



STATE OF CONNECTICUT
Department of Mental Health & Addiction Services



Commissioner's Policy Statement and Implementing Procedures

SUBJECT:	Arrest of Clients
P & P NUMBER:	Chapter 6.23
APPROVED:	Patricia Rehmer, Commissioner <i>PR</i> Date: April 30, 2010
EFFECTIVE DATE:	May 1, 2010
REVISED:	Replaces White Book Policy No.: 79, Effective Date April 1, 2000
REFERENCES:	CGS Sections 52-146f(1-2)
FORMS AND ATTACHMENTS:	None

STATEMENT OF PURPOSE: DMHAS provides services to persons with psychiatric disabilities, a minority of whom will, as is similarly true in the general population, engage in violent or other illegal behavior. The purpose of this policy is to provide guidelines for DMHAS treatment staff and public safety personnel as they confront these situations and consider the possibility of arresting clients. While both treatment staff and public safety staff share a mutual interest in assuring there is a safe environment, they have different and distinct functions; the police to restore order, enforce laws and possibly detain and arrest suspects; the behavioral health staff to engage persons in recovery build a therapeutic relationship with them and promote their recovery. Both groups have a responsibility for assuring that civil rights are respected, particularly in settings where an individual's freedom of movement is restricted.

The DMHAS Public Safety Division (PSD) must decide whether to seek or facilitate the arrest of an alleged perpetrator. Some instances of violent or other illegal behavior are extremely serious and an arrest is clearly indicated, even if the client's clinical condition may have been a contributing or causal factor. In those rare circumstances, the responsibility of the treating agency is to ensure that the investigation, arrest and resulting procedures are conducted in a manner that is consistent with police procedures and sensitive to the clinical needs of the arrested client, the victim, and other clients, and respects individual rights. However, in most cases, incidents of violent or other illegal behavior by clients require an assessment of the seriousness of the event and the extent to which the behavior is a manifestation of a psychiatric disability in

order to determine whether an arrest is appropriate. Such determinations must be made in a consistent, reasonable and timely manner. The authority to arrest or to facilitate the arrest of a client does not abrogate the department's clinical responsibility to the client or our duty to safeguard the client's civil rights.

Arrest is a criminal justice response to illegal behavior. Arrest is not a clinical tool, and must not be regarded as such. Statements and actions made by clients in the course of investigation, even before an arrest, could have serious consequences. Treating clinicians must be aware that once clients are engaged in the criminal justice system, they become defendants with specific legal rights, as well as significant stressors and risks. The process can be lengthy and unpredictable. Incarceration may result in disruption of treatment and clinical decompensation.

Throughout this process of decision-making and any ultimate legal action, the facility should seek to promote and assist the client's recovery, and therefore, to continue its therapeutic work with the client. The treatment team must maintain a clinically appropriate relationship with the client and be cognizant of the potential for countertransference related to the incident. The treatment team may counsel the client about personal responsibility, societal expectations and the negative consequences to the client of violent or illegal behavior.

POLICY: When an incident has occurred involving significant violent (or other illegal) behavior by a client in a DMHAS facility, the DMHAS PSD will be notified. The PSD will notify the Chief Executive Officer or designee. The PSD will conduct an investigation to determine whether probable cause exists to arrest or to seek an arrest warrant.

Clinical staff shall be responsible for informing the client that the police have been contacted and reminding the client of the availability of advocacy services to help protect his or her legal rights and the right to wait for an attorney or advocate before speaking to the PSD. The client will also be reminded that the hospital may release information that is not protected health information in furtherance of the investigation or arrest processes.

Arrest shall be used to address violent acts or other illegal behaviors that represent a serious threat to clients, staff and visitors, or significantly interfere with the therapeutic work of the facility or its safety or security, such as serious injury to a victim, sexual assault or repeated antisocial acts of a violent nature.

The DMHAS PSD will develop and maintain procedures regarding the arrest of clients.

All onsite arrests and arrest warrant applications by officers of the DMHAS PSD must be reviewed and approved by the PSD Chief or designee. The purposes of this review will be to: verify the existence of probable cause; determine that the potential charge(s) are not frivolous in nature; determine whether "pre-booking diversion" would be an appropriate alternative to arrest warrant application; check for the consistency of procedures/interventions across facilities; check for potential biases in investigation or pursuit of arrest warrant application; and authorize or reject the filing of an application for arrest warrant. The Chief or designee will discuss individual case reviews with the relevant facility CEO prior to filing an arrest warrant

application, and will report aggregated review findings to the relevant facility CEO and to the Office of the Commissioner.

Clinical staff receive training during orientation and on an annual basis regarding state and federal confidentiality laws, including HIPAA provisions, which govern the release of protected health information to third parties, including law enforcement personnel.

Any serious incident, whether or not it results in an arrest, must trigger an automatic treatment plan review, and pending allegations that might interfere with the client's community integration must be addressed by staff in a timely manner during discharge planning.