

**TRAINING MANUAL:  
INVOLUNTARY PSYCHIATRIC DETAINMENT  
WELFARE AND INSTITUTIONS CODE §5150**



**Behavioral Health Services  
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# **Training Manual for Involuntary Psychiatric Detainment under Welfare and Institutions Code §5150**

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## SECTION 1

### **“5150”: DEFINITION AND SCOPE**

The term “5150” is used, for our purposes, in reference to California’s Welfare and Institutions Code §5150 (hereinafter, “§5150”). This is the particular statute that describes the circumstances and requirements necessary for one person to detain and transport or cause the detention and transportation of another person to a Lanterman-Petris-Short (LPS) designated facility.

Welfare and Institutions Code §5150(a) states:

When a person, as a result of mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county 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 by the State Department of Health Care Services. At a minimum, assessment, as defined in Section 5150.4, and evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis. Crisis intervention, as defined in subdivision (e) of Section 5008, may be provided concurrently with assessment, evaluation, or any other service.

### **ACTIONS AUTHORIZED BY §5150 DESIGNATION**

§5150 designation only empowers the designee to detain and transport or cause the detention and transportation of a person meeting certain criteria to an LPS designated facility to determine whether further mental health evaluation and treatment is necessary.

§5150 designation does not empower the designee to directly admit a person to an LPS designated facility for mental health treatment.

The §5150 form (DHCS 1801 (06/18)) (See Attachment A) is entitled “Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” (“§5150 form”). §5150 designation empowers the designee to present this application and the subject of the application to a facility where evaluation and treatment can occur. The document is often erroneously referred to as a “72-Hour Hold,” which it is not. Filling out the form does not cause involuntary hospitalization. Rather, it is a request for an LPS designated facility to assess the subject of the §5150 and to determine if voluntary or involuntary admission for mental health evaluation and treatment is necessary.

## SECTION 2

### OBTAINING §5150 DESIGNATION

In San Diego County, any person, other than a sworn peace officer, must satisfy the following two requirements in order to be authorized to detain and transport or cause the detention and transportation of another pursuant to Welfare and Institutions Code §5150.

#### 1. QUALIFICATION BY PROFESSION

Sworn peace officers are the **only** group authorized to perform the duties described in §5150 independent of any action by the County. Any person who meets the California Penal Code's definitions and requirements necessary to be identified as a sworn peace officer is also authorized to act pursuant to §5150.

Welfare and Institutions Code §5008(i) defines a peace officer as:

[A] duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

All physicians, including psychiatrists and emergency department physicians, attending staff members, and other professional persons must be specifically designated by the County before they can detain and transfer or cause another to be detained and transferred pursuant to §5150.

Membership on attending staff is as defined by regulation, California Code of Regulations (CCR), Title 9, §823, "Attending staff" under section 5150 of the Act means any person having responsibility for the care and treatment of the patient, as designated by the Local Mental Health Director, on the staff of an evaluation facility designated by the county."

By Resolution dated December 5, 2005 (Attachment B), the San Diego County Board of Supervisors has declared the following professional persons eligible for designation:

Physicians in the performance of their duties as a member of the attending staff of an LPS-designated facility.

Psychiatric residents in an LPS-designated facility where the facility Director has extended them eligibility to apply for designation at that facility.

Emergency department physicians credentialed by or under contract to serve in the emergency departments of licensed general acute care hospitals.

Licensed psychologists, Licensed Clinical Social Workers, Registered Nurses, and Licensed Marriage and Family Therapists in the performance of their duties as a member of the attending staff of an LPS-designated facility.

Licensed Clinicians in the performance of their duties as a member of a "mobile crisis team: operated by an LPS-designated facility."

Licensed clinicians in the performance of their duties as a member of a Psychiatric Emergency Response Team (PERT).

Licensed County Mental Health Services staff in the performance of their duties as a member of a designated Juvenile Forensics treatment team out-stationed at Polinsky Children's Center (PCC).

Licensed County employees in the performance of their duties as a member of the Senior Outreach Team of County Aging and Independence Services.

## **2. QUALIFICATION BY TEST, GRADE, AND APPROVAL**

Persons meeting one of the above professional descriptions must then have reviewed this training packet, passed the exam with a score of 85% or higher, and applied to and received approval for designation from the Local Mental Health Director or his or her designee.

Professional persons granted §5150 designation are only authorized to exercise this authority in the performance of their job duties at a specific site. Professional persons employed by more than one program or site must obtain separate §5150 designation for each program or site.

## SECTION 3

### THE ELEMENTS OF A VALID §5150

#### **Probable Cause**

Peace officers and §5150 designated professional persons must make a face-to-face evaluation of an individual as part of the overall determination as to whether that individual meets §5150 criteria. The professional person evaluating the subject of the §5150 must have probable cause to believe that, as the result of a mental disorder, the subject is a danger to self and/or others, and/or is gravely disabled.

In *People v. Triplett*, 144 Cal. App.3d 283, 287-288 (1983), the California Court of Appeals formulated the now standard interpretation of probable cause in the context of a §5150.

To constitute probable cause to detain a person pursuant to section 5150, a state of facts must be known to the peace officer (or other authorized person) that would lead a person of ordinary care and prudence to believe, or to entertain a strong suspicion, that the person detained is mentally disordered and is a danger to himself or herself or is gravely disabled. In justifying the particular intrusion, the officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant his or her belief or suspicion. (Internal citations omitted.)

In other words, the §5150 designee must be able to identify specific information that would cause any reasonable person to believe or strongly suspect that the subject of the §5150 has a mental disorder which, at present, results in behavior indicating dangerousness to self and/or others, and/or grave disability.

The specific information considered in the §5150 process is not limited to the direct observation of the designated person. It is also not necessary that the designated person have independent firsthand knowledge of the information offered by third parties. Information may be made available by the potential subject of the §5150, someone they designate, caregivers, and family.

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, or cause that person to be taken, into custody pursuant to that section 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 the mental disorder. (Welfare and Institutions Code §5150.05(a))

Page two of the §5150 form provides space for the designee to include historical information as provided by the subject of the §5150 or by third parties.

## **Mental disorder**

Persons may be detained and transported pursuant to §5150 upon probable cause that the person has a mental disorder which currently results in behavior that is dangerous to self and/or others, and/or constitutes grave disability.

The designee is not required to make a medical diagnosis of the mental disorder. The term “mental disorder” is not defined in the Welfare and Institutions Code. The statutory language of §5150 and the language contained in the State created form are the same whether the §5150 is written by law enforcement or a clinician. The §5150 is a mechanism to present a person to the appropriate venue where clinical activities, such as diagnosis, examination, treatment and evaluation, can occur.

For purposes of the §5150, the mental disorder is established by statements that, “articulate behavioral symptoms of mental disorder either temporary or prolonged.” (People v. Triplett)

The designee would look for and document words, actions, and/or emotional affect that are inappropriate, unusual, or bizarre for the circumstances to support probable cause to believe the person may have a mental disorder.

A history of a mental disorder is not alone sufficient evidence to establish a connection between condition and behavior. A person with a mental disorder may find they are unable to provide for food, clothing, and shelter for reasons unrelated to their mental disorder, such as the loss of a job or a recent divorce. Similarly, dangerousness to self or others or an inability to provide food, clothing, and shelter without a mental disorder is not enough.

## **Criteria**

There are three separate criteria available as the basis for detention and transport pursuant to §5150: danger to self, danger to others, and gravely disabled. The designee must find that the subject of the §5150 meets at least one of the three.

In determining criteria, a connection must be established between the information supporting existence of a mental disorder and the indications or evidence of dangerousness to self and/or others and/or grave disability as a result of the mental disorder. The documentation presented on the §5150 form must establish this connection and support the criteria selected.

## **Danger to Self**

What constitutes a “danger to self” is not defined. Thus, there is no legal requirement for “intent” in order to find probable cause that a person is a danger to himself or herself as a result of a mental disorder.

Some examples of what might constitute a danger to self as a result of a mental disorder may include, but are not limited to:

1. Intentional acts of self-harm
2. Statements of intent or plan for self-harm
3. Behaviors that place a person in harms way
4. Symptoms that increase the likelihood of self-harm
5. In some circumstances, refusal of medical treatment or care due to a mental disorder (however, involuntary detentions under LPS may not be used to authorize medical or psychiatric treatment absent further court orders)

## **Danger to Others**

Similarly, what constitutes a “danger to others” is not defined. Thus, there is no legal requirement for “intent” in order to find probable cause that a person is a danger to others as a result of a mental disorder.

Some examples of what might constitute a danger to others as a result of a mental disorder may include, but are not limited to:

1. Intentional acts of harm to others
2. Statements of intent or plan for harm to others
3. Behaviors that are dangerous to others
4. Symptoms that create the likelihood of harm to others

Probable cause to believe that a person is dangerous to others as a result of a mental disorder may be based on actions that are likely to cause harm to another. As with dangerousness to self, it is not necessary that the person have actually caused harm to another person.

A history of violence towards others may be considered in determining dangerousness. The more recent the dangerous behavior, the greater the consideration given. And, again, there must be a connection between the dangerousness and a mental disorder.

Behaviors that threaten property alone do not necessarily equate to dangerousness to others.

Probable cause for dangerousness may be based on the combination of several behaviors and factors that the designee believes are the result of a mental disorder.

## **Gravely Disabled**

Welfare and Institutions Code §5008(h)(1)(A) defines the term “gravely disabled” as, “A condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.”

A person is not gravely disabled if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person’s basic personal needs for food, clothing, or shelter. A person is not gravely disabled for the sole reason of an intellectual disability according to Welfare and Institutions Code §5008(h)(3).

A gravely disabled minor is a minor “who, as a result of a mental disorder, is unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or reported antisocial behavior do not, by themselves, constitute a mental disorder.” (Welfare and Institutions Code §5585.25)

In making a determination of grave disability, it is not necessary that a person be unable to provide for all of the three basic needs, *i.e.*, food, clothing, or shelter. Inability to provide for one of the three basic needs, as the result of a mental disorder, is sufficient.

Note that probable cause for grave disability may never be based solely on refusal to accept mental health treatment.

The LPS Act conspicuously does not state that persons are gravely disabled solely because they refuse treatment for a mental illness. In short, the structure of the LPS Act preserves the

right of non-dangerous persons to refuse treatment as long as they can provide for their basic needs, even if they have been diagnosed as mentally ill. Conservatorship of Walker, 196 Cal.App.3d 1082 (1987).

The examples below may be helpful guidelines in determining grave disability:

	Not Gravely Disabled	Potentially Gravely Disabled
<b>FOOD</b>	Adequate knowledge of nutritional needs. Appears adequately nourished. Able to explain the manner by which he/she obtains food—prepares own meals or prepared by third party.	Unable to distinguish between food and non-food items. No food available or food is spoiled. Appears inadequately nourished. Denies/ unaware of need for food. Unable to explain how he/she obtains food.
<b>CLOTHING</b>	Manner of dress is appropriate to season, temperature, physical limitations, culture and/or religion.	Public nudity or inadvertent exhibitionism. Uses non clothing items to cloth self. Destroying, giving away or discarding clothing without recall of or reason for doing so and/or resulting in inability to clothe self appropriately.
<b>SHELTER</b>	Able to describe current shelter situation and/or plan for safely utilizing, maintaining or obtaining shelter. If evicted, eviction is not due to behavior which indicates an inability to utilize shelter properly. If chronically homeless, aware of shelter options, or able to describe how shelter needs are met.	Repeatedly unable to properly utilize resources for shelter. Refusal to utilize available housing due to unsubstantiated concerns/ fears: <i>i.e.</i> , someone tampering with electricity, FBI, CIA wiretaps, <i>etc.</i> Inability to formulate plan for shelter is not due to developmental, cultural or social factors. Maintains household in a manner that is clearly dangerous to health and safety. (Filth, fire hazard, <i>etc.</i> )

**Advisement**

The designated person is required to inform the subject of the §5150 that he/she is being detained and transported for an examination by mental health professionals. Welfare and Institutions Code §5150(f)(1) requires that, “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 code specifies that individuals admitted to an LPS designated facility for evaluation and treatment be given very specific information by the facility’s admission staff, both orally and in writing (in a language or modality that is accessible to that individual). Please see Welfare and Institutions Code §5150(h)(1) for the information required by law. Note that the advisement requirements are **not** satisfied by use of a facility’s “Involuntary Patient Advisement” form.

Furthermore, Welfare and Institutions Code §5150(i) requires that:

For each patient admitted for evaluation and treatment, the facility shall keep with the patient's medical record a record of the advisement given pursuant to subdivision (h), which shall include all of the following:

1. The name of the person performing the advisement.
2. The date of the advisement.
3. Whether the advisement was completed.
4. The language or modality used to communicate the advisement.
5. If the advisement was not completed, a statement of good cause.

### **Safeguarding of Property**

When exercising their authority pursuant to §5150, a sworn peace officer or designated professional person has a responsibility to safeguard the personal property of the person detained.

This responsibility arises “[a]t the time a person is taken into custody for evaluation, or within a reasonable time thereafter.” The person effecting detention and transportation pursuant to §5150 must “take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person.” Welfare and Institutions Code §5150(e). The duties required include ensuring that a report is made that describes the property preserved and safeguarded, and the disposition of the property.

A responsible relative, the guardian, or conservator of the detained person may agree to safeguard the person's property. The report of the property is then limited to the name of the party in possession of the personal property and the location of the property. This arrangement is not available when the responsible relative has filed a petition for mental health evaluation regarding the subject of the §5150.

In San Diego County, by specific arrangement, some of these duties may be attended to by the “Sheriff's Property Investigators.”

## SECTION 4

### PRESENTATION TO A DESIGNATED FACILITY

#### Designated Facility vs. Non Designated Facility

The designated person is required to place the person in custody “in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services.” Welfare and Institutions Code §5150(a). Such facilities are frequently referred to as “LPS designated facilities” or “LPS facilities.”

If a person has been placed on a §5150 and has been detained and transported to a facility that is not LPS designated (a non-LPS facility), the §5150 process has not been completed. Individuals brought to a non-LPS facility on a §5150 should still be assessed and transferred to an appropriate facility, as necessary. Obligations under The Emergency Medical Treatment and Labor Act (EMTALA) still apply. Hospitals may want to take advantage of Health and Safety Code §1799.111 to provide immunity for detaining the patient while a transfer is being arranged.

If that same person is admitted to that non-LPS facility for medical treatment (not psychiatric treatment), then that person is no longer on a §5150. The designated person who wrote the §5150 may want to document why the §5150 process was not completed. The non-LPS facility does not have the ability to detain the person for care.

If a person has been placed on a §5150 and has been detained and transported to a non-LPS facility, is not admitted to that non-LPS facility, and is then subsequently transported to an LPS facility, the §5150 process has been completed.

#### The Written Application

At the time the sworn peace officer or authorized professional person presents a person to a designated facility pursuant to §5150, they must also present a written application to the facility stating:

- The circumstances under which the person’s condition was called to the attention of the sworn peace officer or authorized professional person; and
- That there is probable cause to believe that the person is, “as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled.”

The written application requirement of §5150 is satisfied by use of the State-developed “Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” form. The information requested and the form used are the same, whether completed by a peace officer or a §5150 designated professional person.

A peace officer or authorized professional person completes the §5150 process by presenting both the detained person **and** the completed “Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” form to the designated facility.

When transferring a patient from one facility to another, there is no **legal** requirement that the **original** §5150 document be sent with the patient to the receiving facility.

## **Completion of Transport and Delivery**

### **Prohibited Activities by Employees of Facilities**

Mental health personnel cannot instruct a peace officer to take a person to jail or keep a person at jail “solely because of the unavailability of an acute bed, nor shall the peace officer be forbidden to transport a person directly to the designated facility.” Furthermore, mental health personnel cannot “prevent[] the peace officer from entering a designated facility with the person to be assessed” or “require the peace officer to remove the person without assessment as a condition of allowing the peace officer to depart.” (Welfare and Institutions Code §5150.1)

A peace officer cannot be detained at the LPS designated facility any “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.” (Welfare and Institutions Code §5150.2) This section also requires that:

Each county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to persons not admitted for evaluation and treatment and who decline alternative mental health services and to relate to the safe and orderly transfer of physical custody of persons under Section 5150, including those who have a criminal detention pending.

## SECTION 5

### ASSESSMENT

#### **Individual Assessments Prior to Admission to Determine Appropriateness of Detention**

Prior to admitting a person to the facility for 72-hour treatment and evaluation pursuant to §5150, the professional person in charge of the facility or his or her designee shall assess the individual in person to determine the appropriateness of the involuntary detention. (Welfare and Institutions Code §5150(b))

#### **Professional Person in Charge of the Facility or His or Her Designee**

California Code of Regulations, Title 9, §822 states that:

As used in the Act, “professional person in charge of a facility” means a person as defined in Section 623, 624, 625, 626, or 627 of this Chapter who is designated by the governing board of the facility or other agency or person having control of the facility as the professional person clinically in charge of the facility for purposes of the Act. The designation shall be in writing.

The code goes on to state, “It is intended that these minimum qualifications shall apply to the head or chief of a particular service or professional discipline but not necessarily to subordinate employees of the same profession.” (California Code of Regulations, Title 9, §622)

The purpose of the assessment is to determine whether the person: meets criteria for involuntary admission pursuant to §5150; meets criteria for voluntary admission; or can be appropriately served on an outpatient basis.

#### **Voluntary Admission**

Before admission to an LPS designated facility, a patient meeting §5150 criteria must first be offered voluntary admission and refuse, prior to being placed on a psychiatric hold. If it is determined that the person can be properly served without being involuntarily detained, the person shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis. (Welfare and Institutions Code § 5151)

Patients who are voluntarily admitted to a psychiatric facility have the same legal rights afforded to every American citizen. Individuals admitted on a voluntary basis retain their right to request to discharge themselves when they desire, refuse medication in non-emergency cases, refuse medical treatment, and refuse to participate in group therapy.

Patients who are voluntarily admitted to a psychiatric facility may later be placed on an involuntary hold, if they later refuse to stay on a voluntary basis, and if they are a danger to self, a danger to others, or gravely disabled as a result of a mental disorder.

#### **Involuntary Admission**

If it is determined by the professional person in charge of the facility, or his or her designee, that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled, the facility may admit the person, and may detain the person for evaluation and treatment for a period not to exceed 72-hours.

Patients who are involuntarily admitted to a psychiatric facility have same legal rights afforded to every American citizen. It is important to note that individuals who are involuntarily admitted retain their right to refuse medication in non-emergency cases, refuse medical treatment, and refuse to participate in group therapy.

### **Evaluation: As Soon as Possible After Admission**

Each person admitted to an LPS designated facility for 72-hour treatment and evaluation shall receive an evaluation “as soon as possible after he or she is admitted and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held.” (Welfare and Institutions Code § 5152)

### **Length of Detention**

In San Diego County, the start of the 72-hour period of a person being admitted and detained pursuant to §5150 is the time that the person was initially detained pursuant to §5150. The 72-hour period includes weekends and holidays. If the LPS designated facility admits the person, the facility may detain him or her for evaluation and treatment for a period not to exceed 72 hours.

A patient may not be placed on more than one §5150 during a single admission.

### **Release or Other Disposition**

A person admitted to an LPS facility pursuant to §5152 can be released before the end of the 72-hour hold if:

1. The treating psychiatrist, based on personal observations, believes that the detained person no longer needs evaluation or treatment; or
2. Either a psychiatrist or psychologist believes the detained person no longer needs evaluation or treatment, so long as both the psychiatrist and the psychologist have each personally evaluated the detained person and are in a collaborative treatment relationship, and have consulted with one another.
3. If the psychiatrist and psychologist disagree regarding the early release of the detained person, the hold shall be maintained unless the facility’s medical director overrules the decision of the psychiatrist or psychologist opposing the release. (Welfare and Institutions Code §5152)

## **SECTION 6**

### ***HEALTH AND SAFETY CODE §1799.111*** **DETENTION FOR UP TO 24 HOURS**

California Health and Safety Code §1799.111 is a code section that can only be used by non-LPS designated facilities and for a short duration for LPS-like detentions.

This law provides immunity from civil or criminal liability to non LPS designated hospitals, licensed professional staff members of non-LPS designated hospitals, and to any physician and surgeon, providing emergency medical services in any department at the non-LPS designated hospital for detaining a person who is subject to detention pursuant to §5150. The purpose of this law is to allow a non-LPS designated facility to arrange for appropriate discharge and referral of a person who would otherwise be admitted pursuant to §5150 criteria, if the hospital were LPS designated.

The statutory immunity afforded in this section is available only if all of the requirements of California Health and Safety Code §1799.111(a) are met:

(1) The person cannot be safely released from the hospital because, in the opinion of the treating physician and surgeon, or a clinical psychologist with the medical staff privileges, clinical privileges, or professional responsibilities provided in Section 1316.5, the person, as a result of a mental disorder, presents a danger to himself or herself, or others, or is gravely disabled. For purposes of this paragraph, "gravely disabled" means an inability to provide for his or her basic personal needs for food, clothing, or shelter.

(2) The hospital staff, treating physician and surgeon, or appropriate licensed mental health professional, have made, and documented, repeated unsuccessful efforts to find appropriate mental health treatment for the person.

(A) Telephone calls or other contacts required pursuant to this paragraph shall commence at the earliest possible time when the treating physician and surgeon has determined the time at which the person will be medically stable for transfer.

(B) In no case shall the contacts required pursuant to this paragraph begin after the time when the person becomes medically stable for transfer.

(3) The person is not detained beyond 24 hours.

(4) There is probable cause for the detention.

If the person is detained more than 8 hours, but less than 24 hours, additional conditions must be met in accordance with California Health and Safety Code §1799.111(b).

If the patient detained up to 24 hours is subsequently released from the non-LPS designated facility, the parties named above would be able to claim immunity in accordance with California Health and Safety Code §1799.111(c).

## **SECTION 7**

### **§5150 IMMUNITY**

Liability for decisions made in the exercise of authority pursuant to §5150 is of paramount concern to peace officers and designated professional persons. Various provisions of California law address immunity with regard to mental health treatment.

#### **Release Following Admission Pursuant to a 72-hour Hold**

So long as the provisions of Welfare and Institutions Code §5152 have been met (either the psychiatrist, the psychiatrist and psychologist or, where there is disagreement between the two, the facility's medical director, believes evaluation or treatment are no longer needed), there is no civil or criminal liability for any action by a person released before the end of the 72-hour hold, or at the end of the 72-hour hold.

## SECTION 8

### FIREARMS AND OTHER WEAPONS

A person placed on a §5150 as a danger to self or others who is assessed and admitted to an LPS designated facility as a danger to self or others (but not gravely disabled) is prohibited from owning, possessing, controlling, receiving, or purchasing, or attempting to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. Welfare and Institutions Code §8103(f)(1)

A person who is further certified under §5250 (14-day hold), §5260 (second 14-day hold for imminent danger to self), for any of the criteria (danger to self or others, gravely disabled), or §5270.15 (30-day hold) is prohibited from owning, possessing, controlling, receiving, or purchasing, or attempting to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. Welfare and Institutions Code §8103(g)(1)

Federal law provides for a lifetime firearms prohibition for persons who have been, “adjudicated as a mental defective.” (27 CFR 178.32(a)(4)) The Department of Justice interprets this to apply to persons who have lost their certification review hearing, which occurs when the facility requests further certification under §5250.

On the date of admission, the facility must make a report including the person's identity, the grounds for admission (danger to self and/or danger to others), and other requested information to the Department of Justice using a Department of Justice prescribed form.

Prior to, or concurrent with the discharge, the facility must inform the person that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years.

The facility is also required to inform the person that he or she may request a hearing from the Superior Court for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility must provide the person with a Department of Justice approved form to request a hearing.

If the person requests a hearing at the time of discharge, the facility must forward the form to the Superior Court unless the person states that he or she will submit the form to the Superior Court on their own.

The facility is also required to notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.

If the appropriate box is checked on the §5150 form, the facility must also notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

## **SECTION 9**

### **MINORS**

When detaining a minor, Welfare and Institutions Code §5585.50 is used instead of §5150:

When any minor, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, a peace officer, member of attending staff, as defined by regulation, of an evaluation facility designed by the county, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the minor into custody and place him or her in a facility designated by the county and approved by the State Department of Health Care Services as a facility for 72-hour treatment and evaluation of minors. The facility shall make every effort to notify the minor's parents or legal guardian as soon as possible after the minor is detained.

#### **The Written Application**

When presenting a minor to a designated facility, the written application completed and provided to the designated facility is the same §5150 form as is used with adults.

#### **Danger to Others, Danger to Self, Grave Disability**

Dangerousness is applied to minors the same way it is applied to adults. Grave disability, as applied to a minor, is defined as "a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter even though provided to the minor by others." (Welfare and Institutions Code §5585.25) There is no expectation that the minor be able to provide these elements for themselves.

#### **Parental Consent**

Parental consent is not required in order to detain and transport a minor pursuant to §5150. Nor is parental consent necessary for a minor to be admitted on an involuntary 72-hour hold.

The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained. (Welfare and Institutions Code §5585.50) Every effort shall be made to obtain the consent of the minor's parent or legal guardian prior to treatment and placement of the minor. Inability to obtain the consent of the minor's parent or legal guardian shall not preclude the involuntary treatment of a minor who is determined to be gravely disabled or a danger to himself or herself or others, so long as every effort has been made to obtain the otherwise necessary consents and so long as the treatment is in accordance with the provisions of the Lanterman-Petris-Short Act. (Welfare and Institutions Code §5585.53)

#### **Legally Emancipated Minors**

Legally emancipated minors requiring involuntary treatment shall be considered adults. (§Welfare and Institutions Code 5585.59)

## SECTION 10

### 5150 ADVISEMENT FORM AND BOARD AUTHORITY

#### Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment Form:

- This form is available online at [www.optumsandiego.com](http://www.optumsandiego.com) under the Forms Tab.

Below is a guideline on completing the “Application for Assessment, Evaluation, and Crisis Intervention or Placement for Evaluation and Treatment” also known as the “5150 form,” correspond to the numbered explanations, below.

1. Print your name on this line. Welfare and Institutions Code §5150(f)(1) requires that, when first detained, a person placed on a 5150 must be given notification, orally, of their detainment. The person placing the 5150 is responsible for making this advisement. The information required by Welfare and Institutions Code §5150(f)(1) has been incorporated into the “Detainment Advisement.”
2. The person placing the 5150 must check one of the two boxes to indicate whether the advisement was completed.
3. If a patient is unable to comprehend the verbal advisement, then do not read the Advisement, check “Advisement incomplete” and document the reason.
- 4-7. If the Advisement is successfully read to the client, print your name in the section labeled “Advisement Completed By,” **(4)**, print your position **(5)**, print the language or modality used **(6)**, and the date **(7)**.
8. Enter the name of the LPS designated facility where the person will be transported.
- 9-10. Enter the complete and legal name of the person **(9)** and the person’s current address **(10)**. Enter “homeless” if person is homeless.
- 11-12. If the person is a minor, check one box for the legally responsible party **(11)**, and provide contact information for the person you believe is the legally responsible party, if known **(12)**.
- 13-14. State how this person came to your attention, how were you notified or what did the person do that caused you to become aware of them/their behavior **(13)**. Enter **descriptive** information: what did you see, hear, smell; what did the person and/or others tell you that led you to believe that the person is a danger to himself/herself, and/or danger to others, and/or gravely disabled, as a result of a mental disorder **(14)**.
15. Check the appropriate box regarding the historical course of the person’s mental disorder. If historical information is available, fill out the table to provide the name, address, phone number, and relation [to client] of the person providing the information to the best of your ability. Note that the subject of the 5150 may provide you with relevant history.

16. Check the box(s) that correctly define the criteria for the hold. If they meet more than one criterion, please check all boxes that apply.
17. The person who placed the 5150 signs their name and enters requested information (signature, title, and badge number).
- 18-19. The date **(18)** and time **(19)** the person was first detained pursuant to the 5150.
- 20-22. The phone number **(20)**, name **(21)**, and address **(22)** of facility/person placing the 5150.
23. If notifications are to be provided to a law enforcement agency, provide their information on this line and check the appropriate box(es).
24. Check this box if law enforcement confiscated a weapon pursuant to Welfare and Institutions Code §8102. Upon release, the facility is required to provide notice to the person regarding the procedure to obtain return of any confiscated firearm pursuant to §8102.
25. Law enforcement must check this box, if they wish to be notified of person's release 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.

## **BOARD OF SUPERVISOR AUTHORITY**

The County of San Diego Board of Supervisors by Resolution has authorized the local Behavioral Health Director or the Behavioral Health Director's Designee to designate on behalf of the County attending staff of LPS designated facilities, members of mobile crisis teams operated by LPS designated facilities and other professional persons to take, or cause to be taken, into custody persons suffering from a mental disorder in accordance with the provisions of Sections 5150 and 5585.50 of the Welfare and Institutions Code.

A copy of the Board Resolution is available by request from the Clinical Directors Office.

**APPLICATION FOR ASSESSMENT, EVALUATION AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT FORM IS LOCATED ON THE OPTUM PUBLIC SECTOR WEBSITE AT [WWW.OPTUMSANDIEGO.COM](http://WWW.OPTUMSANDIEGO.COM) UNDER MHP PROVIDER DOCUMENTS, UNDER THE FORMS TAB.**