

Mental Health Law and Police SWAT Negotiations

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Involuntary Patient

LA.R.S.28:53(k) and 55(l)

Although competency is presumed, the involuntary patient is not afforded the opportunity to give informed consent

LA R.S. 28:2(31)

Treatment is defined as an active effort to accomplish an improvement in the mental condition or behavior of a patient or to prevent deterioration in his/her condition or behavior.

Treatment includes (but is not limited to)

hospitalization

partial hospitalization

outpatient services

examination

diagnosis

training

use of pharmaceuticals

other services provided at a treatment facility

Admission to a hospital and Administration of Medication

LA. R.S. 28:52(H) – Voluntary patients

State law allows for the administration of medication under certain emergency conditions without the patient's consent

a physician can administer medication against the patient's wishes during a psychiatric or behavioral emergency

a psychiatric or behavioral emergency occurs when a patient, as a result of mental illness, substance abuse, or intoxication engages in behavior(s) which, in the clinical judgment of the physician, places the patient or others at significant and imminent risk of damage to life or limb.

Medication Administration

As part of this same law, the medication can be administered until the emergency subsides or for 48 hours (whichever is the shorter time period) except on weekends or holidays.

The physician must make a reasonable effort to consult with the previous treatment physician at the earliest possible time (no later than 48 hours after the administration of the medication has begun)

Everything must be documented!!!

Involuntary Patients

LA. R.S. 28:53(K)

Patients admitted by emergency certificate may received medication without their consent.

With regard to the administration of medicine, if the patient objects to being medicated prior to making a final decision, the treating physician shall make a reasonable effort to consult with the primary physician outside the facility that has previously treated the patient (for his/her mental condition)

Louisiana Law favors voluntary treatment

LA.R.S. 28:50(1)

Persons with mental illness and persons experiencing substance abuse/dependence are encouraged to seek voluntary treatment.

Two types of voluntary admissions

Informal voluntary – the patient has the right to leave the facility during the normal day shift hours (9a – 5P)

Formal voluntary – the patient shall not be detained in the treatment facility for longer than 72-hours after making a valid written request for discharge (unless an emergency certificate or judicial commitment is executed)

Advance Directive for Mental Health Treatment

LA.R.S. 28:221(5); LA.R.S. 28:230C

An advance directive for mental health treatment may authorize voluntary treatment for up to 15 days.

Every patient has the right to be a voluntary admission.

Involuntary Admissions (Commitment)

LA.R.S. 28:2(3) Dangerous to others – the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he/she will inflict physical harm upon another person in the near future

LA.R.S. 28:2(4) Dangerous to self – same as above but it applies to “self” and it includes several emotional harm in addition to the risk of physical harm

LA.R.S. 28:2(10) Gravely disabled – unable to provide for his/her own basic physical needs (food, clothing, medical care, shelter) as a result of a serious mental illness or substance abuse and **is unable to survive safely in freedom** or protect oneself from serious harm

Gravely Disabled

Continued

This term also includes incapacitation by alcohol, which means the condition of a person who, as a result of the use of alcohol, which is unconscious or whose judgment is otherwise so impaired that the/she is capable of realizing and making a rational decision with respect to his/her need for treatment.

Louisiana Law Definitions

LA.R.S. 28:2(20)

Louisiana Mental Health Law does not contain a definition of “mental illness.” Instead, the law defines “person with mental illness” as any person with a psychiatric disorder which has substantial adverse effects on his/her ability to function and who requires care and treatment. It does NOT refer to a person who is developmentally disabled or has been diagnosed with epilepsy.

Procedures – Involuntary Commitment

LA.R.S. 28:53.2

Order of Protective Custody (OPC) – a judge or coroner can issue an order to have a person picked up and taken to a treatment facility (or office of the coroner) based on

“a credible person’s written and signed statement that a person is mentally ill and needs immediate treatment to protect the person or others from *physical* harm”

LA.R.S. 28:71 – when a physician, psychiatric mental health nurse practitioner, psychologist or assigned involuntary outpatient treatment case manager presents to the coroner an order of involuntary outpatient treatment

AND

LA.R.S. 28:53.2B Executes a statement specifying that there is substantial evidence that the patient is not in compliance with the order and there are reasonable grounds to believe that he/she poses a **significant risk of being in danger to self or others.**

Order of Protective Custody

Has to be requested in writing (can call in Jefferson Parish) and costs no \$

Has to be signed by a district judge or coroner

Has to state

- date and hour of issuance

- city or parish of issuance

- name or description of person to be taken into custody

- description of acts or threats

- that the person shall be taken to a community mental health center, public or private general or mental hospital, coroner's office or a detox center

Continued

LA.R.S. 28:53.2B(5)

The Order of Protective Custody also states “law enforcement shall use reasonable and necessary precautions to avoid a violent encounter”.

The OPC is effective for **72 hours from issuance** AND must be delivered to the appropriate law enforcement agency for executive by hand, fax, or other electronic means.

The law enforcement officer or transporting person delivers a copy of the OPC to the facility...within 12 hours of pick-up, the person must be received by the facility.

Once law enforcement get the person to the facility, the person shall be examined immediately by the physician (preferably a psychiatrist), medical psychologist or psychiatric mental health nurse practitioner...who shall determine if the person shall be voluntarily admitted, admitted by emergency certificate, admitted as a non-contested admission or discharged.

LA.R.S. 28:53.2D The person in custody shall be examined WITHIN TWELVE HOURS of his/her arrival at the treatment facility or shall be released.

Local Law – Persons in Grand Isle, Jean Lafitte and Kenner can go to the local law enforcement agency, video conference with the Jefferson Parish coroner's office, sign a statement and have the OPC issues and faxed LA.R.S. 28:53.3

STATE OF LOUISIANA
DEPARTMENT OF HEALTH AND HOSPITALS
OFFICE OF MENTAL HEALTH

ORDER FOR PROTECTIVE CUSTODY

(To be completed by any parish coroner or judge of a court of competent jurisdiction of the State of Louisiana when a peace officer or other credible person executes a statement under private signature specifying that, to the best of his knowledge and belief, a person is mentally ill or suffering from substance abuse and is in need of immediate treatment to protect the person or others from physical harm.)

Name and Address of Person To Be Taken Into Custody _____ _____	Race: _____ Sex: _____ Age: _____
Name and Address of Nearest Relative, Friend, or Guardian _____ _____	Relationship: _____ Telephone No. _____

Description of acts or threats which have led to the belief that the person needing treatment is mentally ill or suffering from substance abuse and is in need of immediate hospitalization to protect himself/herself or others from physical harm.

This Order For Protective Custody shall constitute legal authority to transport

_____ to _____
(Name of Person to Be Taken Into Custody) (Treatment Facility or Coroner's Office)

for immediate examination by a physician to determine if he should be voluntarily admitted, admitted by emergency certificate, admitted as a non-contested admission or discharged.

_____ Parish or Municipality Where Issued
Date and Time of Issuance

_____ or _____
Signed (District Judge) (Parish Coroner)

This order for custody shall be effective for seventy-two hours from its issuance and shall be delivered to the Director of the treatment facility or to the coroner's office by the individual who has transported the patient. The person in custody shall be examined within eight hours of his arrival, or be released.

Pursuant to La. R.S. 28:53.2(B)(5): "That law enforcement officers are to use reasonable and necessary precautions when appropriate, in the execution of an order for custody pursuant to Subsection A and Paragraph (F)(1) of this Section, to avoid a violent encounter with the person being taken into custody. For the purposes of this Paragraph, "reasonable and necessary precautions" include crisis management strategies."

DATE: _____

TIME: _____ TAKEN INTO CUSTODY

(Officer's Signature)

STATE OF LOUISIANA
DEPARTMENT OF HEALTH AND HOSPITALS
OFFICE OF HUMAN SERVICES

(Complete Prior To Admission)

PHYSICIAN EMERGENCY CERTIFICATE

For observation, diagnosis, and treatment at a treatment facility for a period not to exceed 15 days, or 28 days, for substance abuse (Title 28:52.4) (See Section 53 of Title 28, Louisiana Revised Statutes on reverse side of form. The directives of this statute must be fulfilled in order for this certificate to be valid.)

NAME OF EXAMINING PHYSICIAN	EXAMINATION DATE	EXAMINATION TIME
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ADDRESS OF EXAMINING PHYSICIAN

PATIENT DATA	NAME OF PATIENT			
	ADDRESS OF PATIENT			
	RACE	SEX <input type="checkbox"/> M <input type="checkbox"/> F	DATE OF BIRTH	BIRTHPLACE
	MARITAL STATUS <input type="checkbox"/> S <input type="checkbox"/> M <input type="checkbox"/> D <input type="checkbox"/> W <input type="checkbox"/> SEP		MILITARY STATUS <input type="checkbox"/> VETERAN <input type="checkbox"/> NON-VETERAN	RELIGION
	NAME OF NEAREST RELATIVE, FRIEND, OR GUARDIAN			RELATIONSHIP
	ADDRESS			TELEPHONE

CHECK
 Mental Illness or Substance Abuse (15 Day)
 Substance Abuse (28 Day)
 1st 2nd Order For Protective Custody Date:

FINDINGS OF EXAMINATION

HISTORY OF PRESENT ILLNESS (REASONS FOR ADMISSION, INCLUDING BEHAVIOR, ACTS, THREATS, ETC.)

PHYSICAL FINDINGS (MEDICAL HISTORY, CURRENT MEDICATIONS, ETC.)

MENTAL CONDITION (ORIENTATION, MOOD, THOUGHT CONTENT, AFFECT, ANY HALLUCINATIONS OR DELUSIONS)

PREVIOUS PSYCHIATRIC TREATMENT <input type="checkbox"/> INPATIENT <input type="checkbox"/> OUTPATIENT	DATE	PLACE, IF KNOWN
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IS PATIENT CURRENTLY: SUICIDAL? HOMICIDAL? VIOLENT?

A. I am of the opinion that the above person named is in need of immediate psychiatric treatment in a treatment facility because he/she is seriously mentally ill or suffering from substance abuse so that he/she is (check where appropriate in both 1 & 2):

1. Dangerous to self Dangerous to others Gravely disabled
2. Unwilling Unable to seek voluntary admission

SIGNATURE OF EXAMINING PHYSICIAN	LA MEDICAL LICENSE NUMBER	DATE SIGNED	TIME SIGNED
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Completion of above certificate shall constitute legal authority to transport patient to the following facility:

1. _____
2. _____ (alternate)

To be transported by _____ Relationship to patient: _____

24th JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. _____

DIVISION " " _____

DOCKET _____

IN RE: _____

FILED: _____

DEPUTY CLERK _____

COPY

COPY

PETITION FOR JUDICIAL COMMITMENT

The petitioner(s), _____, (name of person asking for commitment of another person) domiciled in or a resident of _____ Parish, who does state that they are a person of legal age of majority, and does represents that:

COPY

1.

_____, (name of the person to be committed), is in need of commitment to a treatment facility pursuant to LSA R.S. 28:54 et seq. and

- 1) is confined in the Parish of _____, at _____
 - 2) or is a resident of _____ Parish;
 - 3) or may be found in the Parish of _____.
- (select one of the above)

COPY

COPY

2.

_____ has displayed the following behavior:

COPY

which causes petitioner to assert his belief that the respondent is suffering from mental illness or substance abuse, which contributes or causes _____ (name of person to be committed)

COPY

2015	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
O.P.C	32	38	31	33	24	32	38	39	34	51	40	54	446
P.E.C.	35	23	24	28	44	34	28	24	24	21	24	23	332
C.I.U.	19	22	25	13	21	19	15	19	27	22	26	28	256
ROAD	48	39	30	48	47	47	51	44	31	50	38	49	522
TOTALS	67	61	55	61	68	66	66	63	58	72	64	77	778
2853L	24	22	21	23	20	28	26	26	21	39	23	22	295
29S	2	6	5	2	3	5	4	1	4	4	6	1	43
A29S	34	38	31	34	42	33	40	30	40	32	34	32	420
Total	127	127	112	120	133	132	136	120	123	147	127	132	1536

2016	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTD
O.P.C	36	41	49	34	28	51	25						264
P.E.C.	30	22	15	24	31	28	28						178
C.I.U.	37	34	31	19	30	28	20						199
ROAD	29	29	33	39	29	51	33						243
TOTALS	66	63	64	58	59	79	53	0	0	0	0	0	442
2853L	21	21	28	37	29	30	24						190
29S	7	1	1	2	6	6	3						26
A29S	33	31	44	38	45	49	30						270
Total	127	116	137	135	139	164	110	0	0	0	0	0	928

Forced Entry – The No Knock OPC

LA.R.S. 28:53.2(G)

A COURT ORDER FOR **FORCED ENTRY TO EXECUTE AN OPC** CAN BE APPLIED FOR AFTER A MENTAL HEALTH PROFESSIONAL HAS INTERVENED AND ATTEMPTED TO COUNSEL THE PERSON REGARDING HIS/HER VOLUNTARY SURRENDER.

The application requires a copy of the OPC and an affidavit by the coroner (or designee)...*in exceptional circumstances the order can be given orally.*

No-Knock OPC

Louisiana law allows for law enforcement to enter the home/business/location if there is:

- A valid, outstanding Order of Protective Custody

- The Coroner, the District Judge, and the Sheriff's Department all agree that the person is a danger to self or others

- A mental health professional has attempted to contact the individual and explain that they are not under arrest but need to be transported to the hospital for an evaluation

- When criteria is met the Duty Judge issues a telephonic order to the Coroner's office which is relayed to the Sheriff authorizing law enforcement to enter any area and detain any barricaded individual for immediate transport to a treatment center for examination

Protective Custody without a Court Order

LA.R.S. 28:53(L)

Law enforcement may take a person into protective custody and transport him/her to a treatment facility, when they have personally observed the person's behavior and believe the person is dangerous to self or other, is gravely disabled, and is in need of immediate hospitalization to protect the person or others from physical harm.

LA.R.S. 28:53L(2) Upon arrival at the facility, law enforcement is relieved of any further responsibility and the person is immediately examined by a physician (preferably a psychiatrist).

History of SWAT Negotiations

Munich Olympics – 1972

11 Israeli athletes, coaches, and a West German Policeman killed

NYPD – 1972

Frank Bolz founded Negotiation Unit

Ruby Ridge, Idaho – 1992

Vickie Weaver, her 14 year old son, Sam Weaver, and a US Marshall
are killed

Waco, Texas - 1993

4 ATF Agents and 82 Branch Davidians killed









mtu on-site energy



