

Probate Orders

409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place an individual under protective custody for probate order (ORC § 5122.10).

409.2 POLICY

It is the policy of the Beachwood Police Department to protect the public and individuals through legal and appropriate use of the probate order process.

409.3 AUTHORITY

If an officer has reason to believe that a person is mentally ill and subject to court order because he/she presents a substantial risk of imminent physical harm to him/herself or others, the officer may take, or cause the person to be taken, into custody and immediately transport him/her to an appropriate hospital for evaluation (ORC § 5122.10).

409.3.1 VOLUNTARY EVALUATION

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

- (a) Transport (preferably by Beachwood Fire Rescue) the individual to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a probate order.
- (b) If at any point the individual changes his/her mind regarding voluntary evaluation, officers should proceed with the probate order, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

409.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a probate order should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the individual's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Available community or other resources available to assist in dealing 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.

Beachwood Police Department

Beachwood Police Department Policy Manual

Probate Orders

Probate orders should be preferred over arrest for individuals with mental health issues, who are suspected of committing minor crimes or creating other public safety issues.

409.5 TRANSPORTATION

When transporting any individual for a probate order, the transporting officer should have the Dispatch 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 a patrol vehicle and shall secure them in accordance with the Handcuffing and Restraints Policy remembering the preferred method is to have Beachwood Fire Rescue transport the subject. All subjects that are transported by either method shall be searched completely for weapons of any type.

409.5.1 MANNER OF TRANSPORTATION

Officers should make an effort to take individuals into custody in the least conspicuous manner possible. The officer shall inform the individual (ORC § 5122.10):

- (a) Of the officer's name, rank/title and agency.
- (b) That the person is not being arrested.
- (c) That the person is being taken for examination by mental health professionals at a mental health facility identified by name.

Officers may transport individuals in a patrol vehicle and shall secure them in accordance with the Handcuffing and Restraints Policy.

409.6 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 voluntary treatment, the officer should provide the staff member with the written application for a probate order 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.

409.7 DOCUMENTATION

If not provided by the treating physician, the officer should complete an application for emergency admission, provide it to the facility staff member assigned to the individual and retain a copy of the application for emergency admission 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.

Beachwood Police Department

Beachwood Police Department Policy Manual

Probate Orders

409.7.1 REQUIRED DOCUMENTATION

The application for emergency admission should include the circumstances under which the person's condition was called to the attention of the officer, the circumstances under which the person was taken into custody and a description of probable cause to believe that the person, because of mental illness, chemical dependency or intoxication, is likely to harm him/herself or others if allowed his/her liberty. This statement shall be made available to the person or the person's attorney upon the request of either (ORC § 5122.10).

409.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken for a probate order should resolve the criminal matter by issuing a citation, as appropriate.

When an individual who may qualify for a probate order 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 probate order.
- (c) Facilitate the individual's transfer to the jail facility.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a probate order.

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.

409.9 FIREARMS AND OTHER WEAPONS

Whenever an individual is taken into custody for a probate order, the handling officers should seek to determine if the individual 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).

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 warrant may also be needed before searching for or seizing weapons.

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

Beachwood Police Department

Beachwood Police Department Policy Manual

Probate Orders

409.9.1 RETURN OF FIREARM

The officer taking custody of any firearm or other deadly weapon should issue the individual possessing such weapon a receipt that fully describes the weapon (including any serial number) and indicates the location where the weapon may be recovered, along with any applicable time limit for recovery (ORC § 2923.163).

409.10 TRAINING

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, probate orders and crisis intervention.