

CF OPERATING PROCEDURE
NO. 155-56

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, February 12, 2021

Mental Health/Substance Abuse

GUIDELINES FOR ADMISSION OF FORENSIC INDIVIDUALS TO A
STATE MENTAL HEALTH TREATMENT FACILITY

1. Purpose. This operating procedure describes admission procedures after Florida's Circuit Courts commit individuals to the care of the Department of Children and Families pursuant to Chapter 916, Florida Statutes (F.S.).
2. References.
 - a. Chapter 916, F.S., Mentally Deficient and Mentally Ill Defendants.
 - b. Florida Rules of Criminal Procedure (FRCRP) 3.210 – 3.212
 - c. FRCRP 3.216 – 3.217
 - d. CFOP 155-38, Procedures for Post Commitment Diversion of Individuals Adjudicated Incompetent to Proceed or Not Guilty by Reason of Insanity.
3. Scope. This operating procedure applies to persons to be admitted to state mental health treatment facilities pursuant to Chapter 916, F.S., due to mental illness.
4. Definitions. As used in this operating procedure, the following terms shall mean:
 - a. Commitment Criteria. Those standards applied to any individual who is mentally ill and committed to the Department of Children and Families pursuant to Chapter 916, F.S., and:
 - (1) Who has been determined to need treatment for a mental illness;
 - (2) Who has been found incompetent to proceed on a felony offense or has been acquitted of a felony offense by reason of insanity;
 - (3) Who has been determined to:
 - (a) Be dangerous to himself or herself or others; or,
 - (b) Present a clear and present potential to escape; and,
 - (4) Who is an adult or a juvenile prosecuted as an adult.
 - b. Complete Commitment Packet. A packet containing a certified Order of Commitment pursuant to Chapter 916, F.S., and includes copies of the expert report(s) filed with the court pursuant to the order of examination, copies of any other psychiatric, psychological or social work reports submitted to the court relative to the mental state of the defendant, and copies of the charging instrument and all supporting affidavits or other documents used in the determination of probable cause.

This operating procedure supersedes CFOP 155-56 dated March 12, 2019.

OPR: SMF

DISTRIBUTION: X: OSGC; ASGO; Region/Circuit Mental Health Treatment Facilities.

c. Court. The committing circuit court.

d. Department. The Department of Children and Families (DCF), hereafter also known as “the Department.”

e. Forensic Admissions Office. A functional title given to the Department’s office that coordinates all forensic admissions to any of the state mental health treatment facilities. Forensic Admission Office responsibilities fall within the Mental Health Treatment Facilities Section, Policy and Programming, at the Department’s Substance Abuse and Mental Health headquarters office in Tallahassee.

f. Forensic Admissions Office Staff. A functional title given to the staff members within the Forensic Admissions Office whose responsibilities entail receiving and processing complete commitment packets and scheduling forensic admissions.

g. Forensic Mental Health Treatment Facility. A secure mental health treatment facility established within the Department or by contract with the Department to serve residents committed pursuant to Chapter 916, Florida Statutes. Forensic facilities include security-grade buildings.

h. Forensic Specialist/Forensic Case Manager (hereafter “Forensic Specialist”). A staff member employed by a community mental health provider, under contract with a Managing Entity, to provide an array of services to individuals who are at risk or have been committed to the Department of Children and Families pursuant to the provisions of Chapter 916, F.S., by one of the state’s twenty circuit courts. Specifically, these are individuals who have been adjudicated Incompetent to Proceed (ITP) or Not Guilty by Reason of Insanity (NGI) due to mental illness.

i. Forensic Step-Down Beds. Designated forensic capacity at a civil mental health treatment facility established within the Department or by contract with the Department to serve residents committed pursuant to Chapter 916, F.S., who are deemed to no longer require a secure mental health treatment setting.

j. Incompetent to Proceed (ITP). A determination made by the Circuit Court that an individual is unable to proceed at any material stage of a criminal proceeding. These stages shall include pretrial hearings and trials involving questions of fact on which the defendant might be expected to testify. It shall also include entry of a plea, proceedings for violations of probation or violation of community control, sentencing, and hearings on issues regarding a defendant’s failure to comply with court orders. It shall also consider conditions or other matters in which the mental competence of the defendant is necessary for a just resolution of the issues being considered.

k. Managing Entity (ME). As defined in s. 394.9082(2)(b), F.S., an entity that manages the delivery of behavioral health services.

l. Non-Restorable. An individual’s competency is non-restorable when it is not likely that he or she will regain competency in the foreseeable future.

m. Not Guilty by Reason of Insanity (NGI). A determination made by the Circuit Court that an individual is acquitted of criminal charges because the individual is found insane at the time of the offense.

n. Resident. A person who receives mental health treatment services in a forensic or civil mental health treatment facility. The term is synonymous with “client”, “consumer”, “individual”, “patient”, or “person served”.

o. Restorable. An individual who is expected to regain competency to proceed in the foreseeable future.

p. State Mental Health Treatment Facility. A facility operated by the Department of Children and Families or by a private provider under contract with the Department to serve individuals committed pursuant to Chapter 394, F.S., or Chapter 916, F.S.

5. General Procedures for Processing Commitment Packets.

a. To the extent possible, each Chapter 916, F.S., commitment packet received in the Forensic Admissions Office will be reviewed on the same day that it is received, for appropriateness and completeness prior to placing the individual's name on the forensic admission waiting list or assigning admission to a treatment facility.

b. Review by Forensic Admissions Office staff will assess the following:

(1) Does the individual have complex medical issues that may preclude admission to a maximum-security forensic treatment facility? Medical information will be requested for all individuals committed to the care of the Department per DCF form CF-MH 1062, "County Jail Discharge/Transfer to State Mental Health Facility" available at

<https://eds.myflfamilies.com/DCFFormsInternet/Search/DCFFormSearch.aspx>

(2) Does the individual have a mental illness?

(3) Is the individual deemed to be restorable in the foreseeable future, if the commitment is for Incompetence to Proceed?

(4) Does the commitment packet include the evaluation report(s)?

(a) Are the conclusions and recommendations of the evaluations consistent with the court's order of commitment?

(b) Do the evaluations address whether the individual meets the criteria for admission to a secure forensic treatment facility?

(c) Do the evaluations include recommendations for alternatives to commitment to a forensic treatment facility?

(5) If the individual is committed as not guilty by reason of insanity, do the evaluations indicate he/she is competent to proceed?

c. If the commitment order is appropriate and the commitment packet is complete as defined in paragraph 4b of this operating procedure, the individual is placed on the waiting list and scheduled for admission to a facility as soon as space becomes available. Section 916.107(1)(a), F.S. requires the Department to admit individuals within 15 days of receiving a copy of the court commitment order and all supporting documents required in Rules 3.212 or 3.217, FRCP.

d. If the packet is missing information or contains potential problems with the commitment, the individual's name and identifying information will be placed on the "problematic list," pending receipt of the information.

(1) Forensic Admissions Office staff will send an email to the Department's Assistant General Counsel and Regional Legal Counsel, court officials, Forensic Coordinators and Forensic Specialists to request assistance with obtaining missing paperwork or seeking clarification from the

court. Details of why the commitment is considered inappropriate must be included in the email message.

(2) After review by the Department's Assistant General Counsel and Regional Legal Counsel, the individual committed is either placed on the forensic admission waiting list and assigned admission to a forensic treatment facility when space becomes available or the Office of the General Counsel will coordinate efforts to challenge the commitment order in court. On those occasions that a commitment order is to be challenged, the appropriate Regional Legal Counsel will immediately file the required motions to intervene to vacate the commitment order.

(3) If it appears that the commitment order will not be vacated or amended within 15 days of receipt of the referral, the General Counsel's Office is contacted to advise whether the individual should be admitted or removed from the waiting list.

(4) If, after review of the commitment packet, it appears that post-commitment diversion may be appropriate pursuant to CFOP 155-38, the Department's Assistant General Counsel and Regional Legal Counsel will be contacted. If it is determined that diversion is appropriate because the individual has non-violent offenses or other diversion indicators as specified in CFOP 155-38, the Department's Regional Legal Counsel will immediately file the appropriate motions to intervene to vacate the commitment order or to amend the order to provide community-based treatment as an alternative to commitment.

(5) Admission to a mental health treatment facility does not preclude continuing efforts to vacate the commitment order or pursue a conditional release order.

(6) The Department will comply with the court's final decision.

6. Admission Procedures.

a. Forensic Admission Office staff will review the jail medical form if received and determine appropriate placement. Additional medical information will be requested if serious medical conditions are identified.

b. Forensic Admissions Office staff will contact the sheriff's transportation unit of the committing county to schedule an admission date to the facility. An admission date will be offered within the statutorily required 15 days. Each forensic facility serves the entire state, so that individuals may be admitted to any of the facilities. However, when capacity is available and when the service needs of the individual can be met, individuals are admitted to the facility closest to the committing court and/or supportive family.

(1) If the facility closest to the committing county has no available female capacity or no available medical capacity if required, the individual will be admitted to another facility that has such capacity.

(2) Admission to a forensic step-down bed at a civil treatment facility is permissible, if deemed appropriate by the Department.

c. Forensic Admissions Office staff will update the forensic waiting list with the scheduled admission dates daily.

d. Forensic Admissions Office staff will notify the admitting mental health treatment facility of each scheduled admission. The individual's commitment packet and jail medical form will be scanned and sent to the admitting facility.

e. Forensic Admission Office staff will forward admission notification via email to the County Sheriff's Transportation Unit.

f. Forensic Admission Office staff will notify the admitting facility immediately when the committing county has changed a previously scheduled admission date to a new admission date.

g. Forensic Admission Office staff will verify that individuals scheduled for admission each day have arrived at their designated facilities. Individuals who have been admitted will have their names removed from the forensic waiting list.

h. Forensic Admission Office staff will maintain a forensic resident database containing information on each forensic resident committed to the care of the Department, to include the individual's name, legal status, date of commitment, county of commitment, legal status, date of admission, date admission was offered (if different from the admission date), admitting facility name, and other demographic information pertaining to the individual committed.

i. The Forensic Admissions Office staff and forensic facility staff involved in the resident's placement may, upon a request from a third party, provide the names of forensic residents, admission dates and discharge dates, and the fact that the resident is in a forensic facility. The previously mentioned information can be released at any time; however, clinical information cannot be disclosed without the resident's consent unless disclosure is in accordance with section 916.107(8), F.S.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

JACQUELINE A. YOUNG
Director, Policy and Programs

SUMMARY OF REVISED, ADDED, OR DELETED MATERIAL

Updated the definition of "Forensic Specialist" in paragraph 4h.