



Boynton Beach Police Department

BAKER ACT AND MARCHMAN ACT

	Index Code:	2007	
	Scope:	All Sworn Department Members	
	Effective Date:	March 3, 2025	
	Proponent Unit:	Office of the Chief	
	Rescinds:	New Policy	
Joseph DeGiulio Chief of Police		The electronic signature of this directive is saved on file within Power DMS	

Related References/Accreditation Standards:

Related Policies/Procedures: IC 2003.

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I. PURPOSE

The purpose of this policy is to establish guidelines and procedures for the proper implementation of either the Baker Act or the Marchman Act when protective custody is necessary.

II. SCOPE

This directive will apply to all Boynton Beach Police Department sworn members.

III. DISCUSSION

Chapter 394 and 397, Florida Statutes, provide law enforcement with the tools to take immediate steps to protect the health and welfare of individuals who suffer from mental illness or have lost the power of self-control, regarding alcohol or substance use, and as a result of their condition, are unable to determine or make a decision regarding their own care or treatment. Involuntary admissions to, or involuntary examinations by a licensed service provider may be initiated by law enforcement, within the scope of Florida Statutes 394.463 and 397.675, commonly referred to as the Baker Act and the Marchman Act, respectively.

IV. DEFINITIONS

- A. **Baker Act (F.S.S. 394.151, et seq.):** Also known as the “Florida Mental Health Act”, this law allows for the involuntary institutionalization and examination for up to seventy-two (72) hours of an individual who is believed to have a mental illness, and because of the mental illness is a potential harm to self or others.
- B. **Developmental Disability:** A disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.
- C. **Ex Parte Order:** Signed order of a circuit court judge requiring that a law enforcement officer, or other designated agent of the court, shall take the individual named in the order into custody, and deliver him or her to the nearest facility for an involuntary examination. A court may enter an ex parte order stating that an individual appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on sworn testimony, written or oral.

- D. **Impaired or Substance Abuse Impaired:** A condition involving the use of alcoholic beverages or any psychoactive or mood-altering substance in such a manner as to induce mental, emotional, or physical problems and cause socially dysfunctional behavior.
- E. **Incompetent (to consent to treatment):** Condition where an individual's judgment is so affected by his or her mental illness that the individual lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment.
- F. **Licensed Service Provider:** A public agency, a private for-profit or not-for-profit agency, a licensed physician, or any other licensed private practitioner, or a hospital, which offers substance abuse impairment services.
- G. **Marchman Act (F.S.S. 397.301, et seq.):** A law that allows an individual to be taken into protective custody by a court order or by a law enforcement officer, who believes that the individual (adult or juvenile) has lost the power or self-control with respect to substance use. The Hal S. Marchman Alcohol and Other Drug Services Act of 1993 replaced the Meyers Act under Florida Statute, Chapter 397. Substance Abuse Services.
- H. **Mental Illness:** An impairment of the emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with an individual's ability to meet the ordinary demands of living, regardless of etiology. For the purposes of this policy, the term does not include retardation or developmental disability as defined in F.S. Chapter 397. Intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.
- I. **Protective Custody:** For the purpose of this policy, protective custody shall mean the deliberate detention of a person for his/her own protection with or without that person's consent. Such detention is not to be considered an arrest for any purpose, and no entry or other record may be made to indicate that the person has been detained or charged with any crime. The nearest relative of a minor in protective custody must be notified by the law enforcement officer, as must the nearest relative of an adult, unless the adult requests that there be no notification.
- J. **Receiving Facility:** Any public or private facility designated by the State of Florida to receive and hold patients for involuntary admissions (Marchman Act) or involuntary examinations (Baker Act). The term "receiving facility" does not include a county jail.
- K. **Report of Law Enforcement Officer Initiating Involuntary Examination Form (CF-MH 3052a attached):** One-page authorized form to initiate the involuntary examination process under the Baker Act.
- L. **Report of Law Enforcement Officer Initiating Protective Custody Form (CF-MH 4002 attached):** Two-page authorized form to initiate protective custody under the Marchman Act.
- M. **Transportation to Receiving Facility Form (CF-MH 3100 attached):** Three-page form to be completed by the law enforcement officer regarding a Baker Act individual.

V. BAKER ACT

A. Baker Act Criteria

F.S. 394.463 provides that an individual may be taken to a designated receiving facility for involuntary Examination if there is reason to believe that the individual is mentally ill, and because of such illness:

1. Has refused voluntary examination after a conscientious explanation and disclosure of the purpose of the exam; or
2. Is unable to determine for him/herself whether the examination is necessary; and
3. Without care or treatment, the individual is likely to suffer from neglect or refuse to care for themselves; the neglect poses a real and present threat of substantial harm to their well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends, or the provisions of other services; or
4. There is substantial likelihood that without care or treatment the individual will cause serious bodily harm to him/herself or others in the near future, as evidenced by recent behavior.

B. Baker Act Procedures/Documentation

1. When in contact with an individual suspected to be mentally ill, the officer will observe his/her behavior. If it is determined that the individual is a danger to him/herself or others, the individual will be taken into custody, pursuant to the Baker Act, and delivered to the nearest receiving facility designated by the State of Florida.

- a. The appropriate form (*CF-MH 3052a*) shall be completed by the officer. The original is left with the receiving facility; a photocopy is made to include with the incident report.
 - b. The officer shall complete an incident report detailing the circumstances and the behavior observed, under which the individual was taken into custody for evaluation and/or treatment. A copy of the *CF-MH 3052a* form shall be submitted with the report.
2. Physical Injuries
- a. When an individual is taken into custody, pursuant to the Baker Act, and appears to have physical injuries that may require medical treatment, the officer having custody will then transport the individual to the nearest emergency room facility to have the injuries treated. At the officer's discretion, emergency medical services may be called to the scene for an evaluation, treatment, and/or transport.
 - b. When the individual has been medically cleared, he/she will be transported to the nearest designated receiving facility:
 - i. If the emergency room physician determines that the individual is to be admitted to the hospital, the officer having custody shall advise the on duty physician that the individual is to be evaluated for involuntary examination (Baker Act) by a hospital physician prior to the individual's release,
 - ii. The hospital is then responsible for transporting the individual to a mental health facility.
 - iii. Officer's will not transport (following a hospital admission) unless the transport company refuses to transport due to policy or safety concerns. All other transport requests (following a hospital admission) shall be referred to the Patrol Supervisor for transport approval.
3. Transport from a Facility other than a Hospital
- a. Officers will transport from a facility other than a hospital (i.e. a nursing home, assisted living facility, etc.) if requested by a person authorized to initiate an involuntary examination. Authorized personnel include physicians, clinical psychologists, psychiatric nurses, and clinical social workers.
 - b. The officer shall obtain the original **Certificate of Professional Initiating Involuntary Examination** (*CF-MH 3052b* attached), signed by the person authorizing the involuntary examination, and deliver it with the individual to the nearest designated receiving facility.
 - c. The certificate will be delivered to the receiving facility with the individual, and a copy included with the officer's report.
4. Pending Misdemeanor Charges
- a. When an individual is taken into custody pursuant to the Baker Act and also has pending misdemeanor charges, the officer having custody will transport the subject to the nearest designated receiving facility.
 - b. The officer will advise a representative of the receiving facility to notify the Watch Commander when the subject's evaluation and/or treatment is complete. The subject will then be transported to the county jail for processing of the criminal charges.
5. Felony Charges
- When an individual is charged with a felony, he/she will be taken to the county jail for processing. The nearest designated mental health receiving facility shall be notified of the subject's location, in accordance with F.S. 394.462 (1) (f) and (g).
6. Juveniles
- In cases where a juvenile is taken into custody pursuant to the Baker Act, he/she will be transported to the nearest receiving facility. A parent or adult guardian shall be notified as soon as is practicable regarding the circumstances that resulted in the Baker Act determination, and the location of the minor.
- C. Transport Procedures
1. When practicable, the officer initiating the Baker Act will transport the individual to the nearest receiving facility. Upon supervisory approval, assistance for transport by another officer can be requested.
 2. Individuals taken into custody pursuant to F.S.S. 394.463 will be handcuffed or otherwise appropriately restrained, and transported in a marked and caged patrol vehicle. Refer to Index Code 2003 Transport

Procedures.

3. The transporting officer shall inform the individual in custody that they are not “under arrest” and are being detained for their protection and the protection of the community.

VI. Marchman Act

A. Marchman Act Criteria

F.S. Chapter 397, the “Hal S. Marchman Alcohol and Other Drug Services Act of 1993,” is commonly referred to as the Marchman Act and provides law enforcement with the criteria for involuntary admissions, including protective custody. For purposes of assessment, stabilization, and involuntary treatment. In accordance with F.S. 397.675, a person meets the criteria for involuntary admission if there is a good faith reason to believe that the individual is substance abuse impaired, and because of such impairment:

1. Has lost the power of self-control with respect to substance use, and either;
2. Has inflicted or threatened or attempted to inflict, or unless admitted likely to inflict, physical harm on him/herself or another; or
3. Is in need of substance abuse services and, by reason of substance abuse impairment his/her judgment has been impaired that the person is incapable of appreciating his/her need for such services, and of making a rational decision in regard thereto. Mere refusal to receive such services does not constitute evidence of lack of judgement, with respect to his/her need for such services.

B. Marchman Act Procedures

1. When in contact with an individual suspected to be substance impaired, the officer will observe his/her behavior. The officer may implement protective custody measures if it is determined that the individual (adult or juvenile) meets the criteria set forth in F.S. 397.675 and is brought to the attention of law enforcement or is in a public place.
2. Protective Custody *with* Consent
With the individual’s consent, the officer may contact a family member or friend to provide assistance and/or transport to the individual’s home, a hospital, or detoxification receiving facility. Under exigent circumstances (i.e. when all other possible options have been exhausted), the officer shall take the individual into protective custody and transport him/her to their residence, a hospital, or a designated detoxification or addiction facility, whichever the officer determines is most appropriate.
3. Protective Custody *without* Consent
If the individual fails or refuses to consent to assistance, the officer, after giving due consideration to the expressed wishes of the individual and exercising lawful discretion may:
 - a. Contact a family member or friend to provide assistance;
 - b. Take the individual to a hospital or a licensed detoxification or addiction receiving facility.
4. The nearest relative of a minor, in protective custody, must be notified by the officer as soon as is practicable, as must the nearest relative of an adult, unless the adult requests that there be no notification.
5. Physical Injury or Other Health Concerns
When physical injuries requiring treatment are observed, or if the officer is otherwise concerned for the physical health of the individual due to the extent of the substance abuse, the individual will be transported to the nearest emergency room facility. At the officer’s discretion, emergency medical services may be called to the scene for evaluation, treatment, and/or transport:
 - a. If the individual is “medically cleared,” the officer will transport to the most appropriate location as previously determined in Section VI, B, 2 and 3, above.
 - b. If the individual is admitted by the hospital, the officer will have met the requirements of F.S. 397.6771 and 397.6772. No further action is needed.

C. Juvenile Procedures

In most situations, the juvenile can be released to the nearest adult relative or guardian. If protective custody is necessary, the officer will notify the nearest adult relative, or guardian, and transport the juvenile to the appropriate regional facility, designated to accept Marchman Act juveniles.

D. Transport Procedures

Individuals taken into custody pursuant to F.S. 394.463 will be handcuffed or otherwise appropriately restrained, and transported in a marked and caged patrol vehicle.

E. Documentation

1. The appropriate form shall be completed by the officer. The original is left with the receiving facility; a photocopy is made to include with the incident report.
2. The officer shall complete an incident report detailing the circumstances and the behavior observed, under which the individual was taken into protective custody for evaluation and/or treatment. A copy of the *CF-MH-4002* form shall be submitted with the report. The *CF-MH-4002* form shall be considered a clinical record under F.S.394.463.

F. Immunity from Liability

F.S. 397.6775 "Immunity from liability". A law enforcement officer, acting in good faith, pursuant to this part may not be held criminally or civilly liable for false imprisonment.



Report of Law Enforcement Officer Initiating Involuntary Examination

State of Florida, County of _____, Florida

I, _____, am a law enforcement officer certified by the State of Florida.

In my opinion, _____ appears to meet the following criteria for involuntary examination:

1. I have reason to believe said individual has a mental illness as defined by section 394.455, Florida Statutes:

"Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only by dementia, traumatic brain injury, antisocial behavior, or substance abuse.

AND because of the mental illness (check all that apply):

- a. Individual has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination; **OR**
- b. Individual is unable to determine for himself/herself whether examination is necessary; **AND**

2. Either (check all that apply):

- a. Without care or treatment said individual is likely to suffer from neglect or refuse to care for himself/herself, and such neglect or refusal poses a real and present threat of substantial harm to his/her well-being and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; **OR**,
- b. There is substantial likelihood that without care or treatment the individual will cause serious bodily harm to (check one or both)
 - self others in the near future, as evidenced by recent behavior.

Please note: No items in the following table should be construed as restricting law enforcement officers from initiating this involuntary examination. Your responses are required and will be used by the Department to conduct data analyses, per s. 394.463(4), F.S.

This individual was transported directly to a Baker Act Receiving Facility.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
This individual was transported from an emergency department (ED) to a Baker Act Receiving Facility.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
This individual was first transported to an ED to address a medical issue.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has the law enforcement officer initiating this examination completed a 40-hour Crisis Intervention Team (CIT) training program?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Was this examination initiated in the officer's capacity as a school resource officer/deputy?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Circumstances supporting the belief the criteria are met, including specific information about the individual's behavioral health issues, threats and actions, and information offered by others. If school personnel are involved, please describe the nature of their involvement.

Signature of Law Enforcement Officer

Date (mm/dd/yyyy)

Time (of transfer of custody from law enforcement officer to provider) am pm

Printed Name of Law Enforcement Officer

Full Name of Law Enforcement Agency (printed)

Badge or ID Number

Law Enforcement Case Number

Report of Law Enforcement Officer Initiating Protective Custody

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Transportation to Substance Abuse Provider

Location Found:	Taken To:
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Family members or others present when person was taken into custody:

Name #1	Relationship	Phone Number
Address of Name #1		

Name #2	Relationship	Phone Number
Address of Name #2		

Name #3	Relationship	Phone Number
Address of Name #3		

Name #4	Relationship	Phone Number
Address of Name #4		

Next of kin and contact information (if known):
--

Indicate personal knowledge by family members and others about the person's condition:

This written report shall be included in the person's clinical record.



TRANSPORTATION TO RECEIVING FACILITY

Part I: General Information

Identifying Information about the person (if known)			
Person's Name (please print):			
Florida County of Residence:		OR	State (if not FL):
Florida Zip Code of Residence:		OR	<input type="checkbox"/> Homeless (no zip code)
Social Security Number (Last Four Digits):	Date of Birth (mm/dd/yyyy)	-	-

Family members, next of kin, or others present when individual was taken into custody			
Name	Address	Relationship	Phone Number

Emergency Contact (per Section 394.462, F.S., include all emergency contact information discoverable through FCIC, DAVID, or other electronic databases maintained by the FDLE or the FLHSMV or any other available database)			
Name	Address	Relationship	Phone Number

Indicate personal knowledge by family members and others about the individual's condition.

Delivered to (appropriate facility within the behavioral health receiving system and pursuant to the approved transportation plan):

If the individual is a citizen of another country, was the consulate notified: Yes: No:

Person has a pending criminal charge or investigation: Yes: No:

If Yes: Case Number: _____ Law Enforcement Contact Information: _____

Signature of Law Enforcement Officer _____ Date(mm/dd/yyyy) _____ Time am pm

Printed Name of Law Enforcement Officer _____ Full Name of Law Enforcement Agency _____

Badge or ID Number _____ Law Enforcement Case Number _____

This form must be delivered with the individual to the receiving facility for inclusion in the clinical record and submitted by the facility to the Department's Baker Act Data portal. A copy may be retained by the law enforcement agency.

**Part II – Used When Law Enforcement Consigns Individuals to Medical Transport Service
(Page 2)**

If transport is **not** conducted by a law enforcement agency due to the medical condition of the individual or due to a county-funded contract with a medical transport company in accordance with the transportation plan, print the name of the company which will transport the individual to the nearest emergency room in the case of a medical emergency:

or, if not a medical emergency, to the appropriate receiving facility within the behavioral health receiving system

_____ (specify facility individual is to be taken)

The law enforcement agency and the transport service must agree that the continued presence of law enforcement personnel is not expected at the time of consignment to be necessary for the safety of the individual or others.

I, _____ of the _____
Printed Name of Medical Transport Service Representative Printed Name of Medical Transport Service

agree that the continued presence of the law enforcement agency is not expected to be necessary for the safety of

_____ or others. By affixing my legal signature and date/time of signing below, I understand that continued transporting of the individual named above to a receiving facility is no longer the responsibility of the law enforcement agency. The responsibility is assumed by the emergency medical transport service or private transport company, in accordance with s. 394.462(1), F.S.

Signature of Representative of Medical Transport Service

Date Signed

Time Signed am pm

This form must be delivered with the individual to the receiving facility for inclusion in the clinical record and submitted by the facility to the Department's Baker Act Data portal. A copy may be retained by the law enforcement agency and by the medical transport service.

**Part III – Used When Law Enforcement Consigns Individuals
to a Mental Health Overlay Program or a Mobile Crisis Response Service
for Transportation to a Receiving Facility
(Page 3)**

If transport is **not** conducted by a law enforcement agency, print the name of the organization which will transport the individual to the appropriate receiving facility within the behavioral health receiving system:

_____ (specify facility individual is to be taken)

The law enforcement agency and the mental health overlay program or a mobile crisis response service must agree that the continued presence of law enforcement personnel is not expected at the time of consignment to be necessary for the safety of the individual or others.

I, _____ of the _____
Printed Name of Mental Health Overlay Program or a Mobile Crisis Response Service Representative Printed Name of Mental Health Overlay Program or a Mobile Crisis Response Service

agree that the continued presence of the law enforcement agency is not expected to be necessary for the safety of

_____ or others. By affixing my legal signature and date/time of signing below, I understand that continued transporting of the individual named above to a receiving facility is no longer the responsibility of the law enforcement agency. The responsibility is assumed by the above-named provider, in accordance with s. 394.462(1), F.S.

Signature of Mental Health Overlay Program or a Mobile Crisis Response Service Representative

Date Signed

_____ am pm
Time Signed

This form must be delivered with the individual to the receiving facility for inclusion in the clinical record and submitted by the facility to the Department's Baker Act Data portal. A copy may be retained by the law enforcement agency and by the mental health overlay program or a mobile crisis response service.



Certificate of Professional Initiating Involuntary Examination

ALL SECTIONS OF THIS FORM MUST BE COMPLETED AND LEGIBLE (PLEASE PRINT)

I have **personally examined** (printed name of individual) _____ at (time) _____ am pm
 on (date) _____ in _____ County and said individual appears to meet criteria for involuntary
 examination (time noted must be within the preceding 48 hours).

This is to certify that my professional **license number** is: _____ and I am a licensed (*check one box*):
 Psychiatrist Physician (but not a Psychiatrist) Clinical Psychologist Psychiatric Nurse Clinical Social
 Worker
 Mental Health Counselor Marriage and Family Therapist Physician Assistant Advanced Practice Registered Nurse
 under s. 464.0123 F.S.

Section I: CRITERIA

1. There is reason to believe said individual has a mental illness as defined in section 394.455, Florida Statutes:
 "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to
 perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the
 purposes of this part, the term does not include a developmental disability as defined in chapter 393, intoxication, or conditions manifested only
 by dementia, traumatic brain injury, antisocial behavior, or substance abuse.

Diagnosis of Mental Illness is: List all mental health diagnoses applicable to this individual & DSM/ICD Codes:

AND because of the mental illness (check all that apply):

- a. Individual has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination;
OR
 b. Individual is unable to determine for himself/herself whether examination is necessary; **AND**

2. Either (check all that apply):

- a. Without care or treatment said individual is likely to suffer from neglect or refuse to care for himself/herself, and such neglect or refusal poses
 a real and present threat of substantial harm to his/her well-being and it is not apparent that such harm may be avoided through the help of
 willing family members or friends or the provision of other services; **OR**,
 b. There is substantial likelihood that without care or treatment the individual will cause serious bodily harm to
 (check one or both) **self** **others** in the near future, as evidenced by recent behavior.

Section II: SUPPORTING EVIDENCE

Document observations supporting the criteria in Section I (including evidence of recent behaviors related to criteria). Include the
 individual's behaviors and statements, including those specific to suicidal ideation, previous suicide attempts, homicidal ideation or self-
 injury. If school personnel are involved, describe the nature of their involvement.

Certificate of Professional Initiating Involuntary Examination

Section III: OTHER INFORMATION

Other information, including source relied upon to reach this conclusion is as follows. If information is obtained from other persons, describe these sources (e.g., reports of family, friends, other mental health professionals or law enforcement officers, as well as medical or mental health records, etc.).

Section IV: INVOLUNTARY EXAMINATION FOR OUTPATIENT SERVICES ORDERS IN ACCORDANCE WITH 394.4655, F.S.

Complete this item ONLY if this involuntary examination is being initiated by a physician as defined by section 394.455(33), F.S. and, in your clinical judgment, the individual has failed or refused to comply with an involuntary outpatient services order.

For Section IV only, a personal examination within the preceding 48 hours is not required. In the box below, provide documentation of efforts to solicit compliance with the outpatient services treatment plan. The following efforts have been made to solicit compliance:

Section V: INFORMATION FOR LAW ENFORCEMENT

Provide identifying information (if known) if requested by law enforcement to find the individual so he/she may be taken into custody for examination:

Age: _____ Male Female Race/ethnicity: _____

Other details (such as height, weight, hair color, what wearing when last seen, where last seen):

If relevant, information such as access to weapon, recent violence or pending criminal charges:

This form must be transported with the individual to the receiving facility to be retained in the clinical record. Copies may be retained by the initiating professional and by the law enforcement agency transporting the person to the receiving facility.

Section VI: SIGNATURE

Signature of Professional

Date Signed

Time

am pm

Printed Name of Professional

Phone Number (including area code)