

LAW ENFORCEMENT INTERACTION
WITH PERSONS SUFFERING FROM A
MENTAL ILLNESS, “A LEGAL
PERSPECTIVE”

California Crisis Intervention Training Association

Sergeant/Inspector Kelly A. Kruger, San Francisco Police
Department

Detective III Charles Dempsey, Los Angeles Police
Department

A PARADIGM SHIFT COP OR SOCIAL WORKER



THE “**GATEKEEPERS**,” OF THE MENTAL HEALTH SYSTEM

- A **Paradigm** shift in Law Enforcements Role
 - Emergency Detentions
 - Assessment / Historical Information
 - Use of Force
 - Rights and Protections
 - Laura's Law
 - Firearms and Mental Illness
 - Hospitalization
 - Due Process
 - Patient Dumping

EMERGENCY DETENTIONS ASSESSMENT

- **5150 WIC**

- (a) When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled,
- a peace officer.....may, upon **probable cause**, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment.....

- **5585 WIC**

- This part shall be known as the Children's Civil Commitment and Mental Health Treatment Act of 1988. Code used for Juvenile 5150.

- **Assessment**

- **What three questions do you ask, when conducting an assessment? Should you ask more.....?**

APPLICATION FOR ASSESSMENT, EVALUATION, AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT

Confidential Client/Patient Information

See California Welfare and Institutions Code (W & I) Code, Section 5328 & HIPAA Privacy Rule 45 C.F.R. § 164.508

Welfare and Institutions Code (W&I Code), Section 5150(f) and (g), requires that each person, when first detained for psychiatric evaluation, be given certain specific information orally and a record be kept of the advisement by the evaluating facility.

 Advisement Complete Advisement Incomplete

Good Cause For Incomplete Advisement _____

Advisement Completed By _____

Position _____

DETAINMENT ADVISEMENT

My name is _____

I am a (Peace Officer, etc.) with (Name of Agency). You are not under criminal arrest, but I am taking you for examination by mental health professionals at (Name of Facility) _____.

You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information _____

You may bring a few personal items with you, which I will have to approve. Please inform me if you need assistance turning off any appliance or water. You can make a phone call and leave a note to tell your friends or family where you have been taken.

Language or Modality Used _____

Date of Advisement _____

To (name of 5150 designated facility) _____

Application is hereby made for the assessment and evaluation of _____

Residing at _____, California, for up to 72-hour assessment, evaluation, and crisis intervention or placement for evaluation and treatment at a designated facility pursuant to Section 5150 et seq. (adult) or Section 5585 et seq. (minor), of the W&I Code. If a minor, authorization for voluntary treatment is not available and to the best of my knowledge, the legally responsible party appears to be/is: (Circle one) Parent; Legal Guardian; Juvenile Court under W&I Code 300; Juvenile Court under W&I Code 601/602; Conservator. If known, provide names, address and telephone number: _____

The above person's condition was called to my attention under the following circumstances: _____

I have probable cause to believe that the person is, as a result of a mental health disorder, a danger to others, or to himself/herself, or gravely disabled because (state specific facts) _____

Based upon the above information, there is probable cause to believe that said person is, as a result of mental disorder:

 A danger to himself/herself. A danger to others. Gravely disabled adult. Gravely disabled minor.Minors only: Based upon the above information, it appears that there is probable cause to believe that authorization for voluntary treatment is not available.

Signature, title, and badge number of peace officer, professional person in charge or the facility designated by the county for evaluation and treatment, member of the attending staff, designated members of a mobile crisis team, or professional person designated by the county.

Date: _____

Phone: _____

Time: _____

Name of Law Enforcement Agency or Evaluation Facility/Person _____

Address of Law Enforcement Agency or Evaluation Facility/Person _____

For patients in medical ER's, detention began: _____

Date: _____

Time: _____

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY

Notify (officer/unit & telephone #) _____

NOTIFICATION OF PERSON'S RELEASE IS REQUESTED BY THE REFERRING PEACE OFFICER BECAUSE:

 The person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint. Weapon was confiscated pursuant to Section 8102 W&I Code. Upon release, facility is required to provide notice to the person regarding the procedure to obtain return of any confiscated firearm pursuant to Section 8102 W&I Code.

SEE REVERSE SIDE REFERENCES AND DEFINITIONS

Original: Accompany Client to Assessment, Evaluation, and Crisis Intervention Location or 5150/5585 Designated Facility

Copy: 5150/5585 Initiator

Reference: DHCS 1801 (04/2014)

Page 1 of 2

ASSESSMENT HISTORICAL INFORMATION

- **5150 (b) WIC**

- When determining if a person should be taken into custody pursuant to subdivision (a), the individual making that determination shall apply the provisions of Section **5150.05**, and shall not be limited to consideration of the danger of imminent harm.

- **5150 (e) WIC**

- The application shall also record whether the historical course of the person's mental disorder was considered in the determination, pursuant to Section **5150.05**

- **5150.05 WIC**

- When determining if probable cause exists to take a person into custody, or cause a person to be taken into custody, pursuant to Section 5150, any person who is authorized to take that person,shall consider available relevant information about the historical course of the person's mental disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is a danger to others, or to himself or herself, or is gravely disabled as a result of

USE OF FORCE

- **California Penal Code**

- **835a.** Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the **arrest**, to prevent escape or to overcome resistance.
- A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

- Definition of an arrest?

- To stop; to seize; to deprive one of his liberty by virtue of legal authority

Handcuffing Policy

- Does your agency have one?

RIGHTS AND PROTECTIONS

- **5150 (g)(1)(2)**

- Each person, at the time he or she is first taken into custody under this section, shall be provided, by the person who takes him or her into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing.
- The information shall be in substantially the following form: My name is _____ . (peace officer/mental health _____ professional) with _____ . (name of agency) You are not under criminal arrest, but I am taking you for an examination by mental health professionals at _____ . _____ (name of facility) You will be told your rights by the mental health staff.

Where is this advisement located?

- If taken into custody at his or her own residence, the person shall also be provided the following information: You may bring a few personal items with you, which I will have to approve. Please inform me if you need assistance turning off any appliance or water. You may make a phone call and leave

APPLICATION FOR ASSESSMENT, EVALUATION, AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT

DETAINMENT ADVISEMENT

Confidential Client/Patient Information
See California Welfare and Institutions Code (W & I) Code, Section 5328 & HIPAA Privacy Rule 45 C.F.R. § 164.508

Welfare and Institutions Code (W&I Code), Section 5150(f) and (g), requires that each person, when first detained for psychiatric evaluation, be given certain specific information orally and a record be kept of the advisement by the evaluating facility.

Advisement Complete Advisement Incomplete

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My name is _____
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You may bring a few personal items with you, which I will have to approve. Please inform me if you need assistance turning off any appliance or water. You can make a phone call and leave a note to tell your friends or family where you have been taken.

Advisement Completed By _____	Position _____	Language or Modality Used _____	Date of Advisement _____
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To (name of 5150 designated facility) _____

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The above person's condition was called to my attention under the following circumstances: _____

I have probable cause to believe that the person is, as a result of a mental health disorder, a danger to others, or to himself/herself, or gravely disabled because (state specific facts) _____

Based upon the above information, there is probable cause to believe that said person is, as a result of mental disorder:
 A danger to himself/herself. A danger to others. Gravely disabled adult. Gravely disabled minor.

Minors only: Based upon the above information, it appears that there is probable cause to believe that authorization for voluntary treatment is not available.

Signature, title, and badge number of peace officer, professional person in charge or the facility designated by the county for evaluation and treatment, member of the attending staff, designated members of a mobile crisis team, or professional person designated by the county.	Date: _____	Phone: _____
	Time: _____	
Name of Law Enforcement Agency or Evaluation Facility/Person _____	Address of Law Enforcement Agency or Evaluation Facility/Person _____	For patients in medical ER's, detention began: Date: _____ Time: _____

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY

Notify (officer/unit & telephone #) _____

NOTIFICATION OF PERSON'S RELEASE IS REQUESTED BY THE REFERRING PEACE OFFICER BECAUSE:

The person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

Weapon was confiscated pursuant to Section 8102 W&I Code. Upon release, facility is required to provide notice to the person regarding the procedure to obtain return of any confiscated firearm pursuant to Section 8102 W&I Code.

SEE REVERSE SIDE REFERENCES AND DEFINITIONS

RIGHTS AND PROTECTIONS

- **5150 (f)(1) WIC**

- At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person's personal property, the person taking him or her into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person.

- **5328 WIC**

- All information and records obtained in the course of providing services ..to either voluntary or involuntary recipients of services shall be confidential.

RIGHTS AND PROTECTIONS

- **A HIPAA covered entity also may disclose PHI to law enforcement without the individual's signed HIPAA authorization in certain incidents, including:**
 - To report PHI to a law enforcement official reasonably able to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public.
 - To report PHI that the covered entity in good faith believes to be evidence of a crime that occurred on the premises of the covered entity.
 - To alert law enforcement to the death of the individual when there is a suspicion that death resulted from criminal conduct.
 - When responding to an off-site medical emergency, as necessary to alert law enforcement to criminal activity.
 - To report PHI to law enforcement when required by law to do so (such as reporting gunshots or stab wounds).
 - To comply with a court order or court-ordered warrant, a subpoena or summons issued by a judicial officer, or an administrative request from a law enforcement official (the administrative request must include a written statement that the information requested is relevant and material, specific and limited in scope, and de-identified information cannot be used).
 - To respond to a request for PHI for purposes of identifying or locating a suspect, fugitive, material witness or missing person, but the information must be limited to basic demographic and health information about the person.
- cmd 8-22-16 To respond to a request for PHI about an adult victim of a crime when the victim agrees (or in limited circumstances if the individual is unable to agree). Child abuse or neglect may be reported, without a parent's agreement, to any law enforcement official authorized by law to receive such reports.

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Signature, title, and badge number of peace officer, professional person in charge or the facility designated by the county for evaluation and treatment, member of the attending staff, designated members of a mobile crisis team, or professional person designated by the county.

Date: _____

Phone: _____

Time: _____

Name of Law Enforcement Agency or Evaluation Facility/Person _____

Address of Law Enforcement Agency or Evaluation Facility/Person _____

For patients in medical ER's, detention began: _____

Date: _____

Time: _____

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SEE REVERSE SIDE REFERENCES AND DEFINITIONS

Original: Accompany Client to Assessment, Evaluation, and Crisis Intervention Location or 5150/5585 Designated Facility

Copy: 5150/5585 Initiator

LAURA'S LAW

- **5345 WIC**
 - Laura's Law: "Assisted outpatient treatment" shall be defined as categories of outpatient services that have been ordered by a court pursuant to Section 5346 or 5347.
 - Law Enforcement is a "Qualified Reporting Party."
 - *LAPD – Chief of Detectives Notice titled, "Implementation of Laura's Law." (handout)*

FIREARMS AND MENTAL ILLNESS

- **California Penal Code (PC)**

- **11106.4 PC**

- (a) Every law enforcement agency shall develop, adopt, and implement written policies and standard protocols pertaining to the best manner to conduct a “welfare check,” when the inquiry into the welfare or well-being of the person is motivated by a concern that the person may be a danger to himself or herself or to others. The policies shall encourage a peace officer, prior to conducting the welfare check and whenever possible and reasonable, to conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System to determine whether the person is the registered owner of a firearm.

- **18100 PC**

- A gun violence restraining order is an order, in writing, signed by the court, prohibiting and enjoining a named person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. This division establishes a civil restraining order

FIREARMS AND MENTAL ILLNESS

- **California Welfare and Institutions Code (WIC)**
- **8100 (b) WIC**
 - *Tarasoff Warning*: Person who communicates to a licensed psychotherapist (1010 (a)-(e) CA Evidence Code) a serious threat of physical violence against a reasonably identifiable victim.
 - *Mental Health Reporting System (MHRS), California Department of Justice (handout)*
- **8101 WIC**
 - (a) Any person who shall knowingly supply, sell, give, or allow possession or control of a deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.
 - (b) Any person who shall knowingly supply, sell, give, or allow possession or control of a firearm to any person described in Section 8100 or 8103 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.
 - *LAPD – Release of Firearm Advisement (handout)*



CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF FIREARMS
Mental Health Reporting System (MHRS)
Law Enforcement Agency User Account Request
(Welf. & Inst. Code, § 8105.)



I. MHRS Agency and User Information			
Agency Name		Agency ORI #	
Agency Address	City	County	Zip Code
User Last Name	User First Name	User Title	
User Phone Number	User Email Address (unique for each user)	Agency Approver Email Address	

II. Access and Security Agreement												
<p>I agree to adhere to the following procedures to protect data, documentation, and other information reported via MHRS to ensure that it is confidential, except to the extent that such information is necessary for a court proceeding or determining the eligibility of the person to own, purchase, or possess firearms/explosives in accordance with Welfare & Institutions Code section 8105, subdivision (d). I understand that any person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor.</p> <ol style="list-style-type: none"> Maintain security and confidentiality for all mental health data, documentation and other related reporting information exchanged with the Department of Justice. Shred printed documents containing firearms prohibition information after its legitimate use has ended. Access MHRS from a computer in a secured area within my employing agency that is accessible only to authorized agency personnel and away from public view. Refrain from sending information obtained from the MHRS except when necessary for the duties of authorized agency personnel. <p>I understand and agree that it is the duty and responsibility of agency personnel to print and maintain copies of prohibition reports submitted to the Department of Justice. I understand and agree that the Department of Justice is not responsible for routinely producing/providing subsequent copies of prohibition reports submitted by this agency.</p> <p>I understand that MHRS User IDs and passwords are confidential and will never be shared.</p> <p>I understand and agree to adhere to the reporting requirements as referenced in Welfare and Institutions Code section 8105.</p> <p><i>I have read the above and understand the policy regarding all information from the Mental Health Reporting System.</i></p>												
<table> <tr> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>User Name</td> <td>User Signature</td> <td>Date</td> </tr> <tr> <td>_____</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Agency Approver Name</td> <td>Agency Approver Signature</td> <td>Date</td> </tr> </table>	_____	_____	_____	User Name	User Signature	Date	_____	_____	_____	Agency Approver Name	Agency Approver Signature	Date
_____	_____	_____										
User Name	User Signature	Date										
_____	_____	_____										
Agency Approver Name	Agency Approver Signature	Date										

Please mail or fax completed account request to:

Department of Justice
Bureau of Firearms, Mental Health Unit
P.O. Box 168048
Sacramento, CA 95816-8048
Fax: (916) 227-1021

FIREARMS AND MENTAL ILLNESS

- **8102 WIC**

- a) Whenever a person, who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon **shall be confiscated** by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.
 - *LAPD – Receipt and Notice of Rights for Confiscated Firearms/Other Deadly Weapons (handout)*

- **8103(f)(1) WIC**

- No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility.

**RECEIPT AND NOTICE OF RIGHTS
FOR CONFISCATED FIREARMS/OTHER DEADLY WEAPONS**

Pursuant to Welfare and Institutions Code (WIC) Section 8102, the firearms and/or other deadly weapons listed below were confiscated from you on _____ (Date). Upon release from _____ the professional person in charge of the facility, or his or her designee, shall notify you of the procedure for the return of your weapon(s). Health facility personnel shall also notify the Los Angeles Police Department, Mental Evaluation Unit, of your release.

Section 8102 of the WIC provides that whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in WIC Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

Mental Health Incidents - Notice of Rights

A report of the details surrounding the confiscation of these items may be given to the county prosecuting agency. The prosecuting agency must file a petition in the County Superior Court within 30 days from the date of release from the mental health facility, alleging that the return of these items would be likely to result in endangering you or others, or if the items must be returned to you by the law enforcement agency if you are not prohibited from possessing firearms. If the prosecuting agency does file such a petition, you have a right to a hearing on the question of whether returning the items would in-fact, be likely to result in endangering you or others. A copy of the prosecuting agency's petition will be mailed to you at the address you provided to the law enforcement agency. If you wish to have a hearing, you must notify the clerk of the County Superior Court within 30 days of the filing date of the prosecuting agency's petition. The clerk will then set a date and time for such a hearing and a notification will be mailed to you.

If you are detained under WIC 5150 and are subsequently involuntarily admitted to a mental health facility, you are prohibited from owning, possessing and controlling firearms for a period of five (5) years in California. If you currently own any firearms, you must contact the nearest law enforcement agency to surrender those firearms. Pursuant to California Penal Code (PC) Section 33850(7)(b), you are entitled to transfer title of the confiscated firearm to a licensed gun dealer. A written notification specifying your actions to transfer ownership must be made to the Los Angeles Police Department within 180 days from the date of the notice of confiscation. Failure to do so will result in the disposal of the firearm.

Pursuant to PC Section 18250, the firearms and/or other deadly weapons listed below were confiscated from you on _____ (Date).

Domestic Violence Incidents - Notice of Rights

Unless the items confiscated from you are to be used as evidence in any criminal procedure, the firearm(s) shall be made available to you from the law enforcement agency 5 business days after the seizure or as soon thereafter as possible. If, within this time, the law enforcement agency believes the return of these items will likely result in endangering the victim or person reporting a domestic violence assault, you will be advised, and within 60 to 90 days of the seizure, a petition will be initiated in Superior Court to determine if these items should be returned.

Firearms Surrendered for Disposal: I hereby relinquish to the Los Angeles Police Department my right, title, or interest in the below-described firearm(s).

(Signature of Person Relinquishing) (Date)

List make, model, caliber, serial number and importer:

- _____
- _____
- _____

The confiscated firearm and/or other deadly weapons may be available for release at:

Any person who claims title to any firearm that is in the custody or control of law enforcement agency and who wants to have the firearm returned shall make application for a determination by the Department of Justice as to whether he or she is eligible to possess a firearm (PC Section 33850). Prior to the return of any firearm to its owner, the individual seeking the return of the firearm must submit a Law Enforcement Gun Release Application to the DOJ. The application is available on the State of California Department of Justice website at www.ag.ca.gov/firearms. It may take up to 30 days to process the application. If firearms are not claimed within 180 days of notification that the firearm is available for return, the law enforcement agency may charge a storage fee for firearms. This storage fee is: _____

I acknowledge receipt of a copy of this notice.

Date _____

Signature of Person Notified _____

I, _____
(Officer's Name/Title) declare under penalty of perjury under the laws of the State of California, that I served the above named person with a copy of the above notice, and this declaration is executed on _____ (Date)
at _____ (City), California.

Signature of Officer Serving Notice Serial No. _____

THIS RECEIPT DOES NOT CONSTITUTE RECOGNITION OF LEGAL TITLE TO ABOVE PROPERTY

I recommend court petition for retention of firearms _____ (initials of officer)

Original - Law Enforcement Agency Copy - Person Notified

FIREARMS AND MENTAL ILLNESS

- **8103(i) WIC**
 - Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or in a county jail for not more than one year.
 - California Department of Justice – Mental Health Firearms Prohibition System and Armed Prohibited Persons System (APPS).

MHF

MENTAL HEALTH FIREARMS PROHIBITION SYSTEM

OPR ID#: ORI: CA019 ____
REQUESTED BY: NAME _____ UNIT _____ DR#/REASON _____

NAME INQUIRY:
NAME _____ DOB _____ OR AGE ____ RACE _ HGT ____

RECORD NUMBER INQUIRY: NUMBER INQUIRY:
RECORD NUMBER _____ SOC _____ OLN _____ FBI _____

***** Use this format only when conducting a criminal
** W A R N I N G ** investigation which involves the acquisition, carrying,
***** or possession of firearms.

SCREEN FORMATTED

08/26/2010 08:04 NO MSGS WAITING

FIREARMS PROHIBITIONS

- **5 Year Prohibition**
 - 5150 WIC detained for evaluation 72 hour hold AND
 - 5151 WIC Assessed and evaluated AND
 - 5152 WIC Admitted to a mental health facility
 - 8100 (b) Tarasoff Notification
- **Lifetime Prohibition**
 - 5250 WIC - 14 day certification
 - 5350 WIC - 30 day certification
 - Conservatorship
 - 1370 PC Incompetent to stand Trial
 - 1026 PC Not Guilty by Reason of Insanity
 - *Federal Firearms Prohibition Under 18 U.S.C. (handout)*

FIREARMS AND MENTAL ILLNESS

- **1524 (a) (10) PC**

- When the property or things to be seized include a firearm or any other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

- **1524 (a)(14) PC**

- Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

FIREARMS AND MENTAL ILLNESS

- **1542.5 PC**

- Notwithstanding any other law, with regards to a search warrant issued upon the grounds specified in paragraph (14) of subdivision (a) of Section 1524, the following shall apply:
- (a) The law enforcement officer executing the warrant shall take custody of any firearm or ammunition that is in the restrained person's custody or control or possession or that is owned by the restrained person, which is discovered pursuant to a consensual or other lawful search.
- (b) (1) If the location to be searched during the execution of the warrant is jointly occupied by the restrained person and one or more other persons and a law enforcement officer executing the warrant finds a firearm or ammunition in the restrained person's custody or control or possession, but that is owned by a person other than the restrained person, the firearm or ammunition shall not be seized if both of the following conditions are satisfied:
 - (A) The firearm or ammunition is removed from the restrained person's custody or control or possession and stored in a manner that the restrained person does not have access to or control of the firearm or ammunition.
 - (B) There is no evidence of unlawful possession of the firearm or ammunition by the owner of the firearm or ammunition.
- (2) If the location to be searched during the execution of the warrant is jointly occupied by the restrained person and one or more other persons and a locked gun safe is located that is owned by a person other than the restrained person, the contents of the gun safe shall not be searched except in the owner's presence, and with his or her consent or with a valid search warrant for the gun safe.
- (c) This section shall become operative on January 1, 2016.

FIREARMS AND MENTAL ILLNESS

- **25135 (a) PC**

- A person who is 18 years of age or older, and who is the owner, lessee, renter, or other legal occupant of a residence, who owns a firearm and who knows or has reason to know that another person also residing therein is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm shall not keep in that residence any firearm that he or she owns unless one of the following applies:
 - (1) The firearm is maintained within a locked container.
 - (2) The firearm is disabled by a firearm safety device.
 - (3) The firearm is maintained within a locked gun safe.
 - (4) The firearm is maintained within a locked trunk.
 - (5) The firearm is locked with a locking device as described in Section 16860, which has rendered the firearm inoperable.
 - (6) The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.
- (b) A violation of this section is a misdemeanor.
- (c) The provisions of this section are cumulative, and do not restrict the application of any other law. However, an act or omission punishable in different ways by different provisions of law shall not be punished under more than one provision.

HOSPITALIZATION

- **5150.2 WIC**

- In each county whenever a peace officer has transported a person to a designated facility for assessment under Section 5150, that officer shall be detained no longer than the time necessary to complete documentation of the factual basis of the detention under Section 5150 and a safe and orderly transfer of physical custody of the person.

HOSPITALIZATION

- **5150 WIC**
 - Up to 72 hours.
- **5250 WIC**
 - 14 day certification for involuntary treatment after the initial 72 hour involuntary hold.
- **5350 WIC**
 - 30 day certification for involuntary treatment after the 14 day involuntary hold.

HOSPITALIZATION

- What is a **Lanterman Petris Short Act** (LPS) designated facility?
- How do **Urgent Care Centers** fit into the management of persons suffering from a mental illness, who are detained pursuant to 5150 WIC?

HOSPITALIZATION AND DUE PROCESS

- **Riese Hearing**

- In 1987 the California State Court of Appeals overruled the traditional interpretation of California's Lanterman-Petris-Short Act of 1968. It had been assumed that the Act permitted involuntary treatment for those detained under an initial three day hold (for evaluation and treatment) and subsequent 14 day hospitalization (if, after those 72 hours, the patient is "certified" as dangerous to self or others or gravely disabled). The Court of Appeals found that these patients had the right to exercise informed consent to the use of antipsychotic drugs, absent an emergency, and, should they reject medication, "a judicial determination of their incapacity to make treatment decisions" was necessary before they could be involuntarily treated.

PATIENT DUMPING

- **Emergency Medical Treatment and Labor Act (EMTALA)**
 - a federal law that requires anyone coming to an emergency department to be stabilized and treated, regardless of their insurance status or ability to pay, but since its enactment in 1986 has remained an unfunded mandate.
 - The U.S. government defines an emergency department as "a specially equipped and staffed area of the hospital used a significant portion of the time for initial evaluation and treatment of outpatients for *emergency medical conditions* ."
 - Hospitals are required to have policies and procedures to respond to presenting patients who are known to be in need of assistance in the 250-yard zone (excluding nonhospital private property, businesses, and offices)—or in nonemergency portions of the hospital—and ultimately move the patient to an area where the medical screening exam and care may be provided.

Dean J. Collins and Stephen A. Frew, "How Police Can Use Hospital Laws to Speed Processing in Hospital Emergency Departments," *The Police Chief* 78 (December 2011): 28–32.

PATIENT DUMPING

- **Emergency Medical Treatment and Labor Act (EMTALA) requires hospitals to:**
 - render medical screening and stabilizing medical care without regard to means or ability to pay, and restrict registration processing to prevent financial discrimination;
 - provide evaluation and stabilizing care within the hospital's capabilities and not transfer unless the hospital is unable to meet the patient's needs;
 - provide a list of on-call specialists to back up the emergency department within the capacity of the hospital staff, and require that they respond in a timely manner to the call.
 - follow detailed standards and requirements for transfers of patients, including the use of medical vehicles staffed with medical personnel and equipped with proper life-support capabilities (discharges fall within the definition of transfers, if the patient's emergency medical condition has not been completely screened and resolved);
 - document all elements of compliance carefully; and
 - report suspected possible violations of the EMTALA by other institutions that result in a patient presenting at the reporting facility.

WHAT'S WAS THAT SECTION OR
CODE?



QUESTIONS?

- *Take the attitude of a student, never be too big to ask questions, never know too much to learn something new.*
- *Og Mandino*



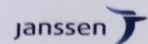
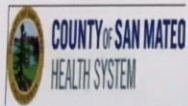
SOCIAL MEDIA

- **California Crisis Intervention Training Association (CACITA)**
- National Alliance on Mental Illness California
 - <http://namica.org/>
- Council of State Governments – Justice Center
 - Law Enforcement Mental Health Learning Sites
 - <https://csgjusticecenter.org/law-enforcement/projects/mental-health-learning-sites/>
- San Francisco Police Department / Crisis Intervention Teams
 - <http://sanfranciscopolice.org/cit>
- Los Angeles Police Department – Mental Evaluation Unit (Law Enforcement-Mental Health Learning Site)
 - Twitter @LAPDMEU
 - Facebook LAPDMEU
 - Instagram #LAPDMEU
- California Peace Officer Standards and Training (CA-POST)
 - <https://www.post.ca.gov/crisis-intervention-team.aspx>



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California Crisis Intervention Training (CIT)
Annual Statewide Conference 2017

Believing in Change
Collaboration through Training
January 9-10, 2017

Topics Include: "Dealing with the Aftermath"
"Assisted Outpatient Treatment"
"Excited Delirium"

Location: College of San Mateo
1700 W. Hillsdale Blvd. San Mateo, CA 94402

Information & Registration: WWW.CACITA.net (registration starts 10/16)

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