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| Policy #**Dealing with Persons of Diminished Capacity** | Related Policies: |
| *This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third-party civil claims against employees. A violation of this policy, if proven, can only form the basis for internal discipline and/or criminal charges.* |
| Applicable State Statutes: K.R.S. 202A.026-181; K.R.S. 202B.010-050; K.R.S. 210.270; K.R.S. 645.020-040; K.R.S. 503.050-100, KRS 202A.041 |
| KACP Accreditation Standard: 30.8 |
| Date Implemented: | Revision Date: May 1, 2025 |

1. **Purpose:** To provide field officers with the essential tactical and processing skills necessary to effectively deal with persons of diminished capacities in to provide the required professional assistance these persons need, to protect the community, to safeguard the officers involved in the encounter, and to enhance the agency’s risk management.
2. **Policy:** Every community can expect its law enforcement officers to encounter persons of diminished capacities. This group of special needs persons presents field officers with different and often complex issues. These types of persons, whether from intoxication, suicidal potential, medical complications, or mental illness, present field officers with a wide range of behaviors usually different than those exhibited by other members of the community or **persons involved in criminal activities.** Persons of diminished capacities may display conduct that is bizarre, irrational, unpredictable, and threatening. They may not receive or comprehend commands or other forms of communication in the manner the officer would expect. They often do not respond to authoritative persons or the display of force. It is the primary task of the field officers confronting these special needs persons to resolve the encounter in the safest manner. It is the task of the officer to bring these types of persons to professional resources when necessary. It is not the mission of the field officer to diagnose the root cause of the person’s behavior. Every officer can expect to encounter these types of special needs persons while performing their official duties. Officers are expected to control the incident. Proper tactical and intervention techniques can assist in resolving the immediate field implications of the encounter and hasten the intervention by professional resource persons.
3. **Definitions:**
	1. Persons of diminished capacity: This refers to a segment of the community officers will be expected to encounter. It encompasses all persons encountered in the field who exhibit unusual behaviors commonly referred to as irrational, bizarre, unpredictable, or weird. These outward observable symptoms could be the result of intoxication, drug use, suicidal indications, mental illness or medical complications, intellectually and developmentally disabled (IDD), autistic, dementia, and Alzheimer’s.
	2. Mental Illness: This policy does not require officers to make a clinicaldiagnosis of whether the subject is mentally ill or what form of mental illness the subject may have, but rather to use reasonable judgment to recognize behavior outside the norm where a person poses a danger to themselves or others.
	3. Mentally Ill Person: A person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person’s affairs and social relations associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors.
	4. Professional resources: Resources available to the police agency, such as mental health professionals, emergency medical facilities, and detoxification centers.
	5. Voluntary and involuntary commitments: Provisions within the state the agency can use for the civil commitment of persons requiring professional psychological intervention.
4. **Procedure:** Field control tactics: The ultimate mission of law enforcement when encountering a person of diminished capacity is to control the encounter and then determine the best course of action for the person. This field tactical response can be segmented into four distinct tactical responses: containment, coordination, communication, and time.
	1. Containment: Before any reasonable control and defusing techniques can be used, the subject must be contained.
		1. Two officers should be dispatched to an incident involving a person of diminished capacity. **Should an officer find him/herself in a situation with such a person, the officer should request backup before attempting to intercede.**
		2. Responding officers should avoid the use of emergency lights and sirens when responding to this type of call. Experience shows that this may agitate the subject’s response.
		3. The officers should, when practical and feasible, devise a plan that separates the subject from other civilians. This containment should respect the comfort zone of the subject to reduce any unnecessary agitation. Officers should convince the subject that they do not have to move. Officers should continuously evaluate this comfort zone.
		4. It is important for officers to ensure that onlookers and family members are not in a position to become involved either verbally or physically in the control methods.
		5. Effective containment reduces the elements of agitation, such as large groups of people (including officers), emergency vehicle equipment, loud police radio transmissions, and multiple people directing communications to the subject. Containment is meant to reduce outside influences and sources of agitation.
		6. Officers should use time to their advantage when dealing with a person of diminished capacity as long as the person is not presenting an imminent threat to themselves or others.
		7. Officers should use all available tactics to de-escalate the situation when possible. However, if they face a dynamic and violent situation that poses a threat to the officers or other persons present, the officers should utilize their law enforcement control tactics outlined under the “Response to Resistance” policy to gain control.
	2. Coordination: This is essential for control of the encounter and is the foundation for the development of an effective plan and use of personnel and resources.
		1. When two officers are responding, contact/cover tactics should be employed.
		2. Contain the person with diminished capacity to ensure that outside persons and/or family members do not interfere.
		3. Officers should:
			1. Continually gather information about the subject being encountered. This information can come from persons at the scene, neighbors, and/or family
			2. Determine what resources should be requested, including additional police personnel, specialized weapons, professional resources, and staged medical personnel.
			3. Designate the location for a command post and staging area. This should be out of sight of the location of the encounter.
	3. Communication: Communication with a person of diminished capacity should be planned and controlled.
		1. Prior to engaging the subject in communication, the initial responder should wait for the arrival of a cover officer when practical. When dealing with edged weapons, officers should maintain a zone of safety when possible, allowing for reaction if the subject decides to attack.
		2. One officer should be designated as the “contact” officer responsible for direct communication with the person of diminished capacity. Other officers should assist with containment and coordination of other resources (medical personnel, assist family members, etc.)
		3. Verbal communication should be non-threatening. Whenever possible, use open-ended questions designed to facilitate the subject’s participation. If the subject does not respond, use other communication techniques. It may be necessary to change the person designated as the command voice and determine whether that might be beneficial.
		4. Officers should use calming communicative attempts when possible. Sharp, authoritative commands should be avoided unless necessary.
		5. It has been found that threats to arrest or use force are not productive when dealing with persons of diminished capacities. Reassure the subject that the police are there to help them.
		6. Be as truthful as possible.
		7. Officers must constantly analyze the effect their efforts are having on the subject, if any. This is essential to identify areas that appear to agitate the subject that should then be avoided.
		8. Normally, family members should not be used to establish communications. This frequently exacerbates the situation.
	4. Time: The concept of elongating the encounter rather than hastening it.
		1. History has shown that the longer the encounter is allowed to occur, the better the chance of a successful and safe resolution.
		2. Increasing the time of the encounter and using defusing techniques allows the subject to reflect on their predicament.
		3. Creating time also allows the field units to be supported by the deployment of additional police personnel, specialized equipment, and medical support personnel.
		4. Time encourages the ability to communicate and create a relationship between the subject and the command voice.
5. **Commitment Procedures:** The primary purpose of police response to an incident involving a person of diminished capacities is to control the situation and ensure that the person receives the most appropriate form of professional resources.
	* 1. In determining if a commitment or voluntary referral is appropriate, officers should evaluate the informationprovided by professional resource persons and family members.
		2. It is important for the officers on the scene to determine what, if any, on-going threat potential the subject poses to themselves, their family, the community, and the officers. This threat potential may necessitate an involuntary commitment procedure to ensure the person of diminished capacity is evaluated by a qualified mental health professional (QMHP).
		3. **KRS 202A.041 Warrantless arrest and subsequent proceedings** (1) Any peace officer who has reasonable grounds to believe that an individual is mentally ill and presents a danger or threat of danger to self, family, or others if not restrained shall take the individual into custody and transport the individual without unnecessary delay to a hospital or psychiatric facility designated by the cabinet for the purpose of an evaluation to be conducted by a qualified mental health professional. Upon transport of the person to the hospital or psychiatric facility, the peace officer shall provide written documentation which describes the behavior of the person which caused the peace officer to take the person into custody. If, after evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization, the person shall be released immediately and transported back to the person’s home county by an appropriate means of transportation as provided in [KRS 202A.101](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000010&cite=KYSTS202A.101&originatingDoc=NDD88C8A0A91411DA8F5EE32367A250AE&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)). If, after evaluation, the qualified mental health professional finds that the person meets the criteria for involuntary hospitalization, appropriate proceedings under this chapter shall be initiated. The person may be held pending certification by a qualified mental health professional and implementation of procedures as provided in [KRS 202A.028](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000010&cite=KYSTS202A.028&originatingDoc=NDD88C8A0A91411DA8F5EE32367A250AE&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)), [202A.031](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000010&cite=KYSTS202A.031&originatingDoc=NDD88C8A0A91411DA8F5EE32367A250AE&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)), or [202A.051](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000010&cite=KYSTS202A.051&originatingDoc=NDD88C8A0A91411DA8F5EE32367A250AE&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.UserEnteredCitation)) for a period not to exceed eighteen (18) hours.(2) If, after the evaluation, the qualified mental health professional finds that the person does not meet the criteria for involuntary hospitalization and the peace officer has probable cause to believe that the person has committed a criminal offense, the peace officer may swear out a warrant and take the arrested person without unnecessary delay before a judge.
		4. Officers shall not use a jail as a holding facility for meeting the criteria of this policy unless the person also has criminal charges pending.
		5. No officer shall place criminal charges against a person who is mentally ill and in need of hospitalization solely for the purpose of avoiding transporting the person to an appropriate medical or psychiatric facility.This does not preclude officers from placing appropriate criminal charges for any criminal offense based upon probable cause in accordance with KRS. People who are a danger to themselves or others should be taken into custody and transported without delay to a hospital/designated psychiatric facility. Criminal charges, a summons, or arrest warrant(s) can be obtained by the officer in relation to any/all criminal offenses subsequent to the primary objective of appropriate medical and /or psychiatric treatment.
		6. Use of restraints when dealing with persons of diminished capacities: These persons may present officers with conflicting considerations in determining the best means for restraint and transportation. The ultimate mission is to safeguard the interests of the subject and transporting officers. In some cases, an ambulance may be required. Officers shall use only those restraining devices for which they have been trained.
6. **Reporting requirements:** Officers shall prepare all required reports, whether the subject of the call is arrested, committed, or released. This can provide valuable information for future contacts and, when available, allows the agency to provide information to the statewide data system.
7. **Special Circumstances:**

**Excited Delirium:** State of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphora (excessive tears), hostility, exceptional strength, and endurance without fatigue. **This should be considered a true medical emergency.**

**1. Possible Causes of Excited Delirium**

1. Hypoxia**:** An inadequacy in the oxygen reaching the body's tissues.
2. Hyperthermia**:** Unusually high body temperature.
3. Hypoglycemia: Lower than normal level of blood glucose
4. Drug use
5. Stroke
6. Intracranial bleeding
7. Severe mental illness
8. **Persons Suffering from Excited Delirium may exhibit one or more of the following:**
9. Irrational speech/ speaking in gibberish
10. Shouting, yelling, or screaming
11. Confusion
12. Sudden changes in behavior, i.e., raging followed by sudden calmness
13. Paranoia, belief that someone is after them
14. Frightened/panicky
15. Hallucinating/delusional/hearing Voices
16. Violent/destroying property
17. Unexplained strength/endurance
18. High level of pain tolerance
19. Sweating profusely/high body temperature
20. Difficulty breathing
21. Foaming at the mouth
22. Drooling
23. Dilated pupils
24. Evidence of self-inflicted injuries
25. Removing clothing
26. Completely naked
27. Resisting violently during and post restraint
28. Unable to follow commands or directions
29. Gravitation toward “shiny objects” such as lights or mirrors
30. Grandiose delusions
31. **Procedures:**
32. **Initial Response (CALMS)**
33. **C**ontainment - Attempt to contain the subject in a manner that protects all persons, including the officer(s) and the subject.
34. **A**nnouncement - Advise over the radio/dispatcher that the officer believes he/she is dealing with an excited delirium subject.
35. **L**ots of Backup - Even in small agencies, mutual aid should be sought to enable the officers to effectively deal with the subject. Extra officers are recommended to deal with custody/control procedures that are extremely difficult. In situations where the subject is outside, extra officers will also be necessary for the containment perimeter. If there are specially trained crisis intervention officers or trained negotiators available, they should be called.
36. **M**edical Attention – Medical personnel should be called to the scene and staged to provide immediate medical attention to the subject once they are controlled and it is safe to do so.
37. **S**low Down - If the safety of the subject, the public, or third parties is not in danger, take your time. Remember that people suffering from excited delirium may become more agitated by a triggering event, i.e., closing in on their body space or touching them.
38. **Tactical Response**
39. When feasible, pre-plan with assignments, i.e., which officer(s) will be responsible for direct communication with the person of diminished capacity (contact) and assist with coordination/control (cover).
40. When utilizing an electronic control device/TASER in the probe mode to accomplish restraint, if possible, use a single deployment coupled with immediate restraint to decrease the likelihood of a drawn-out confrontation which may further diminish the subject’s respiration levels.
41. A four-officer approach contemplates at least one officer for each limb. An officer assigned to each limb has been found to be effective for control during the restraint process.
42. Assign an officer to protect the head during the restraint process and speak calmly to the subject in an effort to reduce agitation.
43. **Do not take the person to jail.** Pass the person to medical personnel as soon as possible upon accomplishing control/restraint. Notify medical personnel that you have a subject exhibiting signs of an underlying condition that may pose a danger to their well-being to include mental health, physical health, or substance induced emergency.