

**Schoharie County
Office of Community Services**

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**Schoharie County Law Enforcement Committee Meeting
20 October 2020**

Office of Community Services Presentation:

- Presentation Attached.
- Questions/Discussion:
 - ✓ Suicide statistics pre-COVID/post-COVID.
 - ✓ CARRT cases went down when schools were closed, reporting wasn't happening. Since the State reopened there's been a 400% increase in reporting.
 - ✓ The LEAD program has been working for the Community. Thank you to the BOS and the State.
 - ✓ Examples of how law enforcement uses the power of persuasion needing/having the ability to communicate with people to comply with a 9.45 or 9.41 were explained.
 - ✓ MCAT, Mobile Crisis Assessment Team, is staffed through the Neighborhood Center. At this time, they cannot issue a 9:45. After hours a 9.45 would need to go through the Emergency Room.

Respectfully submitted,
Deidre Scutt, Dept. Business Manager I
for Bonnie Post, Director of Community Services

Presentation for the Law Enforcement Committee

Law enforcement officers are increasingly responding to calls for people with mental illnesses who are in crisis. Police officers and sheriff's deputies are often called in to intervene with homeless people who are experiencing delusional symptoms, to transport people with severe mental illnesses who need emergency evaluations at a hospital, and to manage domestic disturbances, incidents of violence, and threats of suicide.

NYS Mental Hygiene Law (MHL) governs various aspects of the mental health, chemical dependency, and developmental disability service systems.

Individuals experiencing mental health crises in the community may require intervention to ensure that they remain safe and that their mental health needs are thoroughly assessed. Law enforcement is often involved in making a determination that an involuntary transport to the hospital is necessary for further evaluation (pursuant to Mental Hygiene Law §9.41 and §22.09) or in acting upon the request of Director of Community Services or his or her designee (§9.45) to have someone brought to the hospital for further evaluation.

These statutes are intended to get someone to a hospital for an evaluation for possible admission and do not address any aspect of the inpatient admission process.

MHL 9.41 – Powers of Law Enforcement

- An individual must meet two criteria in order for law enforcement to have the power to bring the person to the hospital against their will:
 1. The person must appear to be mentally ill, and
 2. The person must present in a manner that is likely to result in serious harm to the person or others. This standard includes specific threats to self, others, or other conduct that demonstrates that the individual is unable to care for their basic needs for food, shelter, clothing or healthcare.

Please note that the criteria often get (inaccurately) summarized to be “when someone is either suicidal or homicidal.” First, it is necessary that the person “appear to be mentally ill.” Law enforcement personnel are trained to observe verbal, behavioral and environmental indicators of mental illness. It is not expected that police make a definitive determination that someone *is* mentally ill; they only need to make a judgment that the person *appears to be mentally ill*. Second, transport under §9.41 is permissible if the person is or is not imminently suicidal or homicidal (or otherwise threatening harm to self or others). Dangerousness not only

includes suicidal and homicidal ideation or acts, but “other conduct that demonstrates the individual is unable to care for their basic needs for food, shelter, clothing or healthcare.”

- Transportation: Individuals who are transported under this section must be brought to either a hospital licensed and approved under section 9.39 or a Comprehensive Psychiatric Emergency Program – in our area it is Bassett in Cooperstown, St. Mary’s in Amsterdam and Ellis in Schenectady.

MHL 9.45 – Powers of Directors of Community Services (& Designees)

- This section provides a Director of Community Services (DCS) the authority to direct the removal of a person to a 9.39 hospital or a CPEP. The DCS may appoint “Director of Community Services Designees” (DCS Designees) to act on his or her behalf. Similar to MHL§9.41, this section requires evidence of mental illness and an element of dangerousness to the point that hospitalization may be warranted. The DCS or DCS Designee can initiate the process based on the request of any one of a number of authorized reporters who state that the person has a mental illness for which immediate hospitalization is warranted. These include: a licensed physician, a licensed psychologist, registered professional nurse, or certified social worker currently responsible for providing treatment services to the person, a peace or police officer, the spouse of the person, the child of the person, the parent of the person, the adult sibling of the person, the committee or legal guardian of the person or a “health officer

Note that under §9.41 the standard is that the person must “appear” to have a mental illness. Under §9.45 the reporter must state that the person “has a mental illness.” While this makes sense in that the DCS or clinicians who are DCS designees are initiating a §9.45 and thus confirming the presence of a mental illness, in practice there is little distinction made between the standards for law enforcement initiated §9.41s and DCS designee initiated §9.45s.

It is important to note that *law enforcement officers are obligated to act on a properly executed §9.45 application (i.e., one filled out by a DCS or DCS designee)*. The law states that the DCS or his/her designee has “the power to direct the removal of any person” who meets the previously specified criteria. There are times that law enforcement will judge an individual to not meet the §9.41 criteria when they are dispatched to facilitate a transport pursuant to §9.45; that is irrelevant. A §9.45 is similar to a court-order or an arrest warrant in that police are obligated to bring the person to the 9.39 hospital emergency room.

Please note that both DCSs and individuals who are appointed DCS designees are authorized to act only within the specific county in which they are appointed. Therefore, even if all the criteria are met for a §9.45 (i.e., information received from an authorized reporter indicating the person

has a mental illness and meets the dangerousness criteria), if the person is not within the County, the §9.45 order cannot be issued. In those rare circumstances, two courses of action are suggested. A direct call to the DCS in the other county to advise him/her of the situation is advisable. In addition, some consideration should be given to calling law enforcement in the jurisdiction where the person is thought to be. Even without a §9.45 order issued; law enforcement should be willing to “check the welfare” of individuals reported to be in distress and/or potentially dangerous, and to initiate a §9.41 pick-up when indicated. Often when there is not enough information to secure a §9.45 a request will be made for law enforcement to do a safety check and then follow back up with us.

Please note that face-to-face evaluations by DCS designees are not required to complete the §9.45 process.

- Transportation: The law specifies that law enforcement have the duty to “take into custody and transport” individuals upon the direction of the DCS (or designee) that an individual meet the criteria set forth in §9.45. The law also states that “upon the request of a director of community services or the director’s designee” an ambulance service is authorized to transport.

MCAT: Mobile Crisis Assessment Team

MCAT is a contracting partnership of the Neighborhood Center, Inc and the Oneida, Herkimer, Schoharie, Otsego, Delaware and Chenango County of Departments of Mental Health. MCAT’s mental health staff provide help during crises to children and adults. MCAT has the ability to respond to crisis in the community where they occur, and work with individual, family and community-based agencies to assist with the situation. The goal of MCAT is to de-escalate a crisis situation, preventing possible harm, keeping the problem outside of the legal system and avoiding hospitalizations when appropriate.

Schoharie County Chemical Dependency Clinic serves as a participant in the Schoharie County Drug Treatment Court. This program serves as a diversion program to allow individuals convicted of drug-related offenses to remain in the community rather than serving a period of incarceration. The Clinic supports clients in meeting the requirements of the Drug Treatment Court and works in tandem with probation and the court to assist clients in making changes in their lives to avoid further legal or interpersonal problems related to their use of substances. The Mental Health Clinic also assists the Mental Health Treatment Court, which supports individuals with significant mental health diagnoses who have co-occurring substance related diagnoses.

The Mental Health Clinic provides clinical and transitional services to inmates at the Schoharie County Correctional facility. A mental health clinician is on site Tuesdays and Fridays for two hours each day, and a clinician is also sent to evaluate crisis situations when called.

Most of the time positive outcomes occur when police interact with individuals with a mental illness or related disorders. Unfortunately, stigma around people who suffer from mental health and addiction is prevalent in our society. The most common disabilities in America are anxiety and depressive disorders. One in five adults in the US are living with a DSM-5 diagnosis. Estimates suggest that only half of those with a mental illness receive treatment. The rate of depression has tripled over the past few years. One out of ten Americans are on an anti-depressant medication. Overdose is the fourth leading cause of death in the United States. Even with the availability of Medication Assisted Treatment, such as suboxone, individuals can be reluctant to begin this treatment due to the stigma attached to this medication. Suicide is the tenth leading cause of death. Firearms are the leading method of suicide in the United States because it is highly lethal, easily accessible, culturally acceptable, fast, and irreversible. Ten percent of people who attempt suicide and survive will go on to die by suicide. Schoharie County continues to struggle with losing people to suicide and overdoses.

There is a critical need for more law enforcement officers to have mental health training to meet the needs of this vulnerable population and ensure that they get the services they need. Mental Health training gives the Officers more tools and skills to do their job safely and effectively.