

CF OPERATING PROCEDURE
NO. 155-12

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, February 3, 2021

Mental Health/Substance Abuse

FORENSIC TRANSFERS TO CIVIL MENTAL HEALTH TREATMENT FACILITIES

1. Purpose. This operating procedure describes the procedures for the safe, orderly, and efficient transfer of residents in forensic mental health treatment facilities to forensic step-down facilities, when such transfers are appropriate for treatment as set forth in Section 916.105(3), Florida Statutes.
2. Scope. This operating procedure addresses the process by which residents may be transferred from a forensic facility to a forensic step-down facility. The operating procedure applies to residents committed to the Department pursuant to Chapter 916, Florida Statutes, as Incompetent to Proceed (ITP) or adjudicated Not Guilty by Reason of Insanity (NGI). This operating procedure does not apply to the transfer of individuals directly from jails to civil mental health treatment facilities, five-year Incompetent to Proceed residents whose charges are dismissed, or residents committed to a civil facility pursuant to Mosher v. State, 876 So.2d 1230 (Fla. 1st DCA 2004).
3. References.
 - a. Chapter 916, Florida Statutes, "Forensic Client Services Act."
 - b. Chapter 65E-20, Florida Administrative Code, Forensic Client Services Act Regulation.
 - c. CFOP 155-35, Violence Risk Assessment Procedure in State Mental Health Treatment Facilities.
 - d. CFOP 155-45, Guidelines for Conducting Sexually Violent Predator Assessment of Individuals Found Not Guilty by Reason of Insanity and Committed for Involuntary Hospitalization.
 - e. CFOP 155-48, Registration Guidelines for Forensic and Civil Resident Who are Classified as Sexual Offenders or Sexual Predators.
 - e. CFOP 155-54, Administrative Reviews of Individuals in High Profile Situations.
 - f. Mosher v. State, 876 So.2d 1230 (Fla. 1st DCA 2004).
4. Definitions. For the purposes of this operating procedure, the following definitions shall apply:
 - a. 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.
 - b. 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

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circuit courts. Specifically, these are individuals who have been adjudicated as Incompetent to Proceed (ITP) or Not Guilty by Reason of Insanity (NGI) due to mental illness.

c. Forensic Step-Down Facility. A civil mental health treatment facility established within the Department or by contract with the Department to serve residents committed pursuant to Chapter 916, Florida Statutes, who are deemed to no longer require a secure mental health treatment setting.

d. Forensic Step-Down Resident. A person with a current Chapter 916, Florida Statutes, commitment as Incompetent to Proceed due to mental illness or Not Guilty by Reason of Insanity, who resides in a civil mental health treatment facility. Incompetent to Proceed individuals whose charges have been dismissed due to remaining Incompetent to Proceed for five years who are recommitted to the Department under Chapter 394, Florida Statutes (Baker Act), are NOT considered forensic step-down residents. Incompetent to Proceed individuals who are considered by the Court to be non-restorable in less than five years who are recommitted to a civil mental health treatment facility pursuant to Mosher v. State, 876 So.2d 1230 (Fla. 1st DCA 2004), are also NOT considered a forensic step-down resident. Individuals not considered forensic step-down residents shall be included in the facility's civil census numbers.

e. 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, including trial of the case, pretrial hearings involving questions of fact on which the defendant might be expected to testify, entry of a plea, proceedings for violation of probation or violation of community control, sentencing, and hearings on issues regarding a defendant's failure to comply with court orders or conditions or other matters in which the mental competence of the defendant is necessary for a just resolution of the issues being considered.

f. 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.

g. Recovery Team. An assigned group of individuals with specific responsibilities identified on the resident's service plan, including the resident, psychiatrist, guardian, forensic specialist, family member, and other treatment professionals as determined by the resident's needs.

h. Resident. A person who resides in a state mental health treatment facility (civil or forensic setting). The term is synonymous with "client", "consumer", "individual", "patient" or "person served."

5. Transfer Process. Residents who can be treated most appropriately in a forensic step-down facility shall be transferred to such a facility as expeditiously as possible. Placement in a forensic step-down facility shall be considered when a transfer would allow the Department to provide treatment in a more appropriate, less restrictive setting.

a. Transfer Criteria. The forensic facility recovery team must determine which treatment environment is clinically indicated, is in the resident's best interest, protects others in the admitting forensic step-down facility, protects the public at large and promotes recovery. The recovery team will review the requirements of the law, the degree of danger due to mental illness presented by the individual to himself/herself and others, and the risk of escape.

(1) A review of the resident's clinical record and Violence Risk Assessment, as required by CFOP 155-35, Violence Risk Assessment Procedure in State Mental Health Treatment Facilities, shall be conducted by the recovery team when determining a resident's appropriateness to transfer to a forensic step-down facility.

(2) The recovery team must also consider the following:

- (a) The nature and severity of the crime associated with the resident's current commitment;
- (b) The nature and severity of the resident's prior charges or convictions;
- (c) Any incidents of physical harm to others during the current period of treatment, except in individual cases where documentation supports that the physical altercation was limited to self-defense;
- (d) Any repeated threats of serious harm to others during the current period of treatment;
- (e) A preoccupation with escape or actual attempts to escape during the current period of treatment;
- (f) The resident's ability to manage freedom of movement; and,
- (g) The resident's current length of stay in the forensic facility.

(3) In accordance with CFOP 155-54, Administrative Reviews of Individuals in High Profile Situations, any resident meeting the criteria for Administrative Review shall be referred to the Psychological Services Director in the Mental Health Treatment Facilities section of the Mental Health Program Office. Individuals are considered in high profile situations, for the purposes of this operating procedure, when their current criminal charges or histories include a charge dismissal, conviction, or insanity acquittal for homicide, sexual offense against a person, arson, or other charge or known behavior facility staff consider as dangerous and in need of external administrative review.

(4) Where applicable, forensic facilities and forensic step-down facilities must also ensure adherence to the transfer requirements set forth in CFOP 155-45 (Guidelines for Conducting Sexually Violent Predator Assessment of Individuals Found Not Guilty by Reason of Insanity and Committed for Involuntary Hospitalization) and CFOP 155-48 (Registration Guidelines for Forensic and Civil Resident Who are Classified as Sexual Offenders or Sexual Predators).

(5) Residents serving a concurrent Department of Corrections sentence(s) are NOT eligible for transfer to a forensic step-down facility.

b. Referral Guidelines. It is the policy of the Department to make transfers as smooth and efficient as possible. When considering transfer, the following guidelines must be followed:

(1) Florida State Hospital, Northeast Florida State Hospital and South Florida State Hospital each have capacity designated to accept the transfer of residents from forensic facilities who meet the criteria set forth in this operating procedure. Florida State Hospital has designated capacity to serve its catchment area and the entire state. Northeast Florida State Hospital and South Florida State Hospital both serve residents from their designated catchment areas but may be used for other regions. The forensic medical beds at Northeast Florida State Hospital will serve the entire state.

(2) Residents should be referred to the forensic step-down facility whose catchment area serves their county of commitment and/or county of residence.

(3) In addition to the criteria set forth in this operating procedure, Florida State Hospital, Northeast Florida State Hospital and South Florida State Hospital will also accept the transfer of

forensic residents from outside their catchment area when the resident meets any of the following criteria:

(a) The resident has family members living in the catchment area of the facility and there is documented evidence of the family's level of interest and support (i.e., visits, phone calls, and willingness to assist with discharge planning); and/or,

(b) The resident's transfer would facilitate discharge planning efforts to the catchment area of the facility; and/or,

(c) The resident's catchment area civil facility has no vacancies and anticipates the resident may have to wait 90 days or more for a bed in the catchment area facility.

(4) Although the decision to recommend transfer to a forensic step-down facility is made by the recovery team, preliminary approval of the transfer request rests with the transferring facility's Clinical Director and Forensic Administrator, in consultation with the Hospital Legal Counsel. The transferring facility's Clinical Director and Forensic Administrator will review the recommendation and, if in agreement, proceed with the transfer process by referring the resident's case to the Chief Hospital Administrator for final approval.

c. Referral Process.

(1) The forensic facility administrator will provide the judge, state attorney and public defender or private attorney in the court of jurisdiction a written notice of intent to transfer the resident to a less restrictive forensic step-down facility. A summary report of the resident's clinical condition, including the recommendation for transfer, will be attached to the notice of intent to transfer letter.

(2) A copy of the intent to transfer notice and summary report will be mailed to the resident's case manager, region program supervisor and the region forensic coordinator for the committing circuit at the same time these documents are mailed to the Court.

(3) The forensic facility administrator or designee will then contact the appropriate civil facility administrator or designee to request the transfer and provide a copy of the summary report and other transfer documents as indicated on the Facility to Facility Transfer Checklist (form CF-MH 1060, available in DCF Forms). Florida State Hospital is exempt from using the checklist when making intra-hospital transfers.

(4) The administrator or designee of the forensic step-down facility receiving the referral will review the information and contact the referring forensic administrator or designee to inform them of the resident's acceptance or denial, within seven working days of receipt of the referral, regardless of whether a bed is immediately available or not.

(5) Denial of a referral must be based on the forensic step-down facility's clinical judgment regarding their ability to meet the resident's treatment needs and security requirements. The rationale of a resident's transfer denial shall include the name and title of the clinician(s) who made the decision, the exact clinical rationale for the denial, behaviors or other changes that would need to occur for the resident to be accepted, as well as a suggested time frame before making another referral.

(6) If the resident is accepted for transfer, but a bed is not immediately available, the administrator or designee of the forensic step-down facility shall provide the forensic administrator or designee with a time estimate for transfer (i.e., 30 days, 45 days, 90 days or more, etc.).

(7) Residents referred to and accepted by Northeast Florida State Hospital or South Florida State Hospital whose transfer will be significantly delayed due to a lack of an available vacancy

(no anticipated vacancies for 90 days or more) should also be referred to Florida State Hospital. In these cases, the resident will transfer to whichever forensic step-down facility has the first available vacancy.

(8) Once the transfer arrangements have been finalized, the forensic facility designee will contact the region forensic coordinator and forensic specialist to inform them of the resident's transfer date.

(9) On the day of the transfer, the forensic facility shall send an updated packet with the resident. The forensic facility may fax sections of that packet such as the medication administration record as requested by the civil step-down facility.

d. Transportation. The forensic facility designee will be responsible for arranging the physical transfer of the resident to the forensic step-down facility.

e. Return to Forensic.

(1) A request to return the resident to a forensic facility must be submitted to the civil facility administrator, if the recovery team makes a clinical judgment that they are no longer capable of meeting the resident's treatment needs and security requirements.

(2) The transfer of a forensic step-down resident back to a forensic facility will take place upon a request by the civil facility administrator to the Headquarters SAMH Office's Chief Hospital Administrator and Forensic Admissions Coordinator, provided the forensic step-down resident remains committed under Chapter 916, Florida Statutes. The Administrator of the forensic facility where the resident previously resided should be copied on the message as a courtesy. Requests will be based upon documented behaviors that indicate a more secure or restrictive environment is needed, and the unit's documented attempts to manage these behaviors. This includes such behaviors as physical harm to others, repeated threats of physical harm to others, preoccupation with escape or actual escape attempts. Copies of this documentation will be included in the transfer packet. The Chief Hospital Administrator must approve the transfer.

(3) The forensic facility will swap one of its residents currently awaiting transfer to the civil facility for the resident being returned to the forensic facility. When a swap is not possible, the Forensic Admissions Coordinator must approve the use of a vacant, secure forensic bed and date of transfer.

(4) The civil facility administrator will send written notice of the return to forensic to the judge, state attorney and public defender or private attorney in the court of jurisdiction with copies to the appropriate region forensic coordinator and forensic specialist. The Mental Health Program Office Forensic Admissions Coordinator will schedule a transfer date when space becomes available or a resident for resident exchange can be coordinated by the facility administrators or designated staff, if the receiving forensic facility has other previously accepted residents on the transfer waiting list. If an exchange is arranged between facilities, the civil facility administrator or designee must inform the Mental Health Program Office Forensic Admissions Coordinator.

(5) A transfer packet containing the information required on the Facility To Facility Transfer Checklist (form CF-MH 1060, available in DCF Forms) shall be sent to the receiving forensic facility and reviewed for completeness prior to scheduling the transfer. The transfer packet should be submitted at least 7 days prior to transfer if possible.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

JACQUELINE A. YOUNG
Director, Policy and Programs

SUMMARY OF REVISED, ADDED, OR DELETED MATERIAL

Added additional references in paragraph 3; added Forensic Specialist definition in paragraph 4; added references to the Forensic Specialist position in paragraphs 5c(8) and 5e(4).