

Dear Chief Schmidt:

There has been much confusion and disagreement regarding the proper procedures for petitioning the Court for involuntary admission under the Mental health Code when police officers are involved. Let me preface my guidelines by stating that the Cook County State's Attorney's Office will be attempting to put forth legislation to clarify or amend 405 ILCS 5/3-606 as it appears that the Judiciary has changed its interpretation of this section of the Mental Health Code over the last few years. Their current interpretation is having a serious impact on our ability to get help for the mentally ill in crisis.

Having said that, there is a 2001 Illinois Appellate Court case, People v. Demir, 322 Ill. App.3d 989, which appears to require that a police officer sign the Petition for Involuntary Admission **even in cases where the officer was not an eyewitness but was merely a means of transport**. Unfortunately, courts in Cook County are following this case. Until the statute is changed, or an appeal results in a different outcome, judges in Cook County will require that a non-eyewitness transporting police officer sign the petition. Failure to do so will result in a dismissal of the case and discharge of the patient. Keep in mind that non-eyewitness police petitioners are **RARELY IF EVER** called to testify.

In order to assure accuracy, every effort should be made to have actual eyewitnesses accompany the police to the hospital and complete the factual portion of the petition, with the help of hospital staff, if necessary. Officers must be sure to list names and contact numbers for all those who actually witnessed the patient's behavior as well.

I should point out that notwithstanding the "personal observation" language contained in 405 ILCS 5/3-606, Illinois Courts do NOT require that the responding police officer personally observe erratic behavior in order to take the person to the hospital as long as probable cause exists to believe the individual is in need of hospitalization. People v. Orr, (4th Dist. 1988), 176 ILL.App.3d 498 (1988). Courts have ruled that such probable cause exists where facts and circumstances within the police officers' knowledge and of which they had reasonably trustworthy information are sufficient to warrant an individual of reasonable caution to believe that there is an immediate danger of that person hurting herself or others. Baltz v. Shelley, (N.D. Ill. 1987), 661 F.Supp. 169, McKinney v. George (N.D. Ill. 1983), 726 F.2d 1183. In short, credible third party information detailing the person's behavior prior to the arrival of police is sufficient.

In addition, it has come to my attention that some police officers are refusing to honor 405 ILCS 5/3-703 mental health court orders requiring an emergency admission and examination, commonly referred to as a "writ". I should point out, 405 ILCS 5/3-704 gives the Court the authority to order a peace officer to transport the patient to a hospital for this emergency admission and examination. Such a court order **MUST** be honored regardless of the behavior of the patient at the time the police arrive. A refusal to transport could result in the police being found in Contempt of Court. Also, upon arrival at the hospital, the transporting officer must sign the back of the order.

Please share this letter with your staff and if possible, incorporate the above information in your training protocol. Feel free to call me with any questions you may have.

Sincerely,

Sandy Stavropoulos, Supervisor
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