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## Mental Illness Commitments

### 406.1 PURPOSE AND SCOPE

- (a) 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).

### 406.2 POLICY

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

### 406.3 AUTHORITY

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

#### 406.3.1 VOLUNTARY EVALUATION

- (a) If an officer 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 officers should request an ambulance respond to the scene for a self-committal.
- (b) No police report is required for a self-committal.

### 406.4 CONSIDERATIONS AND RESPONSIBILITIES

- (a) Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:
  1. Available information that might assist in determining the cause and nature of the person's action or stated intentions.

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2. Community or other resources available to assist in dealing with mental health issues.
  - (b) While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.
  - (c) Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

#### 406.4.1 SECURING OF PROPERTY

- (a) 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).

#### 406.5 DOCUMENTATION

- (a) The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the ambulance staff who are transporting the patient and retain a copy of the application for inclusion in the case report.
- (b) The officer should also provide a verbal summary to ambulance staff performing the transport.

#### 406.5.1 ADVISEMENT

- (a) The officer taking a person into custody for evaluation shall advise the person of:
  1. The officer's name and agency.
  2. The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals.
  3. The name of the facility to which the person is being taken.
  4. 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.
- (b) 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(f)(1)).

#### 406.6 CRIMINAL OFFENSES

- (a) 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.

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- (b) 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 officer should:
  - 1. Arrest the individual when there is probable cause to do so.
  - 2. Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
  - 3. Facilitate the individual's transfer to jail.
  - 4. Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

#### **406.7 FIREARMS AND OTHER WEAPONS**

- (a) Whenever a person is taken into custody for a 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).
- (b) 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
- (c) 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)) (see Property and Evidence Policy).

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

- (a) 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 Division, 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.
- (b) 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.

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#### **406.8 TRAINING**

- (a) 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.

#### **406.9 REVIEW DATE**

- (a) 29 APR 16
- (b) 23 DEC 19 (Lexipol Update)