



APD Policy CHAPTER 23 Dealing with Persons of Diminished Capacity	ABERDEEN POLICE DEPARTMENT POLICY AND PROCEDURE MANUAL
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable State Statutes: S.D. Codified Laws § 27A	Related Policies: Chapter 8
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- I. **Purpose:** To provide field officers with the essential tactical and processing skills necessary to effectively deal with persons of diminished capacities in a manner to provide the required professional assistance these persons need, to protect the community, to safeguard the officers involved in the encounter and to enhance the agency's risk management.

- II. **Policy:** Every community can expect its law enforcement officers to encounter persons of diminished capacities. This group of special needs persons presents field officers/deputies with different and often complex issues. These types of persons, whether from intoxication, suicidal potentials, medical complications or mental illness, present field officers/deputies with a wide range of behaviors usually different than those exhibited by other members of the community or persons involved in criminal activities. Persons of diminished capacities may display conduct that is bizarre, irrational, unpredictable, and threatening. They may not receive or comprehend commands or other forms of communication in the manner that the officer/deputy would expect. They often do not respond to authoritative persons or the display of force. It is the primary task of the field officers/deputies confronting these special needs persons to resolve the encounter in the safest manner. It is the officer/deputy's task to bring these types of persons to professional resources, when necessary. It is not the mission of the field officer/deputy to diagnose the root cause for the person's behavior. Every officer/deputy can expect to encounter these types of special needs persons while performing their official duties. Officers/deputies are expected to control the incident. Proper tactical and intervention techniques can assist in resolving the immediate field implications of the encounter and hasten the intervention by professional resource persons.

III. Definitions:

- A.** Persons of diminished capacity: This refers to a segment of the community officers/deputies will be expected to deal with. It encompasses all persons encountered in the field who exhibit unusual behaviors commonly referred to as irrational, bizarre, unpredictable, or weird. These outward observable symptoms could be the result of intoxication, drug use, suicidal indications, mental illness, or medical complications.
- B.** Mental Illness: This policy does not require officers/deputies to make a diagnosis of whether the subject is mentally ill or what form of mental illness the subject may have but rather to use reasonable judgment to recognize behavior, which is outside the norm in which a person poses a danger to themselves or others.
- C.** “Mentally Ill Person” means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person’s affairs and social relations associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological or social factors.
- D.** Professional resources: These sources are those available to the police/sheriff agency such as mental health professionals, emergency medical facilities, and detoxification centers.
- E.** Voluntary and involuntary commitments: These are the provisions within the State in which the agency can use for the civil commitment of persons requiring professional psychological intervention.
- F.** Prosecution guidelines: It is the policy of this agency to evaluate the necessity for and method of prosecution when dealing with a person of diminished capacity. Normally misdemeanor violations by the person committed during the police/sheriff control of the incident will not subject the person to a physical arrest. The decision to cite or request a filing by the prosecutor will be determined by the field supervisor. A field supervisor will evaluate felony and/or other crimes committed upon non-agency personnel to determine whether a physical arrest is warranted. The ultimate mission of the agency is to encourage professional resource intervention for the person of diminished capacity. Physical arrest should be considered a last resort.

IV. Procedure: Field control tactics: The ultimate mission of law enforcement when encountering a person of diminished capacity is to control the encounter and then determine the best course of action for the subject person. This field tactical response can be segmented into four (4) distinct tactical responses: Containment, Coordination, Communication, and Time.

- A.** Containment: Before any reasonable control and defusing techniques can be used, the subject must be contained:
 - a.** Two (2) officers/deputies shall be dispatched to an incident involving a person of diminished capacity. Should an officer/deputy find him/herself in a situation with such a person, the officer/deputy shall request a back-up before attempting to intercede.
 - b.** Responding officers/deputies should avoid the use of emergency lights and siren when responding to this type of call for service. Experience has demonstrated that this may agitate the response by the subject of the call or encounter.

weapons officers/deputies should, where possible, maintain a zone of safety, which allows for reaction should the subject decide to attack.

- b.** One officer/deputy shall be designated as the command voice and other officers/deputies shall refrain from becoming involved.
 - c.** Verbal communication should be non-threatening. Whenever possible, use open-ended questions designed to facilitate the subject's participation. If the subject does not respond, use other communication techniques. It may be necessary to change the person designated as the command voice and determine whether that might be beneficial.
 - d.** Sharp, authoritative commands should be avoided. Officers/deputies should use calming communicative attempts.
 - e.** It has been found that threats to arrest or use force are not productive when dealing with persons with diminished capacities. Reassure the subject that the police are there to help them.
 - f.** Be truthful at all times.
 - g.** Officers/deputies must constantly analyze what affect, if any, their efforts are having on the subject. It is essential to identify areas that appear to agitate the subject and that should be avoided.
 - h.** Normally, family members should not be used in an attempt to establish communications. This frequently exacerbates the situation.
- D.** Time is the concept of elongating the encounter, rather than hastening it:
 - a.** History has shown that the longer the encounter is allowed to occur, the better the chance for a successful and safe resolution.
 - b.** Increasing the time of the encounter and using defusing techniques allows the subject to reflect upon his/her predicament.
 - c.** Creating time also allows the field units to be supported by the deployment of additional police/sheriff personnel, specialized equipment and medical support personnel.
 - d.** Time encourages the ability to communicate and create a relationship between the subject and the command voice.
- E.** Commitment procedures: The primary purpose for police/sheriff response to an incident involving a person of diminished capacities is to control the situation and ensure that the person receives the most appropriate form of professional resources.
 - a.** In determining, the most appropriate form of professional resource and referral officers/deputies should consider the information provided by professional resources persons and family members.
 - b.** It is important for the officers/deputies on the scene to determine what, if any, on-going threat potential the subject poses to him or herself, family, community and the officers. This threat potential may necessitate an involuntary commitment procedure rather than simply hand off the subject to the family for a voluntary commitment.
 - c.** Officers/deputies shall use the resources of local crisis intervention personnel, if available, when making this commitment decision.

- d. Any peace officer who has reasonable grounds to believe that the individual is mentally ill and presents a danger or threat of danger to self, family or others if not restrained shall take the individual into custody and transport the individual without unnecessary delay to a hospital or designated psychiatric facility and provide written documentation to the facility as to the behavior of the subject that led to the officer taking custody. (A peace officer may apprehend any person that he has probable cause to believe requires emergency intervention under the criteria in § 27A-10-1.) (The peace officer shall transport the person to an appropriate regional facility, as defined in § 27A-1-1)
- e. Officers/deputies shall not use a jail as a holding facility for meeting the criteria of this policy unless the person also has criminal charges pending. (§ 27A-10-6. A jail may not be used for prehearing custody until the availability of other appropriate regional facilities has been explored and exhausted. No person may remain in a jail for longer than twenty-four hours on a mental illness hold alone.)
- f. No officer/deputy shall place criminal charges against a person who is mentally ill and need of hospitalization to avoid transporting the person to an appropriate medical or psychiatric facility.
- g. Officers/deputies are required to prepare or assist in the preparation of all required reports. (§ 27A-10-4. Completion of petition after apprehension. After a law enforcement officer or other designee transports an apprehended person to an appropriate regional facility pursuant to § 27A-10-3, the law enforcement officer, a physician, or other person with personal knowledge of the relevant facts shall complete a petition as provided in § 27A-10-1.)

F. Use of restraints when dealing with persons of diminished capacities:

- a. These types of persons may present officers/deputies with conflicting considerations in determining the best means for restraint and transportation. The ultimate mission is to safeguard the interests of the subject and transporting officers/deputies. In some cases, an ambulance may be required

G. Searches of Persons Taken into Protective Custody

- a. Officers may conduct a frisk of the person taken into custody to ensure the safety of the person as well as the officer. The frisk is limited to a pat-down of the outer-clothing and does not include reaching into pockets etc. unless the officer feels an item during the frisk that the officer reasonably believes is:
 - i. A weapon
 - ii. Contraband or
 - iii. An item that could potentially harm the person in custody, for example, drugs, bottle of alcohol.

Once an item has been seized the officer will either maintain custody of the item for safekeeping or maintain custody of the item and consult with the prosecutor for potential criminal charges.

H. Reporting requirements: Officers/deputies shall prepare all required reports whether the subject of the call is arrested, committed, or released. This can provide valuable

information for future contacts and, when available, allows the agency to provide information to the statewide data system.