

<b>Dealing with Persons of Diminished Capacity</b>	Related Policies:
<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 Vermont Statutes: 18 V.S.A. § 7505 (2010) 18 V.S.A. § 7511 (2010)	
Date Implemented:	Review Date:

- 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 with different and often complex issues. These types of persons, whether from intoxication, suicidal potential, medical complications or mental illness, present field officers 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 would expect. They often do not respond to authoritative persons or the display of force. It is the primary task of the field officers confronting these special needs persons to resolve the encounter in the safest manner. It is the officer's task to bring these types of persons to professional resources, when necessary. It is not the mission of the field officer to diagnose the root cause for the person's behavior. Every officer can expect to encounter these types of special needs persons while performing their official duties. Officers 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 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 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 such as mental health professionals, emergency medical facilities, and detoxification centers.
- E. Voluntary and involuntary commitments: These are the provisions within the State 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 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.
- G. Mentally Ill Dangerous Person: meaning the person is one who presents a substantial risk of serious harm to another person or persons within the near future as manifested by evidence of recent acts or threats of violence or by placing others in reasonable fear of such harm.

**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. Where possible, Two (2) officers shall be dispatched to an incident involving a person of diminished capacity. Should an officer find him/herself in a situation with such a person, the officer shall request a back-up before attempting to intercede.
  - b. Responding officers should avoid the use of emergency lights and siren when coming into close proximity of the location such that the subject will hear or see the emergency equipment in operation. Experience has demonstrated that this may agitate the response by the subject of the call or encounter.
  - c. The officers should devise a plan that separates the subject from other civilians. This containment should respect the comfort zone of the subject in order to reduce any unnecessary agitation. Officers should convince the subject that they do not have to move. Officers should continuously evaluate this comfort zone and not compress it, unless absolutely necessary.
  - d. It is important for officers to ensure that on-lookers and family members are not in a position to become involved either verbally or physically in the control methods.

- e. Effective containment reduces the elements of agitation, such as large groupings of persons/officers emergency vehicle equipment, loud police radio transmissions, and multiple persons directing communications to the subject. Containment is meant to reduce outside influences and sources of agitation.
  - f. Officers should move slowly.
  - g. Officers should utilize all available tactics to de-escalate the situation where possible, however if an officer is faced with a dynamic and violent situation which poses a threat to the officer or other persons present, then officers should utilize their law enforcement control tactics outlined under the "Response to Resistance" policy to gain control.
- B. Coordination:** This is essential for control of the encounter and is the foundation for the development of an effective plan and use of personnel and resources:
- a. One officer at the scene should be designated or assume the position of being the lead officer. This may not be the most senior person on the scene.
  - b. A perimeter should be determined to ensure that outside persons and/or family members don't become involved.
  - c. Officers should limit observable indications of force. If firearms are drawn, they should be maintained in the low ready position and not displayed by officers who are attempting to establish communications with the subject.
  - d. The lead officer should designate an officer to gather intelligence regarding the subject being encountered. This type of information can come from persons at the scene, neighbors and/or family. This information can become important in determining the further tactical approaches to the subject and the most appropriate form of referral.
  - e. The lead officer is responsible for determining what resources should be requested including additional police personnel, specialized weapons, professional resources and staged medical personnel.
  - f. When warranted, the lead person will designate the location for a command post and staging area. This should be out of sight of the location of the subject encounter.
- C. Communication with the person of diminished capacity should be planned and controlled:**
- a. Prior to engaging the subject in communication, the initial responder should await the arrival of a cover officer. When dealing with subjects armed with edged weapons officers should, where possible, maintain a zone of safety which allows for reaction should the subject decide to attack.
  - b. One officer should be designated as the command voice and other officers should 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 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 must constantly analyze what affect, if any, their efforts are having on the subject. This is essential to identify areas that appear to agitate the subject that should then 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 for the field units to be supported by the deployment of additional police 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 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 should consider the information provided by professional resources persons and family members.
  - b. It is important for the officers 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. In accordance with 18 V.S.A. 7505 (2010)
    - (a) In emergency circumstances where a certification by a physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and he presents an immediate risk of serious injury to himself or others if not restrained, a law enforcement officer or mental health professional may make an application, not accompanied by a physician's certificate, to any district or superior judge for a warrant for an immediate examination.
    - (b) The law enforcement officer or mental health professional may take the person into temporary custody and shall apply to the court without delay for the warrant.

(c) If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay, and that probable cause exists to believe that the person is in need of an immediate examination, he may order the person to submit to an immediate examination at a designated hospital.

(d) If necessary, the court may order the law enforcement officer or mental health professional to transport the person to a designated hospital for an immediate examination.

(e) Upon admission to a designated hospital, the person shall be immediately examined by a licensed physician. If the physician certifies that the person is a person in need of treatment, the person shall be held for an emergency examination. If the physician does not certify that the person is a person in need of treatment, he shall immediately discharge the person and cause him to be returned to the place from which he was taken, or to such place as the person reasonably directs.

Officers shall use the resources of local crisis intervention personnel, if available, when making this commitment decision.

Officers shall not use a detention facility as a holding facility for meeting the criteria of this policy unless the person also has criminal charges pending.

No officer shall place criminal charges against a person who is mentally ill and need of hospitalization for the purpose of avoiding transporting the person to an appropriate medical or psychiatric facility.

Officers are required to prepare or assist in the preparation of all required reports.

- F. Use of restraints when dealing with persons of diminished capacities: Persons with diminished capacity may present officers 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. In some cases an ambulance may be required. Metallic restraints are the most readily available form of restraints to the officers of this agency and as such will be the primary form of restraints used by the officers of this agency. If soft restraints are available at healthcare facilities they may be utilized at the discretion of health care staff and responding officers.

Reporting requirements: Officers shall prepare all required reports whether the subject of the call is arrested, committed or released. This can provide valuable information for future contact.

Passed and Adopted by the Selectboard of the Town of Randolph, Vermont this 14<sup>th</sup> day of April, 2016

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RANDOLPH TOWN CLERK'S OFFICE  
Received for Filing  
April 15 A.D. 2016  
at 8 o'clock 30 minutes AM  
Attests Joyce Magnusson  
Town Clerk