

 <p>New York State omh Office of Mental Health</p> <p>State of New York OFFICE OF MENTAL HEALTH</p> <hr/> <p>OMH OFFICIAL POLICY MANUAL</p>	DATE ISSUED 8/5/2014	T.L. 14-12	PAGE 1 OF 7	SECTION # OM-660
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A. Policy Statement

Section 7.17 of the Mental Hygiene Law authorizes the Commissioner of the Office of Mental Health to establish policy and procedures for the organization, administration, and operation of facilities under his/her jurisdiction. Section 7.21 of such law imposes upon the Director of each facility the duty to supervise and manage the facility, and to direct and control all persons therein. Each Facility Director is responsible for maintaining effective supervision and control over all parts of the facility. Pursuant to Section 7.25 of the Mental Hygiene Law, the Director may designate safety officers to act as special policemen, whose duties include the preservation of peace and good order at the facility and to protect the grounds, buildings, and patients.

Occasionally, in the performance of their duties, Safety Officers will need to employ safety and security measures during the transport of certain patients from secure facilities, wards or wings, or secure treatment facilities, who are determined to be “high risk” for purposes of transport because they are deemed to present a substantial risk of escape, violent resistance, or injury to themselves or others if taken off the secure premises. In other cases, safety officers may need to utilize safety and security devices as a precursor to arrest, in accordance with their status as peace officers. At times, they must use reasonable force to overcome resistance to a safety and security intervention.

This policy directive is intended to set forth procedures to be followed in all cases where patients deemed to be “high risk” for purposes of transport are taken off secure premises for necessary appointments, such as court or outside medical appointments. **Use of safety and security devices for any other purpose shall be governed pursuant to facility policy.**

It is the policy and practice of the Office of Mental Health to train its safety officers in the use of safe, humane safety and security interventions. The Office seeks to demonstrate integrity, and to make decisions that are fair, respectful, lawful, and based on good judgment. Safety Officers shall accomplish their duties in a manner that minimizes the need for force and maximizes voluntary compliance.

B. Relevant Statutes and Standards

Mental Hygiene Law §7.17
Mental Hygiene Law §7.21

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Mental Hygiene Law §7.25
Mental Hygiene Law §10.10
Criminal Procedure Law §2.10(12)

C. Definitions. For purposes of this policy directive, these terms shall have the following meanings:

- 1) *Civil Patient* means a voluntary or involuntary patient admitted to a psychiatric hospital pursuant to Article 9 of the Mental Hygiene law who is not receiving services in a secure treatment facility.
- 2) *Crime* means a crime or offense as defined in Article 10 of the Penal Law.
- 3) *Patients Committed pursuant to Criminal Court Order* means and includes patients committed to the custody of the Commissioner pursuant to Section 330.20 or Article 730 of the Criminal Procedure Law, as well as those subject to subsequent retention orders following an initial commitment made under these statutes. It also includes pre-trial and pre-sentence county/municipal jail inmates hospitalized under Section 508 of the Correction Law. This term does not include: (1) persons who were initially admitted under Criminal Procedure Law Article 730 "Final Orders of Observation" whose original charges have been dismissed and who are, within 72 hours, converted to voluntary or involuntary status (Ritter vs. Surles); or (2) persons admitted under Criminal Procedure Law Article 730 who are converted to civil status as the result of a Court order issued pursuant to Jackson v. Indiana.
- 4) *Safety or Security Device* means and includes handcuffs, transport belts, or leg irons.
- 5) *Safety & Security Officer* means an officer within the Civil Service Safety & Security series, that has been appointed by a facility director in accordance with Mental Hygiene Law Section 7.25, and who is included in the list of persons who have Peace Officer status as set forth in Section 2.10 (12) of the Criminal Procedure Law.
- 6) *Secure Treatment Facility* means and includes:
 - (a) Central NY Psychiatric Center, Kirby Psychiatric Center, Mid-Hudson Psychiatric Center, and Rochester Regional Forensic Psychiatric

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Center; and

- (b) a facility or portion of a facility, designated by the Commissioner for the purpose of providing care and treatment to detained sex offenders and persons confined under Article 10 of the Mental Hygiene Law.

D. Body of the Directive

- 1) Handcuffs, transport belts, and leg irons are safety and security devices that can only be employed **for transport purposes** by Safety and Security Officers who have completed Lawful Use of Force training, which includes criteria for application as well as proper techniques for the application of safety and security devices.
- 2) Safety and security devices are not approved restraint devices and shall never be used in the provision of health care nor applied by treatment staff¹. If a patient's behavior rises to the level where restraint for behavioral management purposes is indicated, a device approved as an appropriate mechanical restraint shall be used and the provisions of OMH Official Policy PC-701, Seclusion and Restraint, shall apply.
- 3) A Safety and Security Officer must stay with any person who is placed in a safety and security device **for transport purposes**; such person shall never be unsupervised.
- 4) When a person is handcuffed **for transport purposes**, the cuffs shall be double locked to prevent the person from injuring him/herself.
- 5) Only safety and security devices issued by the Office of Mental Health shall be carried and utilized by Safety and Security officers.
- 6) Clinically verified temporary or permanent medical conditions which do not permit the full utilization of routine safety and security devices will be evaluated on a case by case basis by a clinician designated by the Facility

¹ An exception to this requirement is the wrist-to-belt device, which is a standard form of mechanical restraint in accordance with OMH Official Policy directive PC-701. When applied by treatment staff for purposes of behavioral management in accordance with all provisions, PC-701, such device is an approved restraint. When applied by Safety and Security staff in accordance with the provisions of OM-660, such device is an approved safety and security device.

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Director. If recommended to the Director of Safety by the clinician, to the extent possible, the arrangement of security devices will be modified to accommodate the medical condition while such condition persists, provided however, that in all cases, public safety shall remain the overriding concern. In the event that, in the opinion of the Director of Safety, public safety would be compromised by making a modification and there are no other reasonable alternatives, the matter shall be brought to the Facility Director for resolution.

7) Transport of patients.

- (a) Safety and security devices may be used to ensure the safety of the public:
 - (i) when transporting patients committed pursuant to criminal court order, as defined in C)3) of this policy directive; or
 - (ii) when transporting residents of a secure treatment facility, as defined in C)6) of this policy directive.
- (b) Except as otherwise provided in D) 7) a) ii), safety and security devices should not be used when transporting civil patients, unless such patient is suspected of committing a crime and an arrest is imminent, or the patient has been placed under arrest, provided, however, on a case by case basis, the Facility Director or his/her designee may authorize the use of wrist to belt devices, or other security device, to transport a civil patient to a court appearance as directed to do so by the court, provided that such devices are employed by Safety and Security Officers as a safety and security device.
- (c) Handcuffs and/or leg irons shall never be used when transporting a patient who is a child under the age of 18.
- (d) When transporting a patient or resident wearing a safety and security device, security, custody, control, and safety of the patient or resident and staff are a priority. Preparation prior to transport is paramount. Because communication is vital to safety, at least two staff should escort a patient or resident wearing a safety and security device, one of whom must be a Safety and Security Officer. Escort

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staff should ensure they carry at least two functional communication devices, such as State issued cell phones and/or radios (i.e., with batteries charged, additional batteries or a charging unit easily accessible), and quick access to important phone numbers (e.g., facility Safety office, local police, local hospitals, etc.).

- (e) During transport of a patient or resident wearing a safety and security device, the person being transported shall not be secured to any part of the vehicle except by a seat belt.
 - (f) Patients or residents being transported wearing a safety and security device shall never be transported in a prone (i.e., face down) position.
 - (g) Prior to the application of a safety and security device, patients or residents must be searched for weapons or other contraband before being placed in a transport vehicle.
 - (h) Staff escorting a patient or resident wearing a safety and security device during transport must continually monitor such person's color, breathing, and level of consciousness to ensure an immediate response if life signs falter.
 - (i) Whenever possible, the patient or resident should be advised that the use of the safety and security device is a procedure of the Office of Mental Health and is necessary to ensure the safety of the patient or resident and transport staff.
 - (j) Safety and security devices must immediately be removed from a patient or resident when such person is returned to the facility. The patient or resident shall be examined for any injuries that may have been sustained while wearing the device. An incident report shall be completed upon the discovery of any such injuries, in accordance with OMH Official Policy directive QA-510, Clinical Risk Management and Risk Management Plans.
- 7) **Escape. During transport,** Safety and Security Officers may employ safety and security devices to prevent the escape of a patient or resident or to aid in the return of an escaped patient or resident when called for in the Mental Hygiene Law or the Criminal Procedure Law, and when

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performed in accordance with standard police procedures.

8) Precursor to Arrest.

- (a) Safety and Security Officers may employ safety and security devices to prevent, per established law enforcement procedures, the escape or dangerous actions of any person believed to have committed a crime for which an arrest is imminent, who has been arrested, or as otherwise authorized under the Criminal Procedure Law or the Mental Hygiene Law. When transporting a person who has been placed under arrest, an appropriate safety and security device should be utilized.
- (b) When a Safety and Security Officer has a reasonable belief that a person has committed a crime, he or she may have to use physical force in the course of arresting or attempting to arrest such person. The Safety and Security Officer must use physical force only to the extent reasonably believed to be necessary to effect the arrest, or to defend him/herself or another person from what he or she reasonably believes to be the use of imminent use of physical force.

9) Training.

- (a) Safety and Security Officers must receive training in Lawful Use of Force and proper law enforcement procedures prior to utilizing such devices in accordance with this policy directive.
- (b) All Safety and security officers authorized to employ safety and security devices must also receive training in Preventing and Managing Crisis Situations (PMCS) to assist them in utilizing techniques to encourage voluntary compliance by patients so that the need for force is minimized.

10) Reporting. Each facility must provide experiential data to the Central Office Bureau of Quality Management on the use of safety and security devices to transport patients or residents. This data must be provided monthly for the first 6 months after the enactment date of this policy directive, and quarterly thereafter. The data will be provided in a form and format prepared by the Bureau.

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