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## Mental Illness Commitments

### 420.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

### 420.2 POLICY

It is the policy of the Irvine Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

### 420.3 AUTHORITY

An officer 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 officer 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). Officers should use caution and never compromise their safety or the safety of others when dealing with individuals displaying symptoms of mental illness.

When determining whether to take a person into custody, officers 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) A family member
- (c) The person subject to the determination or anyone designated by the person

#### 420.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a WIC §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 officers should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a WIC §5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the WIC §5150 commitment, if appropriate.

Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission (refer to documentation under 420.7.2 - Completion of Reports).

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#### 420.3.2 RESTRAINTS

If the patient is violent or potentially violent, the officer will notify the staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used. If these restraints are desired, the officer will wait while they are being applied to help assist with control of the patient, if needed.

#### 420.3.3 MENTAL HEALTH DOCUMENTATION

The officer will complete an Application For 72-Hour Detention for Evaluation and Treatment form (MH-302) and provide it to the staff member assigned to that patient. The officer will retain a copy of the 72-hour evaluation for inclusion in the Incident-Mental Health Related report. The officer shall also provide a verbal summary to an emergency department staff member regarding the circumstances leading to the involuntary detention.

The officer shall complete an incident report documenting the contact, whether it is a voluntary or involuntary evaluation, and the name of the physician with whom they spoke to (refer to 420.7.2-Completion of Reports).

#### 420.3.4 SECURING OF WEAPONS

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

### **420.4 CONSIDERATIONS AND RESPONSIBILITIES**

The following considerations should be made when handling mental health related calls.

#### 420.4.1 MENTAL HEALTH ASSIST (MHA)

A "Mental Health Assist" (MHA) exists when any of the following are true:

- (a) The officer responds to a call for service involving any person who is experiencing a mental health issue, or;
- (b) The officer investigates, and after considering all known facts, determines the person does NOT meet the criteria of WIC §5150 and, therefore, cannot involuntarily detain the individual, or;
- (c) The person nonetheless is desirous of mental health services at the time and wishes our assistance, or;
- (d) The officer assists the person in accessing mental health services by doing ANY of the following:
  1. Facilitating transportation to any location in order for the individual to receive treatment
  2. Coordinating care with a mental health professional
  3. Coordinating treatment at a mental health facility
  4. Coordinating and/or communicating with family members, friends or mental health professionals in regards to the person's mental health care.

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#### 420.4.2 MEDICALLY COMPROMISED DEFINED

Medically Compromised: This term is used to refer to a patient who has sustained any physical condition that is likely to render him/her a medical risk or incapacitated either physically or mentally.

A person who is medically compromised may be someone who:

- (a) Has sustained an injury, visible or not, requiring medical assessment and treatment;
- (b) Has a pre-existing medical condition that requires immediate medical attention;
- (c) Has recently ingested/inhaled an illegal drug or narcotic and shows symptoms of being under the influence.
- (d) Has a BAC concentration of .15% or higher.
- (e) Is believed to have taken steps to harm themselves to the extent that a serious medical condition may be present requiring medical evaluation and clearance. Examples of situations that may require further medical evaluation and clearance include suspected overdose, attempted strangulation or asphyxiation.

#### 420.4.3 ADULT MEDICALLY COMPROMISED PROCEDURES

If the subject is "Medically Compromised" as defined above, the officer should do the following:

- (a) Request paramedics respond to evaluate the subject and make an assessment as to the best course of action to treat the subject's medical condition. If paramedics determine that further medical treatment is necessary, the subject should be transported by ambulance to the nearest hospital.
- (b) Once at the hospital, the officer should communicate to hospital staff the reason for the contact, hospitalization and information that led the officer to believe he or she met the criteria for WIC §5150.
- (c) It is the discretion of the treating physician if they would like the officer to complete the state WIC §5150 form. Each hospital has their own policy for treating patients who meet the WIC §5150 criteria.
  - 1. At the request of the attending physician, the officer may complete the WIC §5150 form and leave it with the hospital staff. The officer should keep in mind that doing so will leave the responsibility of finding placement in a psychiatric facility on the hospital and not the PET or CAT teams.
  - 2. If the attending physician requests that the officer does not complete the WIC §5150 form, it will be the responsibility of the hospital to contact the PET team for evaluation and placement once the subject is medically cleared.

Regardless of whether or not the officer completes the state WIC §5150 form, the officer should remain at the hospital with the detainee until the conditions described under section 420.4.4(d) (1) of this policy have been met.

#### 420.4.4 ADULT MENTAL HEALTH DETENTION (MHD)

If the subject is not "Medically Compromised" the officer should do the following:

- (a) The officer may contact the Centralized Assessment Team (CAT) and request that a team member respond to the field to provide an evaluation of the detainee. If the CAT

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team member determines that the detainee meets the criteria for WIC §5150, they will arrange for transportation to, and placement at, a Designated Facility.

- (b) The officer may also contact Crisis Stabilization Unit and request to transport the subject to their facility for further evaluation and treatment.
- (c) If the Crisis Stabilization Unit refuses, or is unable, to accept the detainee, the officer may request assistance from Crisis Stabilization Unit staff in locating the nearest Designated Facility that is available to accept the detainee. Officers may also refer to the list of Designated Psychiatric Facilities included in this policy under 420.6.1 and contact them directly to determine availability.
  - 1. Once the nearest available Designated Facility is identified, the officer should contact that facility directly and confirm that they are available to accept the detainee.
  - 2. If they are available, the officer should inform the hospital staff that he/she is en route with a subject detained for WIC §5150.
  - 3. Once at the Designated Facility, the officer should complete the state WIC §5150 form and provide it to hospital staff for review.
  - 4. The officer should remain at the Designated Facility until the state WIC §5150 form is accepted by hospital staff and they no longer need the officer's assistance with providing security for the detainee and/or their own staff is present to provide security as needed.
- (d) Officers shall attempt to locate a bed at a designated facility and transport the subject to that location. However, if the above options are not available, the officer may transport the detainee to a local hospital, such as Kaiser or Hoag Irvine.
  - 1. Once an officer has detained a person under the provisions of WIC §5150 that officer is responsible for the safety and welfare of the detainee. Once a detention has begun, the detaining officer shall ensure the person held is in the immediate company of a police officer until the following conditions have been met:
    - (a) The attending physician at a hospital confirms that he/she will be responsible for summoning a Psychiatric Evaluation Team (PET), Crisis Assessment Team (CAT) or other mental health professional who has the authority to place WIC §5150 holds to evaluate the patient's mental state, AND the attending physician has agreed to accept responsibility for the ongoing safety and welfare of the patient. In addition to this requirement, factors the handling officer shall also consider in deciding whether or not to leave the patient with hospital or emergency room staff include:
      - 1. The level of cooperation of the patient.
      - 2. Any force that may have been used to take the patient into protective custody.
      - 3. Whether or not the person is unconscious, and how long the patient may be in this state.

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4. Any injuries the person has sustained.
5. Whether or not the person is ambulatory, as assessed by any injuries the patient may have precluding physical movement, or any restraints the hospital staff may be utilizing to restrict movement.
6. The hospital's willingness to utilize orderlies or other hospital staff to physically restrain the detained subject.
7. The patient's age; special consideration shall be given to juveniles; officers shall consult with a supervisor when the person to be evaluated for a mental health detention is under 18.

Under **NO** circumstances shall an officer leave a patient at a hospital if the person is in custody for a criminal violation.

- (e) An officer who decides to leave a patient at a hospital pursuant to section (a) above must ensure ALL of the following occur:
  1. The officer has consulted with a field supervisor, and a supervisor concurs with the assessment that leaving the patient in the care and custody of hospital staff is reasonable and prudent, given the circumstances;
  2. The name of the attending physician who has agreed to accept responsibility for the ongoing safety and welfare of the patient must be recorded by the handling officer for inclusion in the officer's report;
  3. The officer must complete an appropriate report that clearly documents all of the relevant facts pertaining to the incident. The report should include a detailed description that clearly articulates the objective observations and facts supporting a detention pursuant to WIC §5150;
  4. The officer must provide the attending physician with a verbal summary of all relevant observations relating to the person's mental condition which led to the officer's assessment that the person fits the criteria of WIC §5150, including any amount of force that was used to detain the subject;
- (f) The person is secured in an ambulance or other transport vehicle from a designated mental health facility, and the officer has been released by the mental health assessment team member responsible for transporting the person to a designated mental health facility.
- (g) The person has been admitted to a designated mental health facility.
- (h) The person has been evaluated by a PET or CAT member, or other authorized mental health professional and deemed not to meet the criteria of WIC §5150 at the time of the evaluation and, therefore, not in need of placement into a designated mental health care facility.

#### 420.4.5 JUVENILE MENTAL HEALTH CONTACTS/DETENTIONS

The authority to detain a juvenile for a mental health evaluation is Welfare and Institution Code WIC §5585, not WIC §5150. Due to the uniqueness of their treatment, there are a very limited number of facilities in Orange County that have inpatient treatment services for juveniles. These facilities are

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College Hospital in Costa Mesa, UCI Medical Center in Orange, and CHOC (Children's Hospital Orange County).

During calls for service in which an officer makes contact with a juvenile under the age of 18 in the community who the officer determines, **based on probable cause**, meets the criteria set forth in WIC §5585, and as a result of a mental illness, is considered a danger to self, danger to others, and/or is gravely disabled, officers should follow the procedures outlined below.

- (a) If the juvenile is "Medically Compromised" as defined under section 420.4.2 above, the officer should do the following:
  1. Request paramedics respond to evaluate the juvenile and make an assessment as to the best course of action to treat the juvenile's medical condition. If paramedics determine that further medical treatment is necessary, the juvenile should be transported by ambulance to the nearest hospital.
    - (a) Once at the hospital, the officer should communicate to hospital staff the reason for the contact, hospitalization and information that led the officer to believe he or she met the criteria for WIC §5585.
    - (b) It is the discretion of the treating physician if they would like the officer to complete the state WIC §5150 form. Each hospital has their own policy for treating patients who meet the WIC 5585 criteria.
      1. At the request of the attending physician, the officer may complete the WIC §5150 form and leave it with the hospital staff. The officer should keep in mind that doing so will leave the responsibility of finding placement in a psychiatric facility on the hospital and not the PET or CYS CAT Team.
      2. If the attending physician requests that the officer does not complete the WIC §5585 form, it will be the responsibility of the hospital to contact the PET team or CYS CAT team for evaluation and placement once the juvenile is medically cleared.
      3. Regardless of whether or not the officer completes the state WIC §5585 form, the officer should remain at the hospital with the juvenile until the conditions described under section 420.4.4(d)(1) of this policy have been met.
- (b) If the juvenile is not "Medically Compromised" the officer should do the following:
  1. Due to the limited number of facilities in Orange County that can accept juveniles for treatment of mental illness, it is strongly encouraged that officers contact the Crisis Assessment Team Children and Youth Services Unit (CYS CAT) and request a team member respond to the field to provide an evaluation of the detainee. CYS CAT can be reached at the same number as the CAT team, 1-866-830-6011. If the CYS CAT team member determines that the juvenile meets the criteria for WIC 5585, they will arrange for transportation to, and placement at, a Designated Facility.

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- (a) CYS CAT team members can respond to a variety of locations including residences, hospital emergency rooms, police departments, schools, group homes, emergency shelters, probation departments, the Child Abuse Services Team (CAST) office, as well as other community locations.
- (b) The officer must notify the minor's parent or legal guardian as soon as possible after initial contact and request they respond. CYS CAT will require the parent or guardian to be present prior to conducting an evaluation.
- (c) When responding to a residence, the CYS CAT member will request that they be accompanied by a police officer.
- (d) In situations where the parent or guardian of the juvenile requests to transport the juvenile on their own, officers may release the juvenile directly to them. In these situations, officers should make an effort to connect the parent or guardian to mental health services.

#### **420.4.6 SECURING OF PROPERTY**

When a 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 officer 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 officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

#### **420.5 TRANSPORTATION**

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, notification to a supervisor is required before transport commences. Officers should notify the receiving facility of any relevant information including level of cooperation and estimated time of arrival.

#### **420.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a WIC §5150 commitment and remain present to provide clarification of the grounds for detention, upon request. Under no circumstances

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shall an officer transport a medically compromised persons, and shall contact OCFA to arrange for transport and evaluation.



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### **420.7 DOCUMENTATION**

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report unless the attending physician states they will complete it (see requirements under 420.4.4 and 420.4.5). If the physician wishes to complete the detection form, then the physician's name shall be included in the report.

The application shall include the circumstances for officer 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 officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

#### **420.7.1 ADVISEMENT**

The officer taking a person into custody for evaluation shall advise the person of:

- (a) The officer's name and agency.
- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

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#### **420.7.2 COMPLETION OF REPORTS**

The following rules shall be utilized to determine how to correctly document any incident in which an officer handles a call involving a subject who meets the criteria of a Mental Health Detention (MHD) under 420.4.1.

- (a) If a crime has occurred, in addition to a WIC 5150 detention, then all crime types shall be listed first on the face page of a Consolidated Occurrence Report; WIC §5150 shall be listed below the criminal charges.
- (b) If no crime has occurred, then the report shall be titled as a WIC §5150 report.
- (c) The handling officer will have the discretion to complete the state WIC §5150 form; sometimes the hospital may itself request to complete the formal WIC §5150 form, and this is acceptable. The ultimate decision to complete the WIC §5150 form rests with the officer who has made the determination the person meets the criteria of WIC §5150. However, irrespective of whether the officer completes the state WIC §5150 form, the officer must complete a narrative report that clearly documents all of relevant facts pertaining to the incident, including the objective observations and facts supporting a detention pursuant to WIC §5150. The subject will be listed as a “mental health detainee” on their subject area of the report.

The following rules shall be utilized to determine how to correctly document any incident in which an officer handles a call involving a subject who meets the criteria of a Mental Health Assist (MHA) under 420.4.2.

- (a) If a crime has occurred in addition to a MHA, then all crime types shall be listed first on the face page of a Consolidated Occurrence Report; Incident-Mental Health Related” shall be listed below the criminal charges.
- (b) If no crime has occurred, then the report shall be titled as an “Incident-Mental Health Related” report and the subject will be listed as a “mental health assist” on their subject area of the report.

#### **420.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

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

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the WIC §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 WIC §5150 commitment.

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In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

#### **420.9 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for a WIC §5150 commitment, the handling officers 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. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers 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.

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)).

##### **420.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS**

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigations Bureau, 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 will 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 to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

#### **420.10 TARASOFF NOTIFICATIONS**

Mental health professionals have a duty to warn in circumstances where the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims. In these situations, the psychotherapist's duty is to make a reasonable effort to communicate the threat to the victim or victims and to a law enforcement agency where

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the victim(s) reside [Tarasoff v. Regents of the University of California, 17 Cal. 3d 425, 551 P.2d 334, 131 Cal. Rptr. 14 (Cal. 1976)].

Upon receipt of a Tarasoff notification, a call for service shall be created and an Incident-Mental Health Related Incident report will be taken which will detail the information provided, any assistance completed in helping the reporting party locate the intended victim, and confirmation that the notification was provided to dispatch for entry via the DOJ database.

Upon receipt of the Tarasoff notification, the Irvine Police Department shall notify the Department of Justice electronically, within 24 hours (Welfare and Institutions Code 8105(c)). This will be accomplished by providing the notification to the Records Supervisor or a Records Lead. If neither are available, notify Dispatch, who will in turn make proper entry into the DOJ database. Proof of this entry will be printed and attached to the Incident-Mental Health Related incident report.

#### **420.11 TRAINING**

This department will 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.