

# COMMITMENT PROCESS & OUTCOMES

## DETENTION – PERSON HELD FOR NO MORE THAN 72 HOURS

**A PERSON CAN BE IN CUSTODY** for no more than 72 hours (excluding weekends and holidays) without a court hearing. This can be extended up to 7 days at the request of the person or their attorney.

## POTENTIAL NEXT STEPS:

**CORPORATION COUNSEL (THE COUNTY'S ATTORNEY) MAY OFFER THE PERSON A "SETTLEMENT AGREEMENT."** A settlement agreement is an alternative to commitment, NOT a commitment. It is legally considered a contract for voluntary treatment. However, the person must follow the terms of the settlement (usually for a period of 90 days). If the person does not violate the terms of the agreement, the case is dismissed, the file is closed and no court record of the settlement agreement is available. However, if a person does violate the terms, the commitment process may resume at county corporation counsel's discretion (i.e. another hearing is set).

**A "WAIVER" OF PROBABLE CAUSE HEARING** is when the person decides, along with his/her attorney, not to contest a finding of probable cause (forgoes the probable cause hearing).

**A "PROBABLE CAUSE" HEARING** is held, where a judge, after hearing testimony from witnesses, decides if there is "probable cause" to believe the person meets all three criteria discussed on page 51. Possible outcomes described below.

## POSSIBLE OUTCOMES OF THE PROBABLE CAUSE HEARING:

**PROBABLE CAUSE NOT FOUND:** The case is dismissed and person is released.

**PROBABLE CAUSE IS FOUND:** The court schedules a final hearing. The court may order continued detention until the final hearing (within 14 days from initial detention) or may order outpatient care with treatment conditions until the final hearing (within 30 days of probable cause hearing).

## POTENTIAL NEXT STEPS IF PROBABLE CAUSE IS FOUND:

**SETTLEMENT AGREEMENT** may be offered by corporation counsel, accepted by the person and approved by the court. In this situation, a final hearing does not typically take place.

**STIPULATION TO ORDER OF COMMITMENT.** A stipulation is when a person decides not to contest an order of commitment at the time of the final hearing (forgoes the final hearing).

**FINAL HEARING TAKES PLACE** (see possible outcomes on next page).

## POSSIBLE OUTCOMES OF THE FINAL HEARING

**CASE DISMISSED** due to insufficient evidence.

**ORDER OF CIVIL COMMITMENT** for treatment in the care and custody of the county department of community programs for inpatient and/or outpatient treatment for up to 6 months.

**CONVERSION TO GUARDIANSHIP** for protective placement or services. This may be ordered if the person is found not to have a treatable mental illness, but rather a developmental disability, cognitive disability and/or degenerative brain disorder.

## WHAT ARE MY RIGHTS?

### CAN I BE FORCED TO TAKE MEDICATION DURING THE COMMITMENT PROCESS?

- **BEFORE THE PROBABLE CAUSE HEARING**, you should not be forced to take medication unless it is being used to prevent serious bodily harm to self or others.
- **IF PROBABLE CAUSE FOR A COMMITMENT IS FOUND**, the judge may also give an “order to treat.” This means that you will be given medication regardless of your consent. In order to issue an order for involuntary medication, the court needs to first determine whether the person’s refusal to take the medication is based upon sound reasoning. For example, a person who refuses medication that caused a bad reaction in the past is making a competent decision. Whereas, a person who will not take a medication that they falsely believe has been poisoned is not competent to refuse medication.
- **AFTER THE PROBABLE CAUSE HEARING**, the “order to treat” is effective until the final hearing. However, if a commitment is ordered, the “order to treat” can last throughout the commitment.

**CAN I VERIFY THAT THERE WAS AN “ORDER TO TREAT?”** You have the right to see the court orders. You can request to see the legal section of your medical chart. It will include the order for final hearing and the order to treat. You can tell any present provider that you would like to see the court order (nurse, doctor, social worker, patient advocate).

**IS MEDICATION ALWAYS PART OF THE COMMITMENT?** No.

Medications can only be given involuntarily if the court has found the person not competent to make decisions regarding medication. Otherwise, the person is free to refuse medication — even in an inpatient setting.