CHAPTER 51 MENTAL COMMITMENTS

YES, EVEN IN JAIL A SUBJECT CAN BE CONSIDERED A DANGER TO THEMSELVES OR OTHERS

OVERVIEW AND PURPOSE OF CHAPTER 51

GENERAL BACKGROUND ON CHAPTER 51

- State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act
- Sets forth the obligations of the state and counties to provide a range of services which enable individuals to receive treatment in the **least restrictive setting**.
  - Strong focus on protecting individual rights and liberties and favors voluntary options over involuntary options whenever possible.
- 51.42: Agencies responsible to provide or contract for 24 hour crisis intervention services, outpatient mental health, drug/alcohol, and developmental disabilities services, and inpatient services.

LEVELS OF CARE

GOAL: LEAST RESTRICTIVE ENVIRONMENT POSSIBLE TO MAINTAIN SAFETY

LEVELS OF CARE OPTIONS (4)

- Safety planning in the community with follow up from Human Services
- Crisis stabilization bed
  - Dane County Care Center
  - Bayside
  - Season's Bridge
- Voluntary hospitalization
- Involuntary hospitalization or involuntary detox

CRITERIA FOR DECISION MAKING 34.22(3)

- The on-call crisis worker assesses the individual's need for emergency mental health services and completes a response plan. Factors that are assessed include, but are not limited to:
  - Circumstances or events that led up to the emergency contact and the severity of the immediate problem and potential for harm to self or others.
  - The primary concerns of the person who made the initial contact
  - The individual's current mental status including medications, drugs the person may have taken, prior incidents of drugs or suicide behavior, and other relevant facts important to the immediate situation
  - The person's intent or threat to harm self or others including the availability of the means to carry out the threat (i.e. access to weapons, or other objects that may be used).
  - The names of people who are or who might be available to support the individual, such as friends, family, or current/past services providers.

ELEMENTS OF A RISK ASSESSMENT: ISSUES TO CONSIDER

- Are there services/supports in the community that can be immediately implemented?
  - (CCS/CSP team, next day or same day doctor/psychiatric appointments, crisis follow up appointments, natural supports in the community that can assist with safety planning)
- Is there a high likelihood that the individual will follow through with such services?
- Would the person go the hospital or crisis bed voluntarily, and would they reliably get there? Is it safe for persons, other than law enforcement, to take them?
- Is there an indication that the person would easily change their mind about being in the hospital?
- Will a hospital take the individual on a voluntary basis?

RISK IN A JAIL SETTING: WHAT'S DIFFERENT?

- No opportunity for community services.
- While there may be more supervision, it's not constant.
- Have to look at the jail as it's own community – in the context of this jail, is this person at risk?

SAFETY PLANNING

- GOAL: To utilize the least restrictive option to ensure safety
- IDEAL: To maintain individuals at home or in the community with natural supports
- Important to ensure appropriate follow up.
  - Crisis check-in within 48 hours, follow-up crisis appointment, doctor's appointments, therapy appointments, programming, etc.

WHAT DOES CRISIS FOLLOW UP LOOK LIKE?

- List: generated from crisis calls and contacts
- Phone calls within 48 hours of crisis (weekends and holidays are exceptions).
- Connecting with services (i.e. MAT grant)
- Re-evaluation if necessary

VOLUNTARY ADMISSION VS. INVOLUNTARY ADMISSION

VOLUNTARY

- 4 types of voluntary admissions
  - 51.10, 51.13, 51.45(11)(a), 51.45(10)
- Preferred method when inpatient level of care is necessary.
- Law enforcement not always involved.
  - *(I.e. Self admissions, referred by medical, mental health or AODA professionals)*

INVOLUNTARY

- 8 types of involuntary admissions
  - 15.15, 51.15(10), 51.20, 51.35, 51.45(11)(b), 51.45(12), 51.45(13)
- Must meet 51 commitment criteria

VOLUNTARY PATIENT'S RIGHT TO LEAVE HOSPITAL

- For every type of voluntary admission, the patient is informed by the facility of their right to be discharged.
- Generally, the patient would need to request the discharge in writing. The facility then must either discharge the person, discharge them against medical advice, or institute a Director's Hold to keep them in the hospital.
  - Director's Hold: 51.15(10): Court process if proceedings were not dropped by treating psychiatrist.
- EXCEPTION: Voluntary Detox 51.45(11)(a) can be kept by the facility until no longer incapacitated.

INVOLUNTARY MENTAL HEALTH COMMITMENT PROCEEDINGS

INITIATION OF PROCESS

- When law enforcement and crisis reasonably believe that a person who is mentally ill, drug dependent or developmentally disabled meets one of the statutory standards of dangerousness to self or others; and is a fit subject for treatment, but refuses treatment; it may be necessary to initiate a process for involuntary detention.
- Law enforcement must also believe that the individual is not appropriate for voluntary admission or outpatient services at the time the decision is made.

A TEAM APPROACH: THE IMPORTANCE OF INVOLVING CRISIS PRIOR TO 51.15 DECISION

- The crisis worker may have information that could be beneficial to the decision making process and may avoid unnecessary detentions. (I.e. CCS/CSP involvement, natural supports, etc.)
- Emergency detentions under a 51.15 need to be approved by BOTH the crisis worker and the law enforcement officer.
- No person may be admitted into a psychiatric unit on a 51.15 without approval from the crisis worker or county department.
- The crisis worker will need to make appropriate arrangements to have the individual admitted.

If one party feels a 51.15 is appropriate, and another party does not, then a 51.15 cannot be pursued.

COMPLETING THE DESIGNATED 51.15 PETITION

- The details and specific information concerning recent overt act, attempt or threat to act or omission, demonstrating the dangerousness to self or others.
- The witnesses' names, address and phone numbers.
- The name of the subject's insurance company, if there is one.
- 51.15(9) states that an individual must be informed of their rights both orally and in writing. A person who is detained to a 51 facility must also receive a copy of the emergency detention paperwork.

If you are the individual signing the 51.15 petition you will most likely be the officer called to testify at the probable cause hearing. Therefore, if there is more than one officer involved and you will not be available to testify at the hearing (within 72 hours of detention) have the other officer sign the detention petition.

REPORT WRITING

1. Residence – be sure to indicate person's county of residence
2. Specify Danger – do not use words like agitated, threatening or aggressive. Instead specifiy how the individual was aggressive, threatening or hostile. What specific threats did they make to harm themselves or others. Specify what actions the took, how they harmed themselves or others.
3. Specify belief about mental illness – do not say acted strange or psychotic – Instead use specific statements made by the person or specify the actions by which the individual which led you to believe the person was mentally ill.
4. Be sure to provide names and phone numbers of all witnesses.

STANDARDS FOR COMMITMENT

- Individual is mentally ill, is developmentally disabled, or is drug dependent.
- Individual is a proper subject for treatment,

AND…

IMMINENT DANGER

- Individual evidences ***imminent*** danger to self or others by demonstrating one of the following:
  - *Physical danger to self*: Substantial probability of physical harm to self based on threats or attempts of suicide or serious bodily harm. 51.20(1)(a)2.a.
  - *Physical danger to others*: Substantial probability of physical harm to others based on ***recent*** homicidal or other violent behavior or evidence that others are in reasonable fear of violence based on recent overt act, attempt or threat. 51.20(1)(a)2.b.

…IMMINENT DANGER (CONTINUED)

- *Impaired judgement*: Individual has such impaired judgement, based on evidence of a pattern of recent acts or omissions, that there is substantial probability of physical impairment or injury to self. 51.20(1)(a)2.c.
- *Unable to satisfy basic needs:* Individual demonstrates behavior manifested by recent acts or omissions that, due to mental illness, person is unable to satisfy basic needs for nourishment, medical care, shelter or safety so that substantial probability exists that death, serious physical injury, debilitation or disease will imminently ensure unless person receives prompt attention and adequate treatment. 51.20(1)(a)2.d.

…IMMINENT DANGER (CONTINUED)

- *5th Standard*: the subject is unable to understand or apply an understanding of the advantages and disadvantages of treatment to his or her mental illness in order to make an informed choice as to whether to accept or refuse medication or treatment AND, based on treatment history and recent acts or omissions, the subject needs care or treatment to prevent further disability or deterioration AND a substantial probability that, if left untreated, lack services necessary for his or her health or safety or suffer mental, emotional, or physical harm. 51.20(1)(a)2.e.

…IMMINENT DANGER (CONTINUED)

- Just because someone is in the jail, doesn't mean that they can't still be a danger to themselves.
- The food, shelter, or other care provided by the jail does NOT constitute reasonable provision of care or protection available in the community. 51.20(1)(ab)

SPECIAL STANDARDS

- Extension of Commitment – Person would meet the commitment standards listed in Sec. II. B if treatment were withdrawn.
- Conversion from Chapter 51 to Chapters 55/880.

THREE PARTY PETITIONS

- A civil action wherein three adults, at least one of whom has personal knowledge of the individual's behavior, sign a petition drafted by the Corporation Council alleging that the individual is mentally ill, dangerous, and a fit subject for treatment. Law enforcement is not typically involved in this procedure.

The same dangerousness that has to be present in a 51.15 would also need to be present in this petition.

COURT PROCEEDINGS

- Probable cause hearing to be held within 72 hours
- Four outcomes based on treating physician's assessment:
  - Dismissal – (No longer dangerous, didn't meet criteria, or more appropriate for outpatient or voluntary treatment, etc.)
  - Settlement agreement
  - Commitment order
  - Proceed to Final Hearing – An individual has the right to stipulate to an agreement deemed appropriate, and the ability to waive their right to probable cause by proceeding directly to final hearing.

COURT PROCEEDINGS (CONTINUED)

- Law enforcement officers needed for testimony at a probable cause hearing will be notified immediately upon decision that there will be a hearing.
- Arrive about 15 minutes prior to time of start of hearing
- You will be asked questions about why you took the person into custody, including:
  1. Your observations regarding a recent act or attempt or threat to act or omission of person
  2. Information about the recent act, attempt, threat or omission, that was reliably reported to you.

****Be detailed and specific – Often the officer and other lay witnesses are significant evidence regarding the danger element when the subject has not made admission.**

SETTLEMENT AGREEMENTS VS. COMMITMENTS

SETTLEMENT AGREEMENT

- 90 days
- CANNOT be extended
- Involuntary medication CANNOT be ordered
- Crisis plan appointment with county staff
- Typical inpatient stay no longer than two weeks

COMMITMENT ORDER

- 6 months
- CAN be extended
- Involuntary medication CAN be ordered if necessary
- Crisis plan appointment with county staff
- Inpatient stay can be for the duration of up to 6 months if necessary.
- Consumer can no longer possess firearms without petitioning the court.

FINAL HEARING PROCEDURE

- Two independent evaluators assess the individual and form an opinion on level of care and treatment needs.
- If two evaluators are split, treating physician then breaks the tie.
- Evaluators and treating physician may testify in court, individual also has the right to waive their right to a final hearing and stipulate to the determined order.

TREATMENT AND COMMITMENT FOR INTOXICATED PERSONS AND OTHERS INCAPACITATED BY ALCOHOL

VOLUNTARY DETOXIFICATION PROCESS

"An intoxicated person may come voluntarily to an approved public treatment facility for emergency treatment. Any law enforcement officer, or designated person upon the request of a law enforcement officer, may assist a person who appears to be intoxicated in a public place and to be in need of help to his or her home, an approved treatment facility or other health facility, if such person consents to the proffered help. Section 51.13 shall govern voluntary admission of an intoxicated minor to an inpatient facility under this paragraph." Sec. 51.45(11)(a), Stats.

VOLUNTARY DETOXIFICATION PROCESS (CONT.)

- Any area general hospital can handle voluntary detoxes or medical emergencies.
- A voluntary detox client in an area general hospital who becomes unmanageable behaviorally may need to be taken by law enforcement to an approved inpatient unit under Sec. 51.45(11)(b), Stats.
- Hospitals are required to inform patients of the benefits of further diagnosis and appropriate voluntary treatment before discharging them. Sec. 51.45(11)(b) Stats.

INVOLUNTARY DETOXIFICATION PROCESS

"A person who appears to be incapacitated by alcohol or another drug shall be placed under protective custody by a law enforcement officer." Sec. 51.45(11)(b), Stats.

INVOLUNTARY DETOXIFICATION PROCESS (CONT.)

- Any person taken into custody under Sec. 51.45(11)(b), Stats., should be cleared at a local ER for transfer to an appropriate facility. The Sauk County crisis worker needs to be contacted to make arrangements.
- The facility is required to discharge the patient when they are no longer incapacitated, but no longer than 72 hours from admission, not including weekends or holidays. The patient may be hospitalized longer if they voluntarily consent. Sec 51.45(11)(b), Stats.

If the patient needs to be transferred to a detox facility, and has made suicidal statements, it is possible that a crisis re-evaluation may be necessary upon discharge.

INVOLUNTARY ALCOHOL COMMITMENTS

- Petition must allege grounds for involuntary commitment listed below:
  - Person habitually lacks self-control as to use of alcoholic beverages or other drugs, **AND**
  - Person uses alcoholic beverages or other drugs to extent that health is substantially impaired or endangered, and social or economic functioning is substantially disrupted.
- This condition is evidenced by a pattern of conduct dangerous to the person or others.

INVOLUNTARY ALCOHOL COMMITMENTS: DISPOSITION

- If petition and affidavits do not support grounds for commitment, the Court dismisses
- If petition and affidavits support grounds for commitment, the court may:
  - Order temporary commitment of subject to custody of DHS and order law enforcement to take person into protective custody and bring to an approved treatment facility designated by DHS.
  - Set time for preliminary hearing within 72 hours of person's arrival at approved public treatment facility, excluding weekends and legal holidays.
- Person, spouse, person's attorney, parents (if minor) and petition must be provided effective and timely notice of preliminary hearing, with copy of petition, supporting affidavits, and standards for commitment.
- Person also must receive their statement of rights under this proceeding.

APPLICATION OF CHAPTER 51 TO ACTUAL CASES

CASE STUDIES EXAMINED

CASE STUDY #1

- A middle-aged woman was found walking barefoot and wearing very little clothing, in the middle of winter. When approached by law enforcement, she was mumbling incoherently. When asked for her information, she was unable to communicate effectively, and could not recall any demographic information. She was transported to a local hospital where she was found to have suffered frostbite to her feet. It was learned that she resided out of state and was staying at a hotel in the area. This individual has a mental health diagnosis of schizophrenia, and admits to not taking her medications in over two months because she "doesn't need it". She had moments of lucid conversation with intermittent delusional and paranoid thinking. She claims that the nursing staff are part of the KGB and that they are out to "steal her secrets". Law enforcement found a hunting knife in her belongings, and when asked about this, she replied that she feels that she must protect herself "by any means necessary". She then became combative towards police and nursing staff, continuing to reference the knife and stating "even if it means taking you out". No supports were able to be identified and the consumer refused voluntary treatment.

CASE STUDY #1

RISK

- Found wandering outside in the elements in inappropriate clothing.
- Plan and intent to harm others
- No natural supports in the area
- Delusional and paranoid thinking
- Discontinuation of medications

…

- Lack of established care.

Any other concerning factors?

CASE STUDY #1: OUTCOME

This individual was placed under a chapter 51.15 as no supports could be identified and the consumer was not voluntary for treatment. The consumer was combative with officers and other staff, and continued to verbalize assaultive ideation. It was determined that this met dangerousness criteria for 51.15 due to risk of harm to others, and inability to care for self.

CASE STUDY #2

- Adolescent male attempted to tie an article of clothing around his neck in a secluded area at school. Police responded after a teacher interrupted the attempt, and transported him to a local hospital. During the crisis evaluation the youth denied continued suicidal ideation, but did express that these thoughts sometimes come and go. This individual has a history of depression, one suicide attempt three years ago via overdose, and has engaged in cutting behavior in the past. The individual's medication was recently changed; since that time his depression seems to have worsened and suicidal thoughts have become more frequent. He denies social issues at school (i.e. bullying) and has a supportive group of friends. The school counselor is aware of this individual and has a good relationship with him. This individual cites his family members as protective factors. He is currently connected to services which include community-based mental health care.

CASE STUDY #2

RISK

- Attempt, interrupted
- Previous suicide attempt
- Passive suicidal ideation
- Depression (psychiatric disorder)
- Impulsivity

PROTECTIVE FACTORS

- Wrap around services
- Support from family and friends
  - **Parents willing and able to take responsibility for safety
- Support from school
- Crisis support/follow up offered and accepted

CASE STUDY #2: OUTCOME

This consumer was able to return home with comprehensive safety planning, which involved his family and care team members. Crisis ensured that appropriate follow up was conducted, which included crisis check in calls over the weekend and establishing links with care team members and natural supports.

What factors might have changed the outcome?

CASE STUDY #3

- A middle-aged male recently got into an altercation with his wife and placed the barrel of a loaded gun to his head. He attempted to pull the trigger, but the gun jammed. His wife immediately called Law Enforcement. During the crisis assessment, it was learned that he and his wife were divorcing but still residing in the same home. The individual identified the need for help, and didn't feel he could remain safe at home. The couple moved to the area recently and he had no additional supports. He reported other firearms in the home that his wife was unaware of, and fear he would use them. He reported diagnoses of depression and anxiety, and a suicide attempt approximately 6 months ago via hanging. He wasn't taking medication but had been prescribed medication in the past. He was willing to try medication again noting "I no longer want to feel like this, I have to get better for my children". His wife was supportive but didn't feel she could ensure his safety.

CASE STUDY #3

RISK

- Middle aged male
- Failed suicide attempt
- Recent suicide attempt
- Environmental concerns
- Mental health diagnosis

PROTECTIVE FACTORS

- Cooperative and willing to seek help
- Supportive family member
- Children

CASE STUDY #3: OUTCOME

Crisis worked with this individual and his insurance to facilitate a voluntary placement.

What voluntary placement option is most appropriate?
Crisis bed vs. voluntary hospitalization?
Why?

CASE STUDY #4: JAIL SETTING

40 year old male in restraint chair due to uncooperative behavior. Told the nurse that he had bitten his cheek but refused to let the nurse check the injury. 15 minutes later, male stated that he was going to try to bite his tongue off so that he could go to the hospital. Crisis was contacted and by the time they arrived, the male was still trying to bite off his tongue and had blood running down the front of his shirt. Since his arrival at the jail, he has refused to eat or drink.

CASE STUDY #4

RISK

- Refusing to eat and drink
- Self-harm behavior
- Refusing medical care
- Uncooperative with jail staff

PROTECTIVE FACTORS

- Continual supervision by jail staff

CASE STUDY #4 OUTCOME

- Subject was taken to Winnebago and stipulated to a finding of probable cause and, ultimately, a 6-month commitment. He was discharged back to jail after about 2 weeks with an order for the involuntary administration of psychotropic medication.

How does this type of order benefit jail staff in this case?

51 POST PLACEMENT FOLLOW UP

- Monitor settlement agreements and commitments. An example includes confirming ongoing safety and stability through compliance with appointments for mental health and/or substance use (assessment, therapy, psychiatry).
- Establish links with treatment facilities and providers and providing copies of crisis documentation and agreements
- Meeting with MHRS staff to complete a crisis plan
- Review of case at biweekly Inpatient Review committee

ONGOING NEEDS

- Crisis needs continue to grow & are becoming more complex
- Lack of crisis stabilization options for children and adolescents
- Transportation barriers

RECENT CHANGES

- Language surrounding drug dependence
  - 51.45 (2)
  - 51.45 (10)

LIABILITY

- Chapter 51.15 (11)
  - Any individual who acts in accordance with this section, including making a determination that an individual has or does not have mental illness or evidences or does not evidence a substantial probability of harm under sub (1)(ar) 1., 2., 3., or 4., is not liable for any actions taken in good faith. The good faith of the actor shall be presumed in any civil action. Whoever asserts that the individual who acts in accordance with this section has not acted in good faith, has the burden of proving that assertion by evidence that is clear, satisfactory and convincing.