
Protective Custody

410.1 PURPOSE AND SCOPE

This policy provides guidelines for when public safety officers may take a person into protective custody (MCL 330.1427).

410.2 POLICY

It is the policy of the Kalamazoo Department of Public Safety to protect the public and individuals through the legal and appropriate use of protective custody.

410.3 AUTHORITY

A public safety officer may take into protective custody and transport to a preadmission screening unit or other designated site any person who the public safety officer observes acting in a manner that causes the public safety officer to reasonably believe the person requires treatment as defined in MCL 330.1401 (MCL 330.1427).

A public safety officer shall take a person into protective custody and transport him/her immediately to the preadmission screening unit or designated hospital when ordered to do so by the court or when presented with a petition for hospitalization and a clinical certificate by a medical doctor or licensed psychologist (MCL 330.1426; MCL 330.1455; MCL 330.1436; MCL 330.1438; MCL 330.1469a; MCL 330.1475). A public safety officer taking a person into protective custody shall inform the person that he/she is not under arrest (MCL 330.1427a(2)).

410.3.1 VOLUNTARY EVALUATION

If a public safety officer encounters an individual who may qualify for protective custody, he/she may inquire as to whether the person desires to be voluntarily evaluated at an appropriate facility. If the person so desires, the public safety officer should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person.
- (b) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

If at any point the person changes his/her mind regarding voluntary evaluation, the public safety officers should proceed with the application for hospitalization, if appropriate.

410.4 CONSIDERATIONS AND RESPONSIBILITIES

Any public safety officer handling a call involving a person who may qualify for detention for the purpose of protective custody should consider, as time and circumstances reasonably permit:

- (a) Contacting dispatch to have a trained Crisis Intervention Officer (C.I.T) respond to the scene to assist (see Policy 409 – Crisis Intervention Incidents)
- (b) Available information that might assist in determining the possible cause and nature of the person's action or stated intentions.

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- (c) Community or neighborhood mediation services.
- (d) Conflict resolution and de-escalation techniques.
- (e) Community or other resources that may be readily available to assist with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade public safety officers from taking reasonable action to ensure the safety of the public safety officers and others.

Civil commitments should be preferred over arrest for people who have mental health issues that require treatment and are suspected of committing minor crimes or creating other public safety issues.

410.5 TRANSPORTATION

When transporting any individual in protective custody for a mental health evaluation, the transporting public safety officer should have Dispatch notify the receiving facility through P.A.T.H. of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Public Safety Officers may transport individuals in the patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of a public safety officer during the transport, supervisor approval is required before transport commences.

410.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the public safety officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the public safety officer should provide the staff member with the petition for mental health treatment and remain present to provide clarification of the grounds for detention, upon request. (MCL 330.1427)

Absent exigent circumstances, the transporting public safety officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the public safety officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, public safety officers will not apply facility-ordered restraints.

410.7 DOCUMENTATION

- (a) The public safety officer who determines a person is in need of treatment and takes the person into protective custody (non-voluntarily) for a civil commitment shall complete a petition for hospitalization, provide it to the facility staff member assigned to the person and retain a copy for attachment to a non-criminal police report. in the case report (MCL 330.1427).

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1. The public safety officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.
 2. The public safety officer shall also prepare a report indicating the date, time and place of the protective custody. The report shall not be treated as an arrest or criminal record (MCA 330.1427a).
- (b) If the Public Safety Officer determines that the person meets the criteria for protective custody but is willing to go voluntarily to Borgess Hospital for evaluation, officers shall only be required to complete the petition for evaluation. It is not necessary to complete a non-criminal police report in addition to the "Petition for Mental Health Treatment", Unless it is necessary to document unusual circumstances, use of force, or other criminal conduct.

410.8 CRIMINAL OFFENSES

Public Safety Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into protective custody should resolve the criminal matter by issuing a warning a citation, or by writing a criminal case for review by the prosecutor as appropriate.

When an individual who may qualify for protective custody for a mental health condition that requires treatment, has committed a felony or domestic assault that would normally result in an arrest and transfer to a jail facility, the public safety officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the protective custody.
- (c) Facilitate the individual's transfer to jail. Officers shall inform the jail intake staff of the facts supporting the mental health issues of the arrestee.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for civil commitment.

For all other criminal offenses, the individual may instead be transported to the appropriate mental health facility. Public Safety Officers shall notify a supervisor when a civil commitment will be utilized instead of a criminal arrest.

410.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into protective custody, the handling public safety officers should seek to determine if the person owns or has access to any firearm or other deadly weapon. Public Safety Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent) (MCL 330.1427a(1)).

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Public Safety Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

The handling public safety officer should further advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody.

410.10 TRAINING

This department will endeavor to provide department-approved training on interaction with persons with mental illness, persons in crisis, crisis intervention and protective custody.