

ECO/TDO's

423.1 VERSION

Review Date	Effective Date	Approving Authority
06/08/2021	07/09/18	Gabriel Camacho, Interim Chief of Police

423.2 POLICY AND PURPOSE

This policy provides guidelines for when officers may place a person under an emergency custody civil commitment. The Harrisonburg Police Department strives to protect the public and individuals through legal and appropriate use of the civil commitment process.

423.3 ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

423.4 AUTHORITY

An officer, based upon his/her observations or the reliable report of others, may take a person into emergency custody for a civil commitment when there is probable cause to believe a person meets the criteria established by state law, which include (Va. Code § 16.1-340(G); Va. Code § 37.2-808(G)):

- (a) The person has a mental illness and because of that mental illness, either:
 - 1. Is a danger to him/herself or others, as evidenced by recent conduct.
 - 2. Is unable to care for him/herself or to protect him/herself from harm.
- (b) The person is in need of treatment.
- (c) The person is unwilling to volunteer or incapable of volunteering for treatment.

If an officer takes a person into emergency custody for a civil commitment, the officer shall transport the person to an appropriate designated location to assess the need for hospitalization or treatment. The officer shall ensure that the Community Services Board (CSB) responsible for conducting the evaluation is notified as soon as practicable once the person is taken into custody (Va. Code § 16.1-340(I); Va. Code § 37.2-808(J)).

An adult taken into emergency custody for a civil commitment shall be provided with a written summary of the emergency custody procedures and the statutory protections associated with those procedures (Va. Code § 37.2-808(M)).

ECO/TDO's

An officer shall also take a person into custody when a court order is issued by any magistrate authorizing emergency custody or temporary detention for a civil commitment. The officer shall then transport the person to the designated medical facility or transfer custody of the person to the alternative transportation provider identified in the order (Va. Code § 16.1-340; Va. Code § 16.1-340.1; Va. Code § 16.1-340.2; Va. Code § 37.2-808; Va. Code § 37.2-809; Va. Code § 37.2-810).

423.4.1 VOLUNTARY EVALUATION

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

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

If at any point the person changes his/her mind regarding voluntary evaluation, the officers should proceed with an emergency custody for civil commitment evaluation, if appropriate (Va. Code § 16.1-340; Va. Code § 37.2-808).

The officer shall ensure that the CSB responsible for conducting the voluntary evaluation is notified as soon as practicable once the person is taken into custody (Va. Code § 16.1-340(I); Va. Code § 37.2-808(J)).

423.4.2 HEARINGS FOLLOWING INVOLUNTARY DETENTION

The officer executing the detention order is not required to attend the hearing unless special circumstances arise.

A final hearing will be held within 48 hours (can be extended to 96 hours if weekend is involved) of detention unless waived by the detainee. The officer's presence may be necessary at this hearing if he is the petitioner.

423.5 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving a person who may qualify for detention for the purpose of civil commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the possible cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources that may be readily available to assist with mental health issues.
- (e) Crisis intervention team programs (Va. Code § 9.1-187).

Harrisonburg Police Department

Policy Manual

ECO/TDO's

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.

423.6 TRANSPORTATION OF MENTALLY ILL (CIVIL COMMITMENT)

When transporting any individual for a civil commitment, the transporting officer should have Emergency Communications Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in the 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, supervisor approval is required before transport commences.

423.7 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 civil commitment 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 individual is transported and delivered while restrained, the officer may assist with transferring the individual 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.

423.8 DOCUMENTATION

Upon receipt, civil process received into Records Unit will be logged in a Warrant Control Form and computer entry shall be completed by the Records Specialist.

All information required on the Warrant Control Form shall be completed when known, to include:

- (a) Date and Time received
- (b) Agency tracking method
- (c) Nature of document
- (d) Source of document
- (e) Name of complainant and defendant
- (f) Officer assigned for service or serving officer
- (g) Date of assignment
- (h) Method of service
- (i) Date of service and/or return
- (j) Location of service or attempted service

Harrisonburg Police Department

Policy Manual

ECO/TDO's

(k) Reason for non-service

The officer should complete all applicable forms for the emergency custody for civil commitment, provide it to the facility staff member assigned to the individual and retain a copy for inclusion in the case report.

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

The officer should notify a supervisor regarding the circumstances of the incident and the action taken during the investigation.

423.9 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody for a civil commitment should resolve the criminal matter by issuing a warning or a citation, as appropriate.

When an individual who may qualify for a civil 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 detention.
- (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 civil commitment.

In the supervisor's judgment, the individual may instead be 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.

423.10 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a civil commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon. 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).

The handling officer should further advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody.

Harrisonburg Police Department

Policy Manual

ECO/TDO's

423.11 SERVICE OF ECO'S/TDO'S

A magistrate issued ECO (paper ECO) must be served within eight hours of its issuance before it becomes void. A TDO must be served within 24 hour window before it becomes void. If unable to serve, return to the clerk of the appropriate court.