

Mental Illness Commitments

409.1 PURPOSE AND SCOPE

This policy provides Deputy Sheriffs of the Orange County Sheriff's Department guidelines for taking a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

409.2 POLICY

It is the policy of the Orange County Sheriff's Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

409.3 AUTHORITY

A deputy having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the deputy believes that, as a result of a mental disorder, the person is a danger to him/herself or others, or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, deputies are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person,
- (b) The person subject to the determination or anyone designated by the person,
- (c) A family member.

409.3.1 VOLUNTARY EVALUATION

If a deputy encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the deputy should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, the deputy should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

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409.4 SECURING OF PROPERTY

When the person is taken into custody for evaluation or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the deputy shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The disposition of the property shall be detailed in a Casualty Report or "Non-criminal" template within the FBR application (if applicable) and a Property Receipt shall be provided to the person if property is taken for safekeeping or when a weapon/s has been seized. Any property seized or taken for safekeeping shall be booked into Sheriff's Evidence in accordance with the policies and procedures of the Department.

409.5 DOCUMENTATION

The deputy shall complete an Application For Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment, provide it to the facility staff member assigned to that patient and retain the duplicate for Department records.

The application shall include the circumstances for deputy involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The deputy should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

A Casualty Report or "Non-criminal" template within the FBR application (if applicable) shall also be completed.

409.6 ADVISEMENT

The deputy taking a person into custody for evaluation shall read the "Detainment Advisement" described in Section 29 of the Field Operation Manual in order to meet the requirement of W&I 5150(g)(1).

409.7 CRIMINAL OFFENSES

A deputy investigating an individual who is suspected of committing a minor criminal offense (e.g. CPC 647(f), CPC 602, H&S 11550, etc.) and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a verbal warning, a Notice to Appear or an Initial Crime Report as appropriate. Any questions regarding the seriousness of a crime should be directed to the deputy's supervisor.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the deputy should:

- (a) Arrest the individual when there is probable cause to do so.

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- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

409.8 FIREARMS AND OTHER DEADLY WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling deputies should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Whenever a person, who has been detained or apprehended for examination of his or her mental condition or who is a person described in Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon (Welfare and Institutions Code § 8102(a)).

Any confiscation of a firearm or other deadly weapon must be in with current search and seizure law. Deputies are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons. See Penal Code 1524(a)(10).

The deputy shall issue a property receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Deputies shall advise the person of the procedure for the return of any firearm or other weapon that has been confiscated (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy). Deputies shall also notify the intake person of an accepting mental health facility the detainee had a firearm or other deadly weapon confiscated.

409.8.1 PETITION FOR RETURN OF FIREARMS AND OTHER DEADLY WEAPONS

Whenever a deputy has cause to believe that the future return of any confiscated weapon might endanger the person or others, the deputy shall detail those facts and circumstances in a report. The report shall be forwarded to the Criminal Investigative Bureau, Homicide Unit, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon shall be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Department shall send written notice, via County Counsel, to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days

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to confirm with the court clerk any desire for a hearing and that the failure to do so shall result in the forfeiture of any confiscated weapon.

409.9 TRAINING

This Department shall endeavor to provide Peace Officer Standards and Training (POST) approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments, and crisis intervention.