

GENERAL ORDER

April 2016

Immediately

V.5:01

Distribution: All Employees

Subject: **PERSONS SUFFERING FROM MENTAL ILLNESS**

Index as:

Baker Act	Mental Illness, Persons Suffering From
Court Ordered Admissions	PEMHS
Healthcare Professional-Initiated Admissions	Personal Enrichment Through Mental Health Services, Inc (PEMHS)
Identified Non-Sworn Personnel	Persons Suffering from Mental Illness
Law Enforcement-Initiated Admissions	Receiving Facility
Mental Illness	Voluntary Admissions

Accreditation Standards: 1.1.3, 1.2.6, 4.1.1, 41.2.7, 70.1.1, 70.2.1, CFA 21.01

Cross Reference: [I.O. V.5:36, Risk Protection Orders and related Baker Acts](#)

§112.1815, F.S.S.

§394.463(2)(a)(3), F.S.S.

§464.0123, F.S.S

Replaces: Instructional Order V.5:1, Mentally Ill Persons (March 12, 2019)

This Directive consists of the following sections:

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I. PURPOSE

A. The Baker Act (394, F.S.S.) provides for the involuntary evaluation of a person with a mental illness and because of that mental illness, without care or treatment, is an immediate threat to themselves or others. The possibility of mental illness and medical intervention should be considered as an alternative to arrest, when appropriate.

B. This Directive establishes duties, guidelines, and procedures to be used by Department personnel when in contact with persons needing the emergency mental health services available under the Baker Act.

II. DEFINITIONS

A. Health Care Professional – A physician, a physician assistant, clinical psychologist, psychiatric nurse, advanced practice registered nurse under §464.0123, F.S.S, mental health counselor, marriage and family therapist or clinical social worker. [§394.463(2)(a)(3), F.S.S.]

B. Identified Non-Sworn Personnel – Employees who, by the nature of their position, would come in contact with individuals who have an impairment of their mental and/or emotional processes.

C. Mental Illness – An impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with a person's ability to meet the ordinary demands of living, regardless of the cause or origin of the disease. For the purposes of this Order, mental illness does not include a developmental disability, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

D. Possession –

1. Actual Possession – On the person, in a container the person is holding, or so close as to be within ready reach and under the control of the person.

2. Constructive Possession – The person knows the firearm or ammunition is present and is located in a place over which the person has control and the person has the ability to assert dominion over the firearm or ammunition.

E. Receiving Facility – Any public or private facility designated by the Department of Children and Families services to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider. This term does not include a county jail.

III. VOLUNTARY ADMISSIONS

A. If an individual is willing to voluntarily be evaluated by a mental health professional and, because of this, does not meet the requirements established in the Baker Act, a less restrictive means of transportation, such as a cab or willing family members, may be used to transport the individual to a receiving facility.

B. The Officer should complete the [Personal Enrichment Through Mental Health Services, Inc. \(PEMHS\) Voluntary Baker Act form](#) if the individual is transported to PEMHS.

IV. COURT ORDERED ADMISSIONS

A. The Baker Act allows people, with direct knowledge of a person's mental illness, to provide sworn testimony to initiate an ex parte order. Citizens who desire to initiate such action should be referred to the Clerk of the Circuit Civil Court.

B. The Pinellas County Sheriff's Office is responsible for taking into custody and transporting individuals who are named in a Baker Act ex parte order.

V. HEALTH CARE PROFESSIONALS-INITIATED ADMISSIONS

A. The Baker Act grants certain health care professionals the authority to initiate the provisions of the Baker Act.

B. When the provisions of the Baker Act are initiated by a health care professional who has authority to do so, an Officer will be dispatched and may be asked to provide transportation to the appropriate receiving facility as indicated in this Order.

C. Prior to transport, the Officer will:

1. Obtain the *Certificate of Professional Initiating Involuntary Examination* form, CF-MH 3052b, from the health care professional.
2. Verify that the health care professional is statutorily authorized to execute a *Certificate of Professional Initiating Involuntary Examination* form as defined in §394.463(2)(a)(3), F.S.S.
3. Confirm the health care professional has a valid license to practice their designated profession in the State of Florida.
 - a. The verification of the health care professional license will be made using the Florida Department of Health's, Division of Medical Quality Assurance Web Portal.
 - 1) The website is: www.flhealthsource.gov
 - 2) Click on "Verify a License"
 - 3) Type in the health care professional's name and submit the information for license verification.

D. Upon verifying the health care professional has an active Florida license, the Officer will complete a [Transportation to Receiving Facility form](#) CF-MH 3100, notating on the form the health care professional's license has been verified using the Department of Health's, Division of Medical Quality Assurance Web Portal.

E. If the Officer is unable to verify an active Florida license for the health care professional initiating the Baker Act process, the Officer will not complete the transport.

F. The Officer will document all actions taken in a police report.

G. Officers will not transport Baker Act patients from Bayfront Medical Center, St. Petersburg General Hospital, or St. Anthony's Hospital. These facilities have agreed to arrange non-police transportation when transferring a patient from their hospital to another facility.

VI. LAW ENFORCEMENT-INITIATED ADMISSIONS

A. A person who is suffering from a mental illness may involuntarily be taken into custody under the authority of the Baker Act if there is reason to believe that person is suffering from a mental illness and because of their mental illness:

1. Without care or treatment, the person is likely to suffer from neglect or refuse to care for themselves; **and** such neglect or refusal poses a real and present threat of substantial harm to the person's well-being, and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
2. There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or others **in the near future**, as demonstrated by recent behavior.

B. When the provisions of the Baker Act are initiated by a member of the Department, the Officer will provide transportation to the appropriate facility as indicated in this Order, and the Officer will:

1. Complete the [Report of Law Enforcement Officer Initiating Involuntary Examination form](#), CF-MH 3052a, documenting the circumstances under which the person was taken into custody under the Baker Act.
2. Complete a [Transportation to Receiving Facility form](#) CF-MH 3100.
3. Provide the receiving facility with the CF-MH 3052a, and a [Transportation to Receiving Facility form](#) (CF-MH 3100).

C. The standard of proof for a Baker Act is one of clear and convincing evidence. This standard should be explained in the narrative section of the document by clearly and specifically describing what occurred.

D. Officers should obtain as much personal data from the subject, family members or others present. The Officer should also determine whether the person will voluntarily submit to evaluation, whether the person is violent and if the person will need medical attention.

1. When completing the narrative section of the required form, the subject of the Baker Act should be identified by name or referred to as a “subject” and never as a “defendant.”

2. Any information identifying the person's next of kin, the name of a doctor who is currently treating the person, or medications currently being used by the person should be provided to the receiving facility.

VII. POSSESSION OF FIREARMS AND/OR AMMUNITION BY A PERSON SUFFERING A MENTAL ILLNESS AT THE TIME OF ADMISSION

A. An Officer taking custody of a person under a Baker Act may seize and hold a firearm or any ammunition the person possesses at the time they are being taken into custody, if:

1. The person poses a potential danger to themselves or others, and
2. Has made a credible threat of violence against another person. [§394.463(d)1, F.S.S.]

B. Under these circumstances, an Officer is not permitted to search the area for firearms and ammunition without:

1. A search warrant, or
2. An exception to the search warrant requirement (i.e., consent, exigent circumstances, etc.).

C. If a firearm(s) is taken pursuant to a Baker Act:

- a) The firearm(s) must be made available for return no later than 24 hours after the person taken into custody:
 - 1) Has made a request to the Property and Evidentiary Services Section, and
 - 2) Has provided documentation that they are no longer subject to involuntary examination and has been released or discharged from any inpatient or involuntary outpatient treatment.
- b) The process for the actual return of firearms seized or voluntarily surrendered pursuant to a Baker Act where no Risk Protection Order has been sought may not take longer than seven (7) days. [Section 394.463(d)3., F.S.S.]

VIII. TRANSPORTATION PROCEDURES

A. Transportation Procedures

1. When transporting a person suffering from mental illness, the Officer's selection of appropriate restraints and mode of transportation will be governed by the degree of violence exhibited by the individual.

a. When a person is to be detained for evaluation under the Baker Act, only the force necessary to accomplish a lawful objective will be utilized.

b. The Officer should use the least restrictive mode of transportation and restraints available and strive to maintain the individual's personal dignity.

c. At no time will an individual, who is in custody under the provisions of the Baker Act, be transported with a criminal suspect.

2. For the protection of the Officer and patient, the person suffering from mental illness will be restrained in the vehicle, at the discretion of the Officer, prior to being transported to any facility.

3. Prior to placing a person suffering from mental illness in a vehicle, the Officer will search that person for weapons or items that could be used to inflict injury to them or others.

a. Any contraband or items of evidence discovered during such a search will be seized and used as evidence in bringing the appropriate criminal charge(s) against the person.

b. The Officer will ensure any personal property that is not of evidentiary value is secured, transported with the person, and turned over to a representative at the receiving facility.

4. If the person suffering from mental illness is violent, consideration should be given to transporting by ambulance while the patient is restrained on a stretcher.
 - a. Authorization for ambulance transport must be obtained from a supervisor.
 - b. If transportation by ambulance is necessary, an Officer should either accompany the patient in the ambulance or follow directly behind the ambulance during transport.

B. Receiving Facilities

1. When possible, the Officer should call the facility to inform them that a Baker Act patient is being transported to their facility.
2. If the patient is a U.S. military veteran and is eligible to be treated at C.W. Bill Young VA Medical Center, they should be transported there.
3. If the patient is a juvenile, the patient should be transported to Personal Enrichment Through Mental Health Services, Inc. (PEMHS).
4. If the patient is sixty-five (65) years of age or older, they should be transported to the nearest receiving facility.
5. All other persons should be transported to PEHMS.

IX. PERSONS SUFFERING FROM MENTAL ILLNESS REQUIRING EMERGENCY OR IMMEDIATE MEDICAL TREATMENT

A. Police Officers taking persons into custody or transporting persons taken into custody under the Baker Act, who appear to need medical treatment or who exhibit behavior that may be due to a medical problem, will transport them to the closest emergency room.

B. If a Baker Act patient is transported to a hospital for medical reasons, the Officer does not need to stay with the patient while they are being treated; however, prior to leaving the hospital, the Officer will make personal contact with emergency room personnel to confirm that they have control of the subject and that the Officer's services are no longer needed.

X. DETENTION OF PERSONS SUFFERING FROM MENTAL ILLNESS CHARGED WITH CRIMES

A. Non-criminal or misdemeanor criminal offense:

1. When an Officer takes a person suffering from mental illness into custody for non-criminal or a misdemeanor offense, the person should be delivered to a receiving facility following the procedures listed in this Order.
2. Criminal charges should be handled as a *Notice to Appear* or as a paper State Attorney Investigation.

B. Felony criminal offense:

1. When an Officer takes a person suffering from mental illness into custody for behavior which constitutes a felony offense, the Officer will:
 - a. Deliver the person to the county jail and book the person as a typical criminal defendant, completing the criminal affidavit.
 - 1) A person charged with a felony offense who also meets Baker Act criteria will NOT be placed in the Prisoner Transport Van to be delivered to county jail.
 - b. Verbally notify the detention supervisor and note on the arrest advisory that the defendant appears to meet the criteria of the Baker Act.
 - c. Complete the appropriate mandatory Baker Act forms in VIPAR.
 - 1) *Note:* The mandatory Baker Act forms are required to be completed in VIPAR for anyone that appears to meet the statutory criteria for an involuntary examination.

C. Detention in a jail facility for any reason without criminal charges is prohibited by law.

XI. REPORTING

A. A police report will be completed whenever a person is transported under the Baker Act to any facility.

1. The police report will document all circumstances pertaining to the incident and include all of the information documented in the narrative section of the **DCF** forms; *i.e.*, CF-MH 3052a or the CF-MH 3052b.

2. The report will indicate which forms were prepared and submitted to the receiving facility.

B. The taking of a person into protective custody under the Baker Act is not considered an arrest; therefore:

1. All requests for record checks should be treated accordingly.

2. No entry or record will be made to indicate that one who is solely taken into custody under the Baker Act has been "arrested" or "charged with a crime."

XII. MENTAL ILLNESS TRAINING

A. Newly Employed Personnel

1. Newly employed sworn will receive a documented block of instruction, appropriate for entry-level personnel, while attending initial training.

2. Newly employed non-sworn personnel will receive a documented block of instruction, appropriate for entry-level personnel, while attending initial training.

B. Annual Training

1. All personnel will be provided with documented refresher training annually.

Anthony Holloway
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