

A 2017 LAW ENFORCEMENT GUIDE TO THE ORDER FOR PROTECTIVE CUSTODY PROCES

WILLIAM "CHUCK" CREDO III, ESQ.

WHO

may ask for an order for protective custody

any credible individual or peace officer who observes another individual, adult or juvenile, acting in a manner dangerous to self or others, or gravely disabled

may sign an order for protective custody

Any District Court Judge or any Coroner

WHAT

is an OPC?

Once signed by the Coroner or Judge, the OPC acts a "ticket to ride," that is, authority to transport the named individual to a treatment center for a mental status exam commonly known as a PEC or CEC.

is LSA R.S. 28:53 L

This law authorizes law enforcement to apprehend and transport any person they observe acting as a danger to self, others or gravely disabled who is in need of immediate hospitalization to protect the person and others from physical harm. if transported to a treatment facility, the law enforcement officer shall be relieved of any further responsibility upon arrival and the officer can not be subject to any criminal or civil liability when in good faith.

is a NO KNOCK OPC

When a person subject to an OPC refuses to come out and go with law enforcement, after a mental health professional has intervened and attempted to counsel the person regarding his voluntary surrender, the Coroner may obtain telephonic authority from a district court judge, based on exceptional circumstances, an order to enter and secure the patient for transport for a mental status exam. If the statute is followed, the Coroner and any law enforcement officer in good faith shall be immune from civil liability.

WHAT

is a PEC?

a Physician Emergency Certificate, also known as a First Exam, is a mental status exam to determine if a patient is a danger to self, danger to others or is gravely disabled:

Who may sign a PEC as of 8/1/17

Any Physician, psychiatric mental health nurse practitioner, psychologist, Physician Assistant when acting in accordance with their respective clinical practice guidelines or Nurse Practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his collaborating physician

is a CEC?

a Coroner Emergency Certificate, also known as a Second Exam, is a mental status exam to determine if a patient is still a danger to self, a danger to others or is acting gravely disabled.

Who may sign a CEC as of 8/1/17

Any Physician Coroner, Deputy or Assistant Coroner who is a physician, or any Physician, Psychiatric mental health nurse practitioner, psychologist, Nurse Practitioner or Physician Assistant employed as an independent contractor by the Coroner and who follows his/her practice guidelines.

WHEN

Can an OPC, PEC or CEC be requested or issued

Anytime, 356/24/7.

WHERE

Can an OPC, PEC or CEC be sought

Anywhere or in any parish where the patient may be found.

WHY

ask for a no knock OPC

If a barricaded individual is encountered by law enforcement, sometimes family members can be found who will then request the OPC converting the situation into a No Knock OPC if criteria is met. the Coroner and any law enforcement officer in good faith shall be immune from civil liability which they would not have in the normal standoff situation.

refer to the Coroner and leave if the responding officer does not see any actions

In responding to a request for services involving a mental patient or person acting dangerous to self or others, a brief visit and referral to the Coroner may subject the officer and department to liability for damages under the “deliberate indifference” standard under Federal and State law. All call involving mental health take at least 20% longer to handle on the average.

Since a peace officer can sign an OPC request or do a direct transport under LSA R.S. 28:53 L, a short response time before referral may increase liability for any foreseen act which occurs shortly after the police leave.

FREQUENTLY ASKED QUESTIONS:

What does intervene by a mental health professional mean in a No Knock OPC

Intervention can be on site with a bull horn or off site through a telephone call or even text message. Remember it requires attempted counseling on voluntary surrender; it does not require that the patient answer the phone or acknowledge the advice.

In a No Knock OPC event, can Law Enforcement contact the District Judge directly for an order to enter and secure the patient?

The law specifies any elected Coroner or his support staff, accompanied by a law enforcement officer who announced his purpose on the scene may apply for an order to break in, restrain and transport. As the law also requires an affidavit from the Coroner or staff and filing a pleading within 24 hours for the judge’s signature, it is recommended that the Coroner or his attorney be the contact with the District Court judge who must sign the pleading filed at the conclusion of the matter.

