



DEPARTMENT NOTICE

24-060

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Senate Bill 43 – Behavioral Health, Clarification and Common Scenarios

Senate Bill 43, effective January 1, 2024, clarified the conduct that falls under “gravely disabled” that applies to Welfare and Institutions Code section 5150 holds. Officers should continue to apply the same principles used when taking a person into custody for a 5150 evaluation but there is a wider universe of conduct and behavior that is captured by “gravely disabled.” The 5150 statute reads in relevant part, “when a person, as a result of a mental health disorder, is a danger to others, or to themselves, **or gravely disabled**, a peace officer...” may take the individual for an evaluation. Whether a person meets the definition of “gravely disabled” is a factual determination, based on the totality of circumstances, that may include statements or actions observed by officers, clinicians or by family members, as well as historical information about the individual.

“**Severe substance use disorder**” - The legislature clarified that severe substance use disorder falls under gravely disabled. Officers are not required to make a medical diagnosis but should indicate what gives rise to the probable cause determination that individual exhibits behavior consistent with a severe substance use disorder. Officers may gather some of the below information over time or from other sources, while other factors may be easily identifiable based on the officers’ training, skills, and observations. While it may be helpful to cite specific factors that are outlined below, *officers are not required to articulate all the factors in the below 4 categories, or any at all.*

1. Impaired control over substance use
 - Consuming the substance in larger amounts and for a longer amount of time.
 - Spending a great deal of time obtaining, using, or recovering from the effects of substance use.
 - Experiencing craving, a pressing desire to use the substance.
2. Social Impairment
 - Substance use impairs ability to fulfill major obligations at work, school, or home.
 - Continued use of the substance despite it causing significant social or interpersonal problems.
 - Reduction or discontinuation of recreational, social, or occupational activities because of substance use.
3. Risky Use
 - Recurrent substance use in physically unsafe environments.
 - Persistent substance use despite knowledge that it may cause harm.

4. Pharmacologic

- Tolerance: Individual requires increasingly higher doses of the substance to achieve the desired effect, or the usual dose has a reduced effect; individuals may build tolerance to specific symptoms at different rates.
- Withdrawal: Is the person displaying symptoms of withdrawals.

“**Personal safety**” - The legislature clarified that officers should consider as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder the person is unable to provide for their basic personal needs for food, clothing, shelter, *personal safety*, or necessary medical care, they may be taken to a facility for an evaluation. This means the ability of one to survive safely in the community without involuntary detention or treatment. Factors include, but are not limited to:

- Similar factors to danger to self and danger to others
- Running in and out of traffic
- Being assaulted, abused, exploited, or victim of crime
- Unhygienic/uninhabitable conditions at home or other home safety issues
- Inability to care for hygiene, cleanliness, needles, which leads to illness (especially if doesn't rise to level of serious bodily injury)
- Failure to thrive (may be a crossover with medical care)
- Near-fatal overdose requiring reversal

“**Necessary medical care**” - does not require *a medical opinion*. Rather, officers should articulate information based upon their observations, training, and experience, that the individual is unable to provide for their necessary medical care to prevent serious deterioration of an existing physical medical condition which, if left untreated, is likely to result in serious bodily injury as defined in Section 15610.67.

Officers shall document observations that may include, but are not limited to:

- Wound care and infection issues that is likely to lead to hospitalization
- Extreme physical pain
- A swollen foot that is twice as big as the other foot
- Large abscess wound
- Noticeable broken bones

Under W&I 5150, an individual may be detained for psychiatric evaluation in any of the following circumstances:

- Mental health disorder + danger to self
- Mental health disorder + danger to others
- Mental health disorder + gravely disabled
- **Severe substance use disorder + gravely disabled**

- **Co-occurring mental health disorder and severe substance use disorder + gravely disabled**

Common Scenarios:

Over the past few months, foot beat officers have observed an individual, living on the street, appear to decompensate both physically and mentally. Officers observe that this individual spends their time holding drugs for dealers to support their habit, the individual has told officers that they have been addicted to opioids for over 10 years, and that they do not want services or to change their behavior. The individual appears dirty and in soiled clothing, has visible and untreated head/body lice, and reports to officers that they have multiple other medical conditions made worse by substance use.

- There is probable cause to believe this person has a severe substance use disorder and is gravely disabled because they are unable to provide for their basic personal needs, shelter, or necessary medical care.

Individual appears passed out in the middle of the sidewalk and has to be awakened by physical stimulation (shaking of their shoulders, etc.) after the officers' voice commands are unsuccessful. When officers are able to communicate, based on their background, training, and experience, it becomes clear that the individual is under the influence of opioids. Officers immediately notice that the individual's arm is visibly broken, the injury appears old and uncared-for, and when offered, they decline medical treatment.

- There is probable cause to believe this person has a severe substance use disorder and is gravely disabled because they are unable to provide for their basic personal needs for personal safety, or necessary medical care.

Officers are flagged down that an individual, living on the street in a tent, is overdosing. Officers deploy Narcan and reverse the overdose. Individual appears malnourished, has makeshift bandages over wounds, and appears to be unable to provide for basic hygiene. Officers have previously cited the individual for public drug use.

- There is probable cause to believe this person has a severe substance use disorder and is gravely disabled because they are unable to provide for their basic personal needs for food, shelter, personal safety, or necessary medical care.

Officers respond to a call of an individual walking into traffic nearly getting hit by multiple cars. At the scene, officers witness the person walking into traffic while swinging a large stick at cars and is creating a dangerous and unsafe condition for vehicular traffic. Officers notice the individual is barefoot and appears unable to provide for their basic personal needs. Officers notice the individual is agitated, has dilated pupils, rapid eye movement, burns on the lips and fingers, rotting teeth, skin sores, and appears malnourished. The individual is agitated, speaking erratically, incoherently, is unable to communicate with officers, and appears to be experiencing

hallucinations. Based on the officer's training and experience, the Officer believes the person is under the influence of methamphetamines.

There is probable cause to believe this person has a co-occurring mental health disorder and severe substance use disorder and both a danger to others and gravely disabled because they are unable to provide for their basic personal needs for personal safety, or necessary medical care.

References:

DN 23-183 – Street Crisis Response Team

DGO 6.14 Psychological Evaluation of Adults

DGO 7.02 Psychological Evaluation of Juveniles



WILLIAM SCOTT

Chief of Police

Per DN 23-152, all sworn & non-sworn members shall electronically acknowledge this Department document in PowerDMS within (30) thirty calendar days of issuance. Members whose duties are relevant to this document shall be held responsible for compliance. Any questions regarding this policy should be sent to sfpd.writtendirectives@sfgov.org who will provide additional information.