



Office of the City Clerk



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City Council Document Tracking Sheet

Meeting Date: 1/17/2013

Sponsor(s): Burke, Edward M. (14)
Balcer, James (11)
Cochran, Willie (20)

Type: Ordinance

Title: Amendment of Chapter 2-84 of Municipal Code by adding new Section 2-84-301 related to Proceedings when arrestee's mental illness is in question

Committee(s) Assignment: Committee on Public Safety

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, a disproportionate number of individuals contending with mental illnesses are represented in the criminal justice system; and

WHEREAS, the U.S. Department of Justice reports that about 16% of the U.S. prison and jail population has a mental illness, in comparison to 5% of the general U.S. population; and

WHEREAS, Cook County Jail in Chicago, the Los Angeles County Jail, and New York City's Riker's Island, each hold more people with mental illness on a given day than any psychiatric facility in the United States; and

WHEREAS, nearly 20% of the daily general population in Cook County Jail, which houses approximately 11,000 detainees, is estimated to consist of inmates that suffer from some form of serious mental illness; and

WHEREAS, given the underreporting by those who are unaware of their illness or unwilling to disclose it, available statistical information understates the problem; and

WHEREAS, police officers are regularly the first to be called upon in mental health related emergencies; and

WHEREAS, police officers derive the duty and authority to effectively handle instances of mental illness in arrestees from the police power given to them to provide for protection of the public and from *parens patriae* authority to protect those unable to protect themselves; and

WHEREAS, advocates for the mentally ill champion efforts to divert these individuals from the criminal system into a health care system when appropriate; and

WHEREAS, police officers, as initial points of contact between the mentally ill and the criminal justice system, are therefore uniquely situated to advance this objective; and

WHEREAS, law enforcement officers should be urged to draw from all available resources to make the informed decisions and undertake diligent action to identify and handle an arrestee's mental illness as necessary to avert greater harm but without the specter of liability; and

WHEREAS, the policy of Illinois is consistent therewith, establishing as it does that all persons acting in good faith and without negligence in connection with actions including the apprehension, transportation, examination, treatment, habilitation, detention or discharge of an individual under the provisions of the Illinois Mental Health and Developmental Disabilities Code shall not incur civil or criminal liability by reason of such acts nor shall an act of omission or commission by a peace officer acting in good faith in rendering emergency assistance or otherwise enforcing the Code impose liability absent willful or wanton misconduct; and

WHEREAS, the procedures followed in the initial arrest phase are a small but significant opportunity to promote the well-being of mentally ill detainees and those around them; and

WHEREAS, a law enforcement officer's discretion in the apprehension, detention, and release process is a valuable factor in the complex and volatile circumstances within which the process is often executed, however, those very circumstances demand that there be a deliberative pause specifically dedicated to the question of mental illness; and

WHEREAS, on January 17, 2013 the City Council of the City of Chicago authorized the Corporation Counsel to enter into a \$22,500,000 settlement agreement concerning the lawsuit filed after the tragic events that occurred following the May 2006 arrest and release of Christina Eilman, who demonstrated behavior indicative of serious mental illness; and

WHEREAS, the City of Chicago Police Department's policy is one of commitment to "the dignified treatment and safety of arrestees and other persons requiring assistance from the Department to obtain mental health evaluation, treatment, or hospitalization"; and

WHEREAS, the City Council of the City of Chicago shares this commitment and seeks to evidence its dedication to the fair treatment of individuals suffering from mental illness in particular, and the safety of Chicagoans in general, by codifying the "Christina Eilman Ordinance," which will set forth with the force of law the procedures used to ensure said fairness and well-being; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are expressly incorporated and made part hereof as though fully set forth herein.

SECTION 2. Chapter 2-84 of the City of Chicago Municipal Code is hereby amended by inserting a new Section 2-84-301 underscored as follows:

2-84-301 Proceedings when arrestee's mental illness is in question.

(a) Definitions.

For purposes of this Section only, the meaning of terms used and not specifically defined herein shall be consistent with definitions used in the Illinois Mental Health and Developmental Disabilities Code, 405 ILCS 5 et seq., or such succeeding legislation enacted for the same purpose, and with the pertinent Chicago Police Department (hereinafter, "Department") directives set forth by the Superintendent of Police or the Police Board in rules promulgated pursuant to the authority granted by the Chicago City Council and Illinois state law.

(b) Consideration of medical treatment for mental illness.

Where a sworn Department member is informed, orally or in writing, or otherwise determines that an arrestee needs or requests medical treatment for a mental illness, said request or recommendation shall be noted on the detainee's record of arrest. Unless the arrestee is transferred to a mental health facility in accordance with the procedures set forth below, the arrestee shall not be released from the detention facility until the Watch Commander has viewed the arrestee and, with the concurrence of the Assistant Deputy Superintendent on duty, authorizes the release. The issuance or denial of such authorization shall be recorded in the detainee's arrest record.

(c) Arrestees Charged with Misdemeanor or Ordinance Violations.

An arrestee charged with misdemeanor or ordinance violations and in need of a mental health evaluation, treatment, or hospitalization shall be processed and restrained in accordance with Department directives for hospitalized arrestees. The arrestee will be transported to the nearest designated mental health intake facility for evaluation, in accordance with Department directives for approved medical facilities. Department members assigned to transport will restrain, escort, and maintain control of the arrestee in accordance with Department directives and, if advised by the mental health intake facility that the arrestee requires hospitalization, shall notify the Desk Sergeant at the appropriate detention district.

(1) Desk Sergeant duties upon notification of hospitalization.

Upon notification pursuant to paragraph (c), above, that an arrestee in detention at his or her facility requires hospitalization, the Desk Sergeant shall:

(A) inform the Watch Commander that the arrestee is to be hospitalized;

(B) prepare the appropriate bond formset as set forth in Department directives;

(C) ensure that the completed bond formset is immediately delivered to the transport members and the arrestee at the mental health intake facility:

(D) upon receipt of the completed and returned bond formset, follow the procedures outlined in the Department directive relating to bond procedures.

(2) Duties of department member assigned to transport the bond formset.

The Department member assigned to transport the appropriate bond formset will:

(A) upon arrival at the mental health intake facility, request that the arrestee sign the appropriate bond formset and, if the arrestee agrees to sign the appropriate bond formset, obtain the arrestee's signature on the appropriate line but if the arrestee refuses or is incapable of signing the appropriate bond formset, the Department member shall request permission from the on-duty Watch Commander to release the arrestee as an "incapacitated individual" and after receiving verbal approval from the on-duty Watch Commander, enter the phrase "incapacitated individual" on the "Defendant's Signature" line of the bond formset;

(B) provide the arrestee with the white copy entitled "Defendant's Copy" of the bond formset;

(C) notify the mental health intake facility personnel that the person is no longer in Department custody;

(D) return the completed bond to the Desk Sergeant at the district of detention.

(3) Duties of the Watch Commander upon notification of hospitalization.

The Watch Commander, upon notification by a Department member that an arrestee in detention at his or her facility requires hospitalization will:

(A) determine if the arrestee can be released on bond in accordance with Department directives on processing detainees and bond procedures:

(i) The Watch Commander may authorize an arrestee to be bonded prior to identifying the arrestee's identity if the arrestee requires hospitalization in a secured mental health intake facility.


- (ii) If fingerprint results later indicate that the arrestee has an outstanding warrant, the on-duty Watch Commander will ensure that the procedures outlined in Department directives for non traffic arrest warrant procedures are followed regardless of whether the arrestee remains in custody.
- (B) If the arrestee is eligible for bond, the Watch Commander shall ensure that the appropriate bond formset is prepared by the Desk Sergeant and delivered to the transport members at the mental health intake facility: and
- (C) Upon receipt of the bond formset for an “incapacitated individual,” the Watch Commander shall place his or her initials and star number next to the words “incapacitated individual” confirming his or her verbal approval to the Department member for the release of the arrestee on an individual bond, and ensure that the bond formset is returned to the Desk Sergeant.
- (d) Arrestees charged with an offense requiring a judge’s bond and in need of mental health evaluation, treatment, or hospitalization.

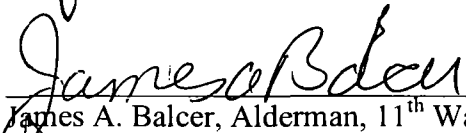
 - (1) An arrestee charged with any offense requiring a judge’s bond and deemed by a Department member to be in need of a mental health evaluation, treatment, or hospitalization shall be processed in accordance with Department directives for hospitalized arrestees. The arrestee will be transported to the nearest designated mental health intake facility for evaluation, in accordance with Department directives for approved medical facilities. Department members assigned to transport will restrain, escort, and maintain control of the arrestee in accordance with Department directives and, if advised by the mental health intake facility that the arrestee requires hospitalization, shall notify the Desk Sergeant at the appropriate detention district. The Department members shall also notify the Watch Commander at the appropriate district of detention to request a hospital guard detail. The Department member assigned to guard detail will follow procedures set forth by Department directives relating to hospitalized arrestees.
 - (2) The Desk Sergeant will inform the Watch Commander that the arrestee is being transported to a mental health intake facility for evaluation and inform the Watch Commander if the arrestee requires hospitalization.
 - (3) Upon notification that an arrestee charged with an offense requiring a judge’s bond requires hospitalization, the Watch Commander shall:


- (A) determine the status of the arrestee with the investigating unit and the Cook County State's Attorney;
- (B) ensure that Operations Command approves hospital guard detail as outlined in Department directives for hospitalized arrestees;
- (C) monitor the investigating unit and the Cook County Assistant State's Attorney until charging and approval procedures are completed: and
- (D) ensure that the mittimus procedure as outlined in Department directives for hospitalized arrestees begins as soon as charging and approval procedures are completed.

(e) This Section pertains only to the handling of arrestees and does not affect police orders and procedures relating to non-arrestees needing mental treatment.

SECTION 3. This ordinance shall be in full force and effect upon its passage and publication.


Edward M. Burke, Alderman, 14th Ward


James A. Balcer, Alderman, 11th Ward


Willie B. Cochran, Alderman, 20th Ward