I. POLICY
It is the policy of the Albemarle County Police Department to execute and initiate, when necessary, Civil Mental Emergency Custody Orders (ECO) and Civil Mental Temporary Detention Orders (TDO) and take the person into custody and deliver him/her to a location for evaluation by a person designated by the Community Services Board who is skilled in the diagnosis and treatment of mental illness and can assess the need for hospitalization. These civil orders and the associated civil processes exist to handle mentally disturbed subjects who have become a danger to themselves or others. Preserving public safety and social order are the intentions of these processes. Police Officers are frequently agents for the initial detention of the subject and should initiate the process on their own initiative and judgment when appropriate.

II. PURPOSE
To establish the policies and procedures applicable to the issuance and service of Civil Mental Emergency Custody Orders and Civil Mental Temporary Detention Orders.

III. DEFINITIONS
A. Mental Illness as defined in §37.2-100 Code of Virginia means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the consumer or for the safety of others.
B. Substance Abuse as defined in §37.2-100 Code of Virginia means the use of drugs, enumerated in the Virginia Drug Control Act (§54.1-3400 et seq.), without compelling medical reason or alcohol that (i) results in psychological or physiological dependence or danger to self or others as a function of continued and compulsive use or (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially disordered behavior and (iii), because of such substance abuse, requires care and treatment for the health of the consumer. This care and treatment may include counseling, rehabilitation, or medical or psychiatric care.

C. Civil Mental Emergency Custody Order (ECO) is a document issued by a magistrate or other authorized person under §37.2-808 Code of Virginia, under certain circumstances for a person thought to be mentally ill for the purpose of a face to face evaluation by a health care professional.

D. Civil Mental Temporary Detention Order (TDO), is a document issued by a magistrate or other authorized person under §37.2-809 Code of Virginia allowing detention of an consumer for a specified time period in an institution for further evaluation in preparation for a formal commitment hearing by a judge.

E. Community Service Board (CSB) is the public body, established pursuant to §37.2-501 Code of Virginia, that provides mental health, mental retardation and substance abuse services within each city and county that established it. The term “community services board” shall include administrative policy community services boards, operating community services boards, and local government departments with policy-advisory community services boards.

F. Intellectual Disability means a mental limitation, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.

G. Voluntary Evaluation is when a citizen volunteers to seek a mental health evaluation without the officer initiating an ECO or magistrate issuing an ECO.

H. Officer Initiated ECO is when an officer observes a consumer in need of services as a result of a mental health crisis as outlined in §37.2-808 Code of Virginia. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated in this section, may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization.

IV. PROCEDURES

A. VOLUNTARY EVALUATION

1. If the determination is made that the citizen may volunteer for mental health evaluation the responding officer must:
   a. Provide transportation for the citizen and continue to monitor their behavior.
   b. Ensure the citizen is checked-in at the place where they are to be evaluated.
   c. Stay with the citizen, unless relieved by other law enforcement personnel, until the citizen is in the care of the attending medical staff.
   d. Document the encounter on an IBR.

B. EMERGENCY CUSTODY ORDER (ECO)

1. §37.2-809 Code of Virginia describes the issuance of an ECO in cases where a person, due to mental illness, is incapable of volunteering or is unwilling to volunteer for treatment:
a. A magistrate shall issue, upon the sworn petition of any responsible person, treating physician or his/her own motion, an emergency custody order when he has probable cause to believe that any person:

1) Has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future:
   a) Cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or
   b) Suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs.

2) Is in need of hospitalization or treatment, and

3) Is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.

b. Any person for whom an emergency custody order is issued shall:

1) Be taken into custody;

2) Be transported to the facility designated on the order;

3) Be evaluated by a person designated by the community services board who is skilled in the diagnosis and treatment of mental illness and can assess the need for hospitalization.

2. Officer Responsibilities

a. Take mental health consumer into custody.

b. Once taken into custody the officer will transport to the facility designated on the order if it is a Magistrate issued ECO or

c. Transport the consumer to the University of Virginia, the officer will:

   1) Notify ECC to contact Region 10, MEDCOM, and the UVA police department (UPD).

   2) Notify the on-duty ACPD supervisor.

   3) Transfer custody to UPD Officer, UVA Security if they are available for relief.

d. Maintain a presence with the consumer throughout the evaluation process or until relieved at the hospital by the UPD officer, UVA Security or other sworn law enforcement personnel.

c. If the officer is not relieved by a sworn law enforcement officer then after evaluation:

   1) If released, transport the consumer back to location of custody or other suitable location if appropriate;

   2) If a Temporary Detention Order (TDO) is issued:

      a) Notify the Albemarle County Sheriffs office for transport of the consumer to any facility other than:
         - Region Ten Wellness and Recovery
         - University of Virginia Hospital

      b) Transport the consumer to one of above facilities

e. Return the executed ECO to the Services Unit for forwarding to the Clerk of the issuing Court.

f. If an ECO is not executed within eight (8) hours of its issuance, the order shall be void and shall be returned unexecuted to the Services Unit.

g. If the ECO is executed, it shall be valid for a period not to exceed eight (8) hours from the time of execution.

h. If the officer serves a magistrate issued ECO or takes custody of a consumer on an officer initiated ECO, an arrest report will be completed prior to ending tour.

i. Provide the consumer an "Explanation of Emergency Custody Procedures" (§37.2-808 or §37.2-817.2 Codes of Virginia) to consumer at time of execution of the ECO and give
"Explanation of Temporary Detention Procedures" to the respondent at time of execution of the Temporary Detention Order (§37.2-817.2 Code of Virginia)

k.

3. Limitations and Authority
   a. A law enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for purposes of executing an order of emergency custody.
   b. The magistrate shall designate the primary law enforcement agency to execute the order and provide transportation
      1) The primary law enforcement agency is determined by either where the person who is the subject of the ECO was taken into custody, or
      2) If the person who is subject of the ECO is not in custody, then the primary law-enforcement agency where the person is presently located
   c. Once the person is taken into custody, a maximum of four (8) hours is allowed to secure the evaluation
   d. The person shall remain in custody until a temporary detention order is issued or until the person is released, but in no event shall the period of custody exceed eight hours unless authorized by the magistrate.

C. TEMPORARY DETENTION ORDER (TDO)
   1. Issuance: The magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in §37.2-804.1 Code of Virginia by an employee or a designee of the local community services board to determine whether the person meets the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician or clinical psychologist treating the person, that the person:
      a. Has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future,
         1) Cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or
         2) Suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs,
      b. Is in need of hospitalization or treatment.
      c. Is unwilling to volunteer or incapable of volunteering for hospitalization or treatment.
      d. The magistrate shall also consider the recommendations of any treating or examining physician licensed in Virginia if available either verbally or in writing prior to rendering a decision.

   2. The TDO may include transportation of the person to such other medical facility as may be necessary to obtain emergency medical evaluation or treatment prior to placement.

3. Officer Responsibilities
   a. If the TDO is issued, the officer with custody shall:
      1) Notify the Albemarle County Sheriffs Department for transport to any facility other than:
         a) University of Virginia Hospital
         B. Region Ten Wellness and Recovery

4-11 TDO / ECO ISSUES Page 4 of 7 Revised 1/20/2015
2) Transport the consumer to one of the above facilities.
   b. If the TDO is not issued and the consumer is released, transport the subject to location of custody or other suitable location if appropriate.
   c. Return the executed TDO to the Services Unit for forwarding to the Clerk of the Court of the locality where the mentally ill person was present when the order was issued (rather than where the mentally ill person resides).
   d. If a TDO is not executed within a (24) hour period of its issuance, or within such shorter time as is specified in that order, the order shall be void and shall be returned to the Services Unit. The officer will file an IBR report detailing the reason why the order was not executed.

4. Limitations and Authority
   a. A law enforcement officer may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any order of temporary detention.
   b. The magistrate issuing the temporary detention order shall specify the law-enforcement agency and jurisdiction that shall execute the temporary detention order and provide transportation.
      1) The magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides to execute the order and provide transportation.
      2) However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation.
   c. The duration of a Temporary Detention Order shall not exceed a period of (72) hours prior to a hearing. If the (72) hours terminate on a Saturday, Sunday or legal holiday, detention may be until the next day which is not a Saturday, Sunday or legal holiday, but in no event may detention be longer than (72) hours or (96) hours when such a legal holiday occurs on a Monday or Friday.

D. EMERGENCY CUSTODY BY LAW ENFORCEMENT
   1. A law enforcement officer is authorized to take emergency custody of a person thought to suffer from mental illness or substance abuse without an order issued by the magistrate.

   2. When the officer observes or based on the reliable reports of others develops probable cause to believe that a person meets the criteria for an Emergency Custody Order.
      a. The officer then may take that person into custody,
      b. Transport them to the University of Virginia hospital and:
         1) Notify ECC to contact Region 10, MEDCOM, and the UVA police department (UPD).
         2) Notify the on-duty ACPD Supervisor.
         3) Transfer custody to UPD Officer (or UVA Security) if they are available for relief.

   3. Once in custody, a maximum of eight (8) hours is allowed for an evaluation. The eight hour time period begins at the point of custody by the law enforcement officer.

   4. While in custody, the law enforcement officer is authorized to obtain emergency medical treatment or further medical evaluation at any time.
5. The person shall remain in custody until a temporary detention order is issued or until the person is released, but in no event shall the period of custody exceed eight (8) hours.

6. Upon completion of an officer initiated ECO, or Magistrate issued ECO an arrest report must be filed using clearing Code 931 prior to end of tour.

E. TRANSPORTATION
1. It should be remembered that when transporting persons suffering from mental illness or substance abuse, regardless of age they are unpredictable and may become violent at any time. Common sense should be utilized when determining the appropriate use of restraints.

2. Transporting vehicles should always be equipped with a cage for consumers suffering from mental illness or substance abuse.

V. RELATED STATUTES (Code of Virginia)
A. §37.2-810 allows for transportation of person certified for admission.
   1. When a person has been certified for admission to a hospital under §37.2-808 through §37.2-809, such person may be delivered to the care of the sheriff, as specified in this section, who shall transport such person to the proper medical facility.

   2. In no event shall transport commence later than six hours after notification to the sheriff of such certification as provided in §37.2-829.

B. §37.2-832 prohibits detention or custody of mentally ill persons in a cell, room, jail or other place of confinement for prisoners charged with or convicted of crime.

C. §37.2-835 authorizes any officer to take into custody under a warrant issued under the provisions of §37.2-833 or §37.2-834 without having a warrant in his possession, provided the arresting officer has been advised of the issuance thereof by telegram, radio, or teletype message containing the name of the person wanted, directing the disposition to be made of the person when apprehended, and stating the basis of the issuance of the warrant.

D. §15.2-1704, §15.2-1724, §37.2-808 and §37.2-809 address the authority of law enforcement officers to execute emergency custody or temporary detention orders within or beyond their territorial limits. §15.2-1704 also states that police officer’s civil authority is limited to TDO’s, ECO’s and orders of protection.

E. §16.1-338 provides that a minor younger than (14) years of age may be admitted to a willing mental health facility for in consumers treatment upon application and with consent of a parent.

F. §16.1-339 provides that the objecting minor (over 14 years of age) may be admitted upon application of a parent for up to (72) hours. It should be noted that there is no age limit for an officer initiating an ECO under §37.2-808.

G. §37.2-812 provides in any case in which temporary detention is ordered pursuant to §37.2-809 upon petition for involuntary admission of a minor, the petition shall be filed and the hearing scheduled in accordance with the provisions of §16.1-341.

H. §37.2-833 provides that if a person involuntarily confined to a hospital escapes there from, the director may forthwith issue a warrant directed to any officer authorized to make arrests, shall arrest such person and carry him back to the hospital.
1. The cost of the transport of any person so applying or certified for admission pursuant to §37.2-810 shall be paid by the Commonwealth from the same funds as for care in jail.