Office may request and execute a Criminal Mental Temporary Detention Order. However, the civil commitment criteria are constricted once a person is incarcerated and it may take months for the respondent to be treated.

In circumstances where an officer obtains and serves a criminal warrant prior to a family member or acquaintance of the suspect/respondent attempting to obtain a Civil Mental Temporary Detention Order (TDO), the accused must post bond prior to being transported to the Temporary Detention Facility.

In the event that a detective or officer determines that a suspect in a crime, that is likely to be prosecuted by the Office of the Commonwealth's Attorney, is mentally ill and may require committal for the illness, the detective or officer shall contact a supervisor who will consult with the on-duty Commonwealth's Attorney for guidance on the course of the investigation. The responsible detective or officer shall consult with an Emergency Services Clinician and determine the need to seek a TDO.

At the conclusion of the case, the primary officer shall complete a Form PD-175 and forward it to his or her supervisor for review. The supervisor shall then forward the form, once all corrections are made, to the CIT Coordinator or the coordinator's designee.

**Civil Mental Custody Procedure Paperwork that is not served:**

**ECO not Served** – Hand-carry all paperwork to the Correctional Center Magistrate's Office. The magistrate will then notify the petitioner as well as DHS/MHSA Emergency Services. If the petition has not expired (96 hours), the petitioner should seek support for the issuance of a new ECO from Emergency Services at 385-0888. If the criterion still exists for an ECO, the Emergency Services clinician will ask the magistrate to issue a new ECO. If respondent is located after the ECO has expired, the magistrate must complete a new ECO form. If a new ECO is provided, the police department will again have 8 hours to serve it, but must not to exceed the 96 hours total time allowed by the DMH 1006 form. After the 96 hours expire, the petitioner must start the process from the beginning by completing another DMH 1006.

**TDO not Served** – Hand-carry all paperwork to the Correctional Center Magistrate's Office. The TDO is good for 24 hours or such shorter period as specified in the order and becomes void and shall be returned unexecuted to the Correctional Center Magistrate's Office. It will be the responsibility of the magistrate to contact Emergency Services to cancel the bed. A new TDO will require that a clinician contact the magistrate's office for issuance of a new TDO.

**Requests to Withdraw ECO and TDO by Petitioner:**

If the ECO/TDO is issued by the magistrate but not executed by the police officer, the petitioner must be the one to withdraw the ECO and/or the TDO. The ECO and/or TDO paperwork must be returned to the Correctional Center magistrate, and the petitioner must sign the petition requesting withdrawal. The forms

would then be voided and forwarded to the court.

The Virginia Beach Commonwealth's Attorney, in a written opinion to the Virginia Beach chief magistrate on September 1, 1995, recommended that a magistrate should not withdraw an ECO/TDO.

If the ECO has been executed, the petitioner must contact Emergency Services to request the withdrawal.

If the TDO has been executed and the patient has been turned over to a detention facility, the petitioner must contact the appropriate clerk of court and Emergency Services to make the withdrawal request.

**Mandatory Outpatient Treatment - (§37.2-817)**

Effective 07/01/2008, provides for Mandatory Outpatient Treatment as an alternative to involuntary commitment to a secure facility. It is important for officers to be familiar with this code section and the criteria involved there are new responsibilities that will impact our calls for service. After observing the person and considering:

(i) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available

(ii) actions of the person

(iii) any past mental health treatment of the person

(iv) any examiner's certification

(v) any health records available

(vi) the preadmission screening report

(vii) her relevant evidence that may have been admitted, if the judge or special justice finds by clear and convincing evidence that (a) the person has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs

(b) less restrictive alternatives to involuntary inpatient treatment that would offer an opportunity for improvement of his condition have been investigated and are determined to be appropriate; and

If the person:

(A) has sufficient capacity to understand the stipulations of his treatment

(B) has expressed an interest in living in the community and has agreed to abide by his treatment plan, and

(C) is deemed to have the capacity to comply with the treatment plan and understand and adhere to conditions and requirements of the treatment and services; and

(D) the ordered treatment can be delivered on an outpatient basis by the community services board or designated provider, the judge or special justice shall by written order and specific findings so certify and order that the person be admitted involuntarily to mandatory outpatient treatment. Less restrictive alternatives shall not be determined to be appropriate unless the services are actually available in the community and providers of the services have actually agreed to deliver the services.

**MOT Hearing – Nonattendance at Exam (§37.2-817.2(B)**

- If person fails to appear at examination, CSB must notify court, or magistrate if court not available
- Court or magistrate shall issue mandatory examination order and capias
- The primary law enforcement agency where person resides shall transport person to exam
- Custody shall not exceed 8 hours

**Hearing for Firearms Advisement- §37.2-814(B)**

At the commencement of the commitment hearing, when the judge or special justice informs the person of his right to apply for voluntary treatment, judge or special justice must also advise the person that if he chooses voluntary admission he will be prohibited from possessing or purchasing a firearm under § 18.2-308.1:3

**Juvenile (Minor) Mental Health Procedures:**

§16.1-338. Parental admission of minors younger than 14 and non-objecting minors 14 years of age or older.

A minor who is younger than 14 years of age may be admitted to a mental health facility, willing to accept that minor for inpatient treatment, with the request and the consent of a parent. A minor who is 14 or older may be admitted to a mental health facility that is willing to accept them and upon the request and consent of the minor and the minor's parent. Any admission under this code section shall be approved by a qualified mental health pre-screener or professional who has conducted a personal examination of the minor within 48 hours after admission and has made the following written findings:

1. The minor appears to have a mental illness serious enough to warrant inpatient treatment and is reasonably likely to benefit from the treatment; and

2. The minor has been provided with a clinically appropriate explanation of the nature and purpose of the treatment; and

3. If the minor is 14 years of age or older, that he has been provided with an explanation of his rights under this code section as they would apply if he were to object to admission, and that he has consented to admission

(For full text of this code section, refer to §16.1-338.)

§16.1-339. Parental admission of an objecting minor 14 years of age or older.

A minor who is 14 years of age or older who either objects to admission, or is incapable of making an informed decision, may be admitted to a mental health facility, willing to accept them, for up to 96 hours, pending the review a mental health professional, and upon request of a parent. If admission is sought to a

state hospital, the community services board serving the area in which the minor resides shall provide a pre-admission screening report and shall ensure that the necessary written findings, except the minor's consent, have been made before approving the admission. The pre-screener/mental health professional shall prepare a report that shall include written findings as to whether:

1. Because of mental illness, the minor (i) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats or (ii) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusionary thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;

2. The minor is in need of inpatient treatment for a mental illness and is reasonably likely to benefit from the proposed treatment; and

3. Inpatient treatment is the least restrictive alternative that meets the minor's needs. The qualified evaluator shall submit his report to the minor and domestic relations district court for the jurisdiction in which the facility is located.

(For full text of this code section, refer to §16.1-339.)

**§16.1-340. Emergency Custody; Issuance and Execution of Order of a Minor**

A magistrate will issue an Emergency Custody Order (ECO) for a minor, after receiving sworn testimony from the minor's treating physician, his/her parent or, if the parent is not available or is unable or unwilling to file a petition, by any responsible adult, including the person having custody over the minor in detention or shelter care after receiving an order to do so from the minor and domestic relations district court, or upon his own motion. The ECO will be issued based upon probable cause of the following: **(i) because of mental illness, the minor (a) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats, or (b) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusionary thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control; and (ii) the minor is in need of compulsory treatment for a mental illness and is reasonably likely to benefit from the proposed treatment.**

Magistrates may also consider a petition for probable cause for an ECO based on (1) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the minor, (3) any past mental health treatment of the minor, (4) any relevant hearsay evidence, (5) any medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (7) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue an ECO.

Any minor who is the subject of an ECO shall be taken into custody by the designated police agency and transported to a pre-determined screening location to be evaluated to determine whether he or she meets the criteria for a Temporary Detention Oder (TDO) pursuant to **§16.1-340.1** and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by a pre-screener in the area in which the minor is located who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

The magistrate issuing the ECO shall designate a police agency to execute the ECO and provide transportation. There are some cases in which the magistrate may allow for alternate transportation of the minor, subject to the ECO, to include a parent, family member or friend of the minor, a representative of the community services board, the treating physician, or other transportation provider with personnel trained to provide transportation in a safe manner. In cases where an alternative transportation provider has been identified, the magistrate will order the specified police agency to execute the ECO, take the minor into custody, and transport the minor to the transportation provider. Custody will then be transferred the alternative transportation provider identified in the order. A copy of the ECO will be given to the transportation provider with notes made by the officer as to whom the ECO was given and the ECO will accompany the minor to the identified screening location. Delivery of an ECO to a police officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile. Police or the alternate transportation provider may be required to transport the minor to a medical facility, if necessary or noted on the ECO or requested by the minor's attending physician, to obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with state and federal law. The magistrate shall order the identified police agency to execute the ECO and, in cases some cases, provide transportation. In cases where the minor has not yet been taken into custody, the identified law enforcement agency may go to where the minor is presently located to execute the ECO and provide transportation.

The police or alternative transportation provider may transfer custody of the minor to the facility or location identified on the ECO facility (i) is licensed to provide the level of security necessary to protect both the minor and others from harm, (ii) is actually capable of providing the level of security necessary to protect the minor and others from harm, and (iii) in cases in which transportation is provided by the VBPD, has entered into an agreement or memorandum of understanding with the police department setting forth the terms and conditions under which it will accept a transfer of custody, provided, however, that the facility or location may not require the police department to pay any fees or costs for the transfer of custody. Officers may lawfully go or be sent beyond the territorial limits of their jurisdiction to any point in the Commonwealth for the purpose of executing an emergency custody order pursuant to this section.

**A police officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a minor meets the criteria for emergency custody as stated in this section may take that minor into custody and transport that minor to an appropriate location to assess the need for hospitalization or treatment without prior authorization.** The officer who takes a person into custody may lawfully go or be sent beyond the territorial limits of his/her jurisdiction to any point in the Commonwealth for the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed eight hours from the time the officers take the minor into custody. The respondent shall remain in custody until a temporary detention order is issued or until the ECO expires. If a facility of temporary detention cannot be identified before the expiration of the 8-hour emergency custody period, the respondent shall be detained in a state facility. The state facility shall be identified on the TDO.

A police officer who is transporting a minor, who has voluntarily consented to be transported to a facility for assessment or evaluation and who is beyond the territorial limits of the officer's jurisdiction, may take the minor into custody and transport him/her to an identified pre-screening to assess the need for hospitalization or treatment without prior authorization when the officer determines (i) that the minor has revoked consent to be transported and (ii) based upon his observations, that probable cause exists to believe that the minor meets the criteria for emergency custody as stated in this section. The period of custody shall not exceed eight hours from the time the officer takes the minor into custody. The respondent shall

remain in custody until a temporary detention order is issued or until the ECO expires. If a facility of temporary detention cannot be identified before the expiration of the 8-hour emergency custody period, the respondent shall be detained in a state facility. The state facility shall be identified on the TDO.

Any family member, as defined in §37.2-100, employee or designee of the community services board, treating physician, or law-enforcement officer may request the two-hour extension.

If an emergency custody order is not executed within six hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate serving the jurisdiction of the issuing court.

(For full text of this code refer to **§16.1-340**.)

**§16.1-340.2. Transportation of Minor in the Temporary Detention Process**

The magistrate shall identify the police agency to execute the Temporary Detention Order (TDO) and in cases in which transportation is ordered, to be provided by that police agency. However, if the nearest boundary of that police jurisdiction is more than **50 miles** from the nearest boundary of the jurisdiction in which the minor is located, the police agency of the jurisdiction in which the minor is located shall execute the order and provide transportation.

Though the magistrate issuing will specify that police execute the order the magistrate may authorize transport by an alternative transportation provider, to include: a parent, family member, or friend of the minor, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the police; the minor's treating physician, if any; or other persons who are available and have knowledge of the minor. The magistrate may notify the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order police to execute the order, to take the minor into custody, and to transfer custody of the minor to the alternative transportation provider identified in the order, with documentation as to whom the minor was transferred and who the TDO was given to. A copy of the TDO will accompany the minor at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. Delivery of an order to a police officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The TDO may designate that the minor may be transported to any medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a police officer or alternative transportation provider from obtaining emergency medical treatment or further medical evaluation at any time for a minor in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

A police officer may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. The police agency may enter into agreements with other agencies to facilitate the execution of TDOs and provide transportation.

(For full text of this code section refer to **§16.1-340.2**.)

**Use of Force: Medical Procedures**

**Members of our department should NOT use force for medical procedures absent an active danger to officers, citizens, staff, the detainee or others. Members should continue to be guided by our Department's policies and procedures regarding the decision to use force and to what extent.**
(See Training Bulletin #17-08 for further)

(See Frequently Asked Questions CIT, ECO & TDO Training Bulletin #17-04 for Further)

**DHS/MHSA ES Screening Locations and Phone Numbers**

CIT Assessment Center
Mental Health Emergency Services
385-0888

Recovery Center (Detox)
409 Birdneck Circle
385-6956

Sentara Princess Anne Hospital
507-0025

Adult Outpatient Services-Magic Hollow
3143 Magic Hollow Blvd.

Virginia Beach Psychiatric Center
1100 First Colonial Rd.
496-6000

Virginia Beach Correctional Center 385-4555

Sentara Virginia Beach General Hospital
395-8262

Sentara Independence Hospital
363-6137

Any of the 4 police precincts