

New Berlin Police Department Procedures Manual		Procedure Title: Emergency Detentions			
Issue Date: 04/12/19	Published Date: 09/25/20	Next Review Date: 09/01/21	Total Pages: Page 1 of 10	Procedure Number: 6108.02	Related Directive 6108 WILEAG Standard 6.1.10

Purpose

The purpose of this procedure is to provide guidelines for officers when investigating a possible emergency detention under WI §51.15 Mental Health, WI §55.06 Protective Placement and WI §51.45 Drug/Alcohol Detentions.

Definitions

Emergency Detention: This is a method of initiating a commitment that begins by involving the police. The person is detained but can be held for no more than 72 hours (excluding weekends and holidays) before an initial court hearing (“probable cause” hearing).

Chapter 51.15(1) Emergency Detention: When an individual is mentally ill, drug dependent, or developmentally disabled and shows behavior which constitutes a substantial probability of physical harm to self or to other.

Chapter 51.45(11) Emergency Detention: Treatment and services for intoxicated persons and others incapacitated by alcohol or another drug.

Chapter 55.135 (55.06) Emergency Detention: An individual is so totally incapable of providing for his or her own care or custody as to create a substantial risk of serious physical harm to himself or herself or others as a result of developmental disability, degenerative brain disorder, serious and persistent mental illness, or other like incapacities (i.e., elderly).

Mental Health Crisis: An event or experience in which an individual’s normal coping mechanisms are overwhelmed, causing them to have an extreme emotional, physical, mental, and/or behavioral response. Symptoms may include emotional reactions such as fear, anger, or excessive giddiness; psychological impairments such as inability to focus, confusion, or nightmares, and potentially even psychosis; physical reactions like vomiting/stomach issues, headaches, dizziness, excessive tiredness, or insomnia; and/or behavioral reactions including the trigger of a “freeze, fight, or flight” response. Any individual can experience a crisis reaction regardless of previous history of mental illness.

Mental Illness: An impairment of an individual’s normal cognitive, emotional, or behavioral functioning, caused by physiological or psychosocial factors. A person may be affected by mental illness if he or she displays an inability to think rationally (e.g., delusions or hallucinations); exercise adequate control over behavior or impulses (e.g., aggressive, suicidal, homicidal, sexual); and/or take reasonable care of his or her welfare with regard to basic provisions for clothing, food, shelter, or safety. This does not include alcohol.

Crisis Intervention Team (CIT): Crisis Intervention Team (CIT) or Crisis Intervention Partner (CIP) is a sworn police officer, security officer, law enforcement dispatcher, or civilian employee with the Department who has received specialized training in recognizing and understanding the signs, symptoms, varying degrees of mental illness, and how to de-escalate a crisis.

Waukesha County Mental Health Center: Charge Nurse 262-548-7986. Charge nurse will connect Law Enforcement with the Crisis Worker.

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Crisis Worker: Determines how to complete assessment. A Crisis Worker will determine whether to approve an ED.

Jurisdiction for Emergency Detentions:

Incident Originated outside New Berlin with outside PD involvement. Patient at New Berlin Hospital or Facility:

Contact agency which had first contact and request they handle the detention. If they refuse, we will handle the investigation.

Incident Originated outside New Berlin/Patient at a New Berlin Hospital or Medical Facility: New Berlin Officers will respond to any facility or hospital in New Berlin for emergency detentions and protective placements that originated outside the City of New Berlin. If the need for protective custody is approved by the Crisis Worker, the officer will take the person into protective custody and process the Emergency Detention.

Incident Originated in New Berlin/Patient at a Hospital or Medical Facility outside New Berlin but in Waukesha County: New Berlin Officers will respond to hospitals or facilities anywhere in Waukesha County for emergency detentions and protective placements that originated in the City of New Berlin when requested. Officers will follow the same guidelines for taking a person into custody as they would within the city. If the need for protective custody is approved by the Crisis Worker, the officer will take the person into protective custody and process the Emergency Detention the same as they would for an incident occurring within the city. In these instances, officers have the authority under **WI State Statute 175.40(6)** to respond to the hospital and take the person into custody.

Incident Originated in New Berlin/No NBPD Involvement/Patient at Hospital or Medical Facility outside Waukesha County: New Berlin Officers will not respond to a hospital or medical facility outside Waukesha County to take a person into protective custody under an emergency detention or protective placement. In the event we are summoned to a medical facility outside Waukesha County, we will direct the facility to call their local law enforcement to handle it. This does not apply to situations where we respond to a location within New Berlin and take a person into protective custody and the Fire Department transports them outside Waukesha County for medical treatment. As long as we were at the location of origin and the custodial actions were taken (or would have been taken) within the City of New Berlin, Waukesha County Mental Health will authorize the detention.

Procedures for Mental Health Crisis (No Serious Threat of Harm):

1. **Consider Diversion** – Resources are available 24/7 to explore diversion which includes voluntary admissions. Diversion must be consistent with the safety of the subject and community. We want to divert, and often we can; however, sometimes we need to ED. Chapter 51’s lead paragraph recommends the “least restrictive” treatment alternative appropriate for the person’s needs. Consider 211, Mobile Crisis, NAMI Waukesha or Voluntary treatment.
 - a. **Primary question is whether the subject can be safely maintained in the place in which you leave them.**

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2. **Voluntary Hospitalization Procedure Adult or Juvenile** - Assist client or guardian in calling the admissions department of the selected hospital in order to determine the following. The family could also call their insurance to determine coverage.
 - a. Is there a bed available?
 - b. Do they meet medical necessity?
 - c. Is their insurance accepted at the facility? Waukesha Memorial, Rogers, etc.
 - d. If the client does not have insurance, facilities will advise regarding accepting the uninsured.
 - e. Waukesha County Mental Health will accept Waukesha County adult residents without insurance on a voluntary basis.
 - f. Hospitalization costs are the responsibility of the subject, voluntary or involuntary.
 - g. Juveniles - Rogers Memorial, Aurora Psychiatric etc.

Procedures for a Chapter 51.15 Emergency Detention:

Probable Cause to believe:

1. The subject is mentally ill, drug dependent, or developmentally disabled.
2. The subject evidences behavior which constitutes a substantial probability of physical harm to self or to others, or as otherwise set forth in 51.15(1) of Wisconsin Statutes.
3. Taking the subject into custody is the least restrictive alternative appropriate to the subject's needs.

Emergency Detention Dangerous:

1. Dangerous to self, due to threats, acts, or attempts to harm self.
2. Dangerous to others, due to threats, acts and attempts to harm others. Violent behavior directed at another person is dangerous behavior! Ask if others were in fear for their safety.
3. Dangerous to self or others because judgement is impaired and causing subject to do dangerous things unintentionally.
4. Dangerous to self, due to drug overdose, even if accidental.
5. Dangerous due to inability to care for self and provide for basic needs (food, shelter, safety, medical care).
6. Dangerous to self or others, due to mental illness. This standard, at a minimum, must include:
 - a. Psychiatric treatment history.
 - b. The inability to make informed choices to accept or refuse medication to treat mental illness.
 - c. A pattern of behavior that leads to the conclusion the subject requires treatment and will lose the ability to control thoughts and actions, or function independently in the community, without treatment.

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Officer Risk Assessment:

Ask the subject a lot of questions. Document admissions regarding threats, attempts to harm self or others, previous or current mental health treatment, and medications. Ask about GUNS. Every Chapter 51 commitment requires an order that the subject not possess a firearm. It's important to ask if the subject possesses guns or has guns in the residence, and include this information in your report.

Once an officer has completed a risk assessment and determined the person may be a danger to themselves or to someone else, the officer will call the charge nurse at the Waukesha County Mental Health Center (WCMHC) and ask to speak with a Crisis Worker. The officer will relay the information to the Crisis Worker who will either conduct a phone interview or respond to the scene for an assessment.

During the assessment, the Law Enforcement Officers (LEO) should remain physically present, within sight and sound, so statements and actions of the subject can be personally observed by the LEO and so the safety of the subject and Crisis Worker can be maintained. Specifics are important: Document the WHAT was said, WHEN it was said, and WHO heard it.

The Crisis Worker will approve or deny an Emergency Detention, place the person on a safety plan, facilitate a voluntary commitment or take no action. Officers will assist the Crisis Worker with all available options.

1. **Safety Plan:** If the Crisis Worker puts a safety plan in place, obtain a copy of the plan and assist in facilitating the requirements of the plan. Complete a detailed report.
2. **Voluntary Commitment:** When a voluntary commitment is pursued, officers will assist the Crisis Worker in arranging placement and transportation. Officers may ultimately transport the subject to the facility for the voluntary commitment. This would be non-custodial. Complete a detailed report.
3. **Denied Need for Emergency Detention:** Offer mental health referral information to the individual and/or family members when the Crisis Worker does not approve of the need to place the person into protective custody. Options include supervision by responsible family member or guardian, voluntary treatment, and three-party petition. Complete a detailed report.
4. **Approved Need for Emergency Detention:** Once the officer has received approval for an Emergency Detention from the Waukesha County Crisis Worker, the officer will:
 - a. Advise the person that he/she is being placed into protective custody.
 - b. Handcuff the person. There could be exceptions as to when, how or if the person is handcuffed.
 - c. Search the person.
 - d. If the person threatened to hurt themselves or another person with a weapon, officers will confiscate the weapon. Weapons confiscated pursuant to this directive will be released in accordance with department [Procedure 6108.01](#).
 - e. Log the time of detention "Your time of initial contact with the subject – if the subject is not free to leave."

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- f. The Crisis Worker will determine the potential detention facility - **"Waukesha County Mental Health Center"**. **If you do not know the facility write in "Waukesha County Mental Health Center" This line cannot be left blank!**
 - g. Complete the [Statement of Emergency Detention by Law Enforcement Officer Form \(See Chapter 51.15\)](#)
 - h. If medical clearance is required, transport the person to a medical facility.
 - i. If medical clearance is not required, transport the person to the Waukesha County Mental Health Center or other treatment facility as determined by Mental Health and the Crisis Worker. That facility is the detention facility.
 - j. If subject has criminal charges pending, place a Police Hold for Criminal/Probation Hold/Warrant with the detention facility.
 - k. If subject is admitted to the hospital for medical clearance, place a Police Hold for Chapter 51 or 55 and enter **"Waukesha County MHC or other facility to be determined (TBD)"** for the potential detention facility. When the subject is medically cleared, the charge nurse will coordinate with Mental Health to determine the treatment detention facility.
 - l. If the Subject has a probable cause hearing while in the hospital within the 72 hours and it is determined that they are to remain in police custody, the Waukesha County Sheriff's Department would then need to take custody of the subject from New Berlin Police Officers.
 - m. Complete a report detailing the incident.
5. **Receiving Facility for an Adult ED:** Waukesha County Mental Health Center (WCMHC) will be the receiving facility most times. If WCMHC cannot, or will not, admit the subject, the mental health center must determine the alternate admission facility. The charge nurse will assist and advise you.
6. **Receiving Facility for a Juvenile ED:** Milwaukee County PCS/CAIS, unless you are aware of the minor being admitted to another facility that you can identify. If Milwaukee County PCS/CAIS is not accepting Waukesha County juveniles, Waukesha County HHS will determine the appropriate receiving facility.

Chapter 51.15 Statement of Emergency Detention Packet:

1. The Chapter 51.15 Packet will consist of the following pages:
 - a. Fact Sheet (Patient Info, Probable Cause, Witnesses, Crisis Worker and Detention Facility).
 - b. Patient's Legal Rights.
 - c. Service of Legal Rights.
 - d. Police Hold for Criminal Charges, Probation Hold and/or Warrant.
 - e. Police Hold Chapter 51 or 55 Medical Treatment.
2. Law Enforcement Officers (LEO) are the primary fact witnesses for Chapter 51 ED's. If an officer witnessed the patient's dangerous behavior, they should list their name as a witness on the Emergency Detention forms. If any other individual (family, friends, and medical personnel) witnessed the patient's dangerous behavior, the officer should list their names as a witness. For **medical personnel only**, only document their name, employment address and employment phone.

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- The Officer should only document the Crisis Worker’s name, work address and work phone number. **DO NOT** document Crisis Worker’s personal date-of-birth and personal home address on the Chapter 51.15 packet or in incident report.
- A subject taken into Protective Custody for an Emergency Detention may have criminal charges resulting from the Emergency Detention or other Law Enforcement holds (Probation Hold or Warrant). The criminal charges and/or Law Enforcement Holds can run simultaneously with the Emergency Detention. Determine if there are any criminal charges associated with the Emergency Detention and/or any law enforcement holds (Probation Hold or Warrants).

If any criminal charges and/or police holds exist, fill out the Police Hold for “Criminal/Probation/Warrant” form in the Emergency Detention packet. Indicate any holds clearly in the paperwork; failure may cause release. Provide a copy of the Emergency Detention packet with the patient, medical facility Security Department and Admitting Department. **Officers should consider that Police Holds may not be honored. If the patient is a flight risk, we need to maintain custody of the patient until turned over to a secure detention facility. If the patient is not a flight risk or combative, officers may leave the medical facility after the patient is admitted to the hospital and/or relieved by hospital security. If a patient on a Police Hold decides to leave, the medical facility will not stop the patient. The medical facility will only contact their local law enforcement about the patient leaving and the patient having a New Berlin Police Hold.**

Three Party Petitions: Usually an action taken by family, friends, etc., that may occur when detention is not approved.

- Petitioners contact Corporation Counsel and discuss facts of the case with a Commitment Coordinator.
- Petitioners may demand a Petition be filed, even if legal criteria can’t be met. Corporation Counsel has option to pursue a Limited Hearing.
- Three persons sign a sworn affidavit which indicates their knowledge of the manner in which the subject meets treatment criteria.
- Subject must still be mentally ill, drug dependent, developmentally disabled or alcohol dependent.
- Subject must still be dangerous and a proper subject for treatment.

[Emergency Detention Flow Chart](#)

[Chapter 51.45 Drug/Alcohol Emergency Detentions](#)

- Subjects incapacitated by drugs/alcohol may be placed in protective custody under Chapter 51.45 by a law enforcement officer **without a Crisis Worker involvement and emergency detention approval**. Treatment can’t

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last beyond incapacitation or 72 hours, whichever comes first. Subjects can remain in the facility to receive voluntary treatment beyond 72 hours. No Chapter 51.45 Emergency Detentions go forward to a probable cause hearing; all cases are dismissed and subjects are released.

2. If you are continually dealing with a person who has to be placed in protective custody under Chapter 51.45, you may try to encourage a three-party petition under a Chapter 51.15. Alcohol cases can only proceed to probable cause hearing via a three-party petition.
3. Officer will complete the necessary Chapter 51.45 forms and complete a detailed report.

[Chapter 55.06 Emergency Detentions – Emergency Protective Placement \(EPP\)](#)

Probable Cause to Believe:

1. The Subject is alleged to be **incompetent** and requires guardianship.
2. Subject must have a primary need for residential care and custody as a result of impairment, usually developmental disability or dementia. Subject is incapable of providing for own care and custody that it creates a substantial risk of serious harm to self or others.
3. Person is at risk of serious harm to self or others because person is incapable of own care or it appear probable that the person will suffer irreparable injury or death if not placed
4. Disability is permanent or likely to be permanent. The Subject is **incapable** of providing for their own care and custody as to create a **substantial risk of serious physical harm** to self or others without immediate intervention.
5. The Subject's disability is **due to a permanent incapacity**, such as a degenerative brain disorder, developmental disability, serious and persistent mental illness, or other like incapacities (i.e. stroke, brain injury).

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An elderly subject who meets the criteria under 55.06 may be appropriate for a Chapter 51 intervention. The same procedure is followed, which is to have a Crisis Worker conduct an assessment. Often a Chapter 51.15 will be authorized based on violent behavior or history of violent behavior, prescribed psychiatric medication use or non-use and the psychiatric history or other actions that may or may not have been reported.

Chapter 55.06 Statement of Emergency Detention Packet:

1. The Chapter 55.06 Packet will consist of the following pages:
 - a. Fact Sheet (Patient Info, Probable Cause, and Detention Facility).
 - b. Patient’s Legal Rights.
 - c. Police Hold for Criminal Charges, Probation Hold and/or Warrant.
 - d. Police Hold Chapter 51 or 55 Medical Treatment.
2. Medical Personnel will read the patient their rights.
3. Criminal Holds (See Criminal Holds for Chapter 51.15 above).
4. Emergency Protective Placement can be done by law enforcement or a Crisis Worker. Detention paperwork is completed, subject is detained and transported to **Waukesha Memorial Hospital for placement on a medical floor** to await the court process. **Waukesha Memorial Staff will complete notice of rights for a Chapter 55.** Statement of protective placement should be sent to Corporation Counsel as soon as possible. The hearing must be held within 72 hours of detention.
5. **While there is no requirement for approval, officers may ask Crisis Workers to assist in evaluating a subject that meets the Chapter 55 criteria.**

Procedure for Emergency Protective Placement

1. If the Subject meets all standards and no immediate safety plan can be identified, a Chapter 55 Emergency Protective Placement may be initiated by either Law Enforcement or an Authorized Representative from Waukesha County (APS or Mobile Crisis). The Detaining Authority completes the Statement of Emergency Protective Placement.
2. **Officers will complete 55.06 forms and a detailed report. It is very important to gather as much information regarding next-of-kin, involved neighbors, friends, doctors, etc.**
3. The Detaining Officer should contact the Crisis Team and provide the crisis worker with demographic information for the subject, evidence to support need for emergency protective placement, and contact information for any involved persons including substitute decision makers, next of kin, or other involved persons.
4. The Subject is transported to **Waukesha Memorial Hospital**, the detaining facility.

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5. **Waukesha Memorial Staff read the Subject their rights (rights given orally and in writing).**
6. Statement of Emergency Protective Placement is provided to the patient and Waukesha Memorial Hospital. A copy should also be forwarded to Waukesha County Office of Corporation Counsel.

Resources for Assistance

1. If the Subject is having a medical crisis, they should be transported to local Emergency Room; Chapter 55 may not be necessary. Some medical conditions present as a person in crisis for example a urinary tract infection. **Question? "Is this, or has this been, normal behavior?"**
2. If it is unclear whether the subject meets criteria for a Chapter 55 versus a Chapter 51 detention and/or additional crisis consultation is needed, please call Crisis Services 24/7.
3. Law Enforcement may consider a Chapter 51.15 for a person who is in immediate danger to self or others and requires involuntary treatment according to statutory requirements. (Emergency detention under the Mental Health Act).
4. If the person is not in immediate danger but requires additional resources and/or assistance due to conditions of the home or possible neglect and/or abuse of the person, please call your concern to:
 - a. (Business Hours) Waukesha County ADRC (262) 548-7848. **(See Referral Procedures below.)**
 - b. (After Hours/weekend/holidays) Mobile Crisis Services 2-1-1 or (262) 547-3388.

[Aging & Disability Resource Center \(ADRC\) Social Worker Patient Referral Procedures](#)

The ADRC of Waukesha County serves as the County's primary point of contact for residents in need of any type of social services. Residents served by the ADRC fall within one the following categories:

- Adults 60 years of age or older.
- Adults with physical or developmental disabilities.
- Adults with mental health or substance abuse concerns.
- Caregivers.

Referrals may be made to an ADRC social worker in situations involving the following concerns:

- Patient/citizen has fallen requiring a lift assist and/or first responder intervention.
- Safety/living conditions of the patient's/citizen's residence.
- Patient's/citizen's ability to care for themselves or family.
- Patient's/citizen's ability to follow their prescribed medication routine.
- Patient's/citizen's use of emergency services
- Patient's/citizen's at risk to financial exploitations/scams
- Patient/citizen subject of a Silver Alert or wandering concerns

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- Patient/citizen has dementia or suspected dementia and a lack of an adequate caregiver(s) to provide for their basic needs.
- Patient/citizen is a victim of emotional or physical elder abuse.
- Any other concern(s) you have in which a patient/citizen may benefit from social worker intervention.

Please note, per the ADRC, for every new contact with a patient/citizen in which a referral is warranted, a referral should be made, even if a referral was made on the same person by the previous shift. ADRC services are voluntary; however, in some situations involving patterns, Adult Protective Services (APS) may become involved, thus potentially allowing for mandated services/care.

When an officer determines an ADRC referral is appropriate: If applicable, he/she first needs to determine if the police or fire department representative involved will be responsible for making the referral. If it is determined the police representative will be making the referral, he/she simply needs to complete the following steps. (Please note: An incident report (IR) does not need to be completed simply due to the fact a referral is made; however, a referral does not negate the need to complete an IR in incidents normally documented in an IR.)

1. Access the "[ADRC Social Worker Patient Referral.](#)"
2. Complete the referral form. Note: If the box inquiring about a "Safety Risk" to ADRC staff is checked yes, please ensure there is a hazard premise notification in Spillman, if appropriate.
3. Forward the completed form via email to: adrc@waukeshacounty.gov and carbon copy our agency's current point of contact: Tony Fus, fus@nbpolice.org .

Forward a copy of the referral form to a police clerk so it can be electronically attached to the call/IR and mapped.