

Civil Commitments

505.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take steps to place a probationer under mental health hold (5150 commitment) (Welfare and Institutions Code § 5150).

505.2 POLICY

It is the policy of the Humboldt County Probation Department (HCPD) to protect the public and probationers through legal and appropriate use of the mental health hold process.

505.3 AUTHORITY

An officer having probable cause may take a probationer under the officer's supervision into custody and place the probationer in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental health disorder, the probationer is a danger to self or others or the probationer is gravely disabled (Welfare and Institutions Code § 5150).

When determining whether to take a probationer into custody, officers are not limited to determining the probationer is an imminent danger and shall consider reasonably available information about the historical course of the probationer'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 probationer
- (b) A family member
- (c) The probationer subject to the determination or anyone designated by the probationer

505.3.1 AUTHORITY FOR MINORS

An officer having probable cause may take a probationer under the officer's supervision into custody and place the probationer 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 probationer is a danger to self or others or the probationer is a gravely disabled minor and authorization for voluntary treatment is not available (Welfare and Institutions Code § 5585.50).

Gravely disabled minor means a minor who, as a result of a mental disorder, is unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder (Welfare and Institutions Code § 5585.25).

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505.3.2 VOLUNTARY EVALUATION

If an officer encounters a probationer who may qualify for a mental health hold or an involuntary commitment, the officer may inquire as to whether the probationer desires to be voluntarily evaluated at an appropriate facility. If the probationer so desires, the officer should:

- (a) Transport the probationer to an appropriate facility that is able to conduct the evaluation and admit the person.
- (b) Document the circumstances surrounding the probationer's desire to pursue voluntary evaluation and/or admission.

If at any point the person withdraws an affirmative decision for a voluntary evaluation, the officer should proceed with the application for emergency mental health evaluation, if appropriate.

505.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer who comes into contact with a probationer who may qualify for detention for the purpose of a mental health hold or an involuntary commitment should consider, as time and circumstances reasonably permit:

- (a) Contacting local law enforcement for assistance, if appropriate.
- (b) Available information that might assist in determining the possible cause and nature of the person's actions or stated intentions.
- (c) Community or neighborhood mediation services.
- (d) Conflict resolution and de-escalation techniques.
- (e) Community or other resources that may be readily available to assist with mental health issues.

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. See also the Risk and Needs Assessment, Supervision, Modification of Conditions of Supervision, and Violations policies.

Mental health holds should be preferred over arrest for people who have mental health issues and are suspected of committing minor crimes or creating other public safety issues.

505.4.1 SECURING OF PROPERTY

When a probationer 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 probationer's personal property, the officer shall take reasonable precautions to safeguard the personal property in the probationer's possession or on the premises occupied by the probationer (Welfare and Institutions Code § 5150).

The officer taking the probationer into custody shall provide a report to the court that describes the probationer'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

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shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

505.5 TRANSPORTATION

When transporting any probationer for a mental health hold, the transporting officer should notify a supervisor and the receiving facility of the estimated time of arrival, the level of cooperation of the probationer, and whether any special medical care is needed. If appropriate, Humboldt County Sheriff's Department Dispatch should be utilized.

Officers may transport individuals in a department vehicle and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the probationer require transport in a medical transport vehicle and the safety of any person, including the probationer, requires the presence of an officer during the transport, supervisor approval is required before transport commences.

505.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the probationer into a treatment area designated by a facility staff member. If the probationer is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a mental health hold and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the probationer is transported and delivered while restrained, the officer may assist with transferring the probationer to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

505.7 DOCUMENTATION

The officer shall complete an Application for 72-Hour Detention for Evaluation and Treatment form, provide it to the facility staff member assigned to the probationer, and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for the officer involvement; the probable cause to believe the probationer is, as a result of a mental health disorder, a danger to others or self or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.2).

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

505.7.1 ADVISEMENT

The officer taking a probationer into custody for evaluation shall advise the probationer of (Welfare and Institutions Code § 5150):

- (a) The Officer's name and agency.

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

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

505.8 CRIMINAL OFFENSES

Officers investigating a probationer who is suspected of committing a minor violation and who is being taken into custody through a mental health hold, should resolve the violation by completing a report and forwarding the information, as appropriate.

When an officer discovers, during a home visit or otherwise, that a probationer has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility (e.g., domestic violence, child abuse, homicide), the officer should:

- (a) Immediately contact the appropriate local law enforcement agency and inform them of the offense and reasons why a mental health hold may be appropriate.
- (b) Inform responding local law enforcement personnel of the facts supporting an arrest and the facts that would support a detention.
- (c) Notify the supervisor as soon as practicable.
- (d) Thoroughly document in the related reports the circumstances that indicate the probationer may qualify for a mental health hold.

505.9 FIREARMS AND OTHER WEAPONS

Whenever a probationer is taken into custody for a mental health hold or an involuntary commitment, the handling officers should seek to determine if the probationer owns or has access to any firearm or other deadly weapon as 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., entry is authorized under the terms and conditions of the person's probation; the person consents). A warrant may also be needed before searching for or seizing weapons.

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The handling officer 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.

The officer should further advise the probationer of the procedure for the return, sale, transfer, or destruction of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102).

505.9.1 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 probationer or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Chief Probation Officer or authorized designee who 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 probationer from whom such weapon has been confiscated, unless the Department makes an application to the superior court to extend the time to file such a petition, up to a maximum of 60 days (Welfare and Institutions Code § 8102).

At the time any such petition is initiated, the Department shall send written notice to the probationer about 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 (Welfare and Institutions Code § 8102).

505.10 TRAINING

This department will endeavor to provide department-approved training on interaction with individuals who may be experiencing mental illness, mental impairment, or mental disability, mental health holds, and crisis intervention.