



# ***New Bedford Police Department Office of the Chief of Police Research & Development***

871 Rockdale Avenue, New Bedford, MA 02740

Phone: 508-991-6300 Fax: 508-961-3022

**Paul J. Oliveira**  
Chief of Police

**Jonathan F. Mitchell**  
Mayor

**Adelino V. Sousa**  
Deputy Chief of Police

## **Executive Summary:**

1. NBPD patrol officers are currently the de facto responders to any psychological, involuntary committal (section 12).
2. Mental health is a medical concern not a criminal justice concern.
3. Due to lack of resources, members of our society who cope with poverty, are the most likely to be sectioned.
4. National Data shows that a person with a mental health crisis is more likely to get hurt or seriously injured than any other group facing a police encounter.
5. Police officers go through an academy training that teaches them tactics for taking someone into custody after they have broken the law. Officers have not been exposed to enough de-escalation training to handle an individual in a mental health crisis. They are ill equipped to safely transport an individual to a medical facility.
6. An immediate corrective strategy is to utilize NBEMS ambulances for section 12 calls. This would reduce the likelihood of a serious injury to persons involved, create less stigmatization for the person coping with a medical condition, and provide the safe transport of a medical patient.

“When law enforcement officers are the first responders in a large proportion of mental health crises, something has badly gone awry. And, as recently documented by the Treatment Advocacy Center, law enforcement members spend considerable time in commitment transport. When clinicians involuntarily commit patients in order to obtain cheap and secure transportation by law enforcement, racial justice is implicitly sacrificed on the altar of cost containment and defensive medicine.”

– Marvin Swartz, Professor in Psychiatry & Behavioral Sciences at Duke University

## Section 12s Report

### NBPD 2022 DATA

- 1297 Emotionally Disturbed Person Calls
- 362 section 12s
  - a. 58 juveniles
  - b. 10 were less than 10 years old
  - c. 48 Senior Citizens (60+)
  - d. 7 were over 80 years old

### Current Practice:

- The current response for a section 12 is to send a front-line patrol officer to bring people in to a mental health facility. The front-line patrol officers, are then tied up for an extended period, which puts an additional strain on remaining police resources.
- Officers need guidance on how to proceed, should the individual refuse to go willingly. Current options for officers include a forced entry in the residence, or calling in a Specialized Tactical Response Team. Both official options significantly increase the chances of the call ending in harm for either the individual or police officers.

### Transportation:

- Patrol Officers in general are not provided enough training and experience to de-escalate individuals struggling with mental health conditions for an extended period of time.
- A person struggling with mental health could alternate between a calm and aggressive manner within a matter of seconds. Other than handcuffs, the officers are not provided with appropriate soft restraints to safely provide a medical transport.

### Societal Concerns

- People with mental health concerns are more likely than the general public to end up being seriously hurt, or fatally wounded, from a police encounter.

- Mental health is a medical condition. Placing people who have not committed a crime in handcuffs, and in the back of a marked police cruiser, automatically sends a message to their neighbors that the individual is a “bad guy” that has to be “taken away by the cops”.
- Racial minorities are more often living in under-resourced communities and subsequently less likely to be properly diagnosed with a mental illness. It then becomes more probable that police are called to deal with a minority individual experiencing a mental health crisis.

### National Trends

- North Carolina Sheriffs have formally requested state lawmakers to pass legislation removing their role of transporting patients under involuntary commitment. These sheriffs remarked that it is mental health professionals who should be transporting these patients.
- Mecklenburg Sheriff Gary McFadden – “The presence of law enforcement doesn’t help a person in a mental health crisis, whether they’re in the hospital or experiencing a crisis in the community. The uniform presence is threatening, no matter what we do, and the car you’re coming in is threatening also. It escalates the situation”
- Boston Police Dept has implemented a strategic disengagement policy, where even if an individual has a section 12 in place, they have the ability to call off the response if there is concern for harm against officers or the civilian himself. A cooling off period allows for de-escalating tactics at a later time.
- LAPD has implemented a strategic disengagement policy, similar to the Boston PD policy. Tactical Disengagement is a strategy that may be considered when continued contact may result in an undue safety risk to the suspect/subject, the public, and/or department members. This is especially true in situations involving a barricaded suspect, a suicidal subject, or a person suspected of experiencing a mental health crisis.

In conjunction with this Tactical Disengagement, it is prudent to develop a plan to re-engage that person at a later time or date when the crisis has passed, in order to refer and/or provide them with mental health services. This is an important concept, understanding that the continued engagement by law enforcement may escalate the situation and result in a person committing a crime. Battery on a peace officer, or a justifiable use of force by police officers, are examples of this and could create a “lawful but awful” outcome.

- NORTHAMPTON PD Operations Manual: Responding to Persons with Mental Illness states in section D, “in most situations a mental health transport will be completed by ambulance”

## US Supreme Court Considerations

- U.S. Supreme Court *Humphrey v Cady* (405 U.S. 504, 509 (1972)), the court declared that the degree of dangerousness necessary for commitment must be “great enough to justify such a massive curtailment of liberty.” Moreover, the court ruled that dangerousness must be “immediate;” must be evidenced by a “recent overt act, attempt or threat to do substantial harm to oneself or another;” and must be proved beyond a reasonable doubt.
- (cont.) A State cannot constitutionally confine, without more, a non-dangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends.”
- (cont.) The Court recognized the significant liberty interests at stake for the person facing commitment (including the stigma that accompanies such commitment)

## Key Facts:

- The [Treatment Advocacy Center estimated](#) in 2015 that people with untreated mental illness are 16 times more likely to be killed during a police encounter than other civilians approached or stopped by law enforcement.
- [A study](#) in the American Journal of Preventive Medicine, using data covering 2009-2012, found that “one in five (21.7%) legal intervention deaths were directly related to issues with the victim’s mental health or substance-induced disruptive behaviors.” Meanwhile, surveys by the National Alliance on Mental Illness have found that people in a mental health crisis are more likely to encounter police than to get medical attention, resulting in [two million people jailed every year](#).
- A survey of about 450 people who have gone through coerced psychiatric hospitalizations, created by people who had been subjected to involuntary commitments, found that fifty-three percent said they attempted suicide after their hospital stay. Seventy-eight percent said they had post-traumatic stress symptoms from the experience.
- The average age of suicides has been falling for a long time while the rate of youth suicide has been rising. Between 1950 and 1988, the proportion of adolescents aged between fifteen and nineteen who killed themselves quadrupled. Between 2007 and 2017, the number of children aged ten to fourteen who committed suicide more than doubled.

## Policy Considerations

1. In regards to the section 12 concerns noted above, we should consider immediate use of the practice of utilizing NBEMS ambulance services to transport any individuals who are being involuntarily committed on a section. In addition to better training, and medical credentials to work with people struggling with mental health, the ambulances are equipped with appropriate soft restraint tools to minimize potential harm to a person during said transport.
2. In regards to police tactics, I feel we should consider immediate implementation of the Tactical Disengagement Policy being utilized in both the Los Angeles and Boston Police Departments. Tactical Disengagement is a recognized strategy that may be considered when continued contact may result in an undue safety risk to the suspect/subject, the public, and/or department members, especially in situations involving a barricaded suspect, a suicidal subject, or a person suspected of experiencing a mental health crisis.
3. In conjunction with this Tactical Disengagement, it is sensible to develop a plan to re-engage that person at a later time or date, when the crisis has passed, and to refer and/or provide them with mental health services.

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