

#### 4.50 CUSTODY AND DETENTION OF MENTAL PATIENTS:

##### A. AUTHORITY:

1. Section 5150 of the Welfare and Institutions Code states, in part, "When any person, as the result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer . . . may, upon probable cause, take the person into custody and place him or her in a facility designed by the County for the purpose of 72-hour evaluations and treatment . . ."
2. Riverside County General Hospital is such a facility.

##### B. POLICY:

1. Riverside Police Department officers shall abide by and adhere to the provisions set forth in the Welfare and Institutions Code pertaining to the custody and detention of persons falling within the definitions described in Section 5150 of the Welfare and Institutions Code.
  - a. When responding to, or initiating investigations into criminal activities, officers will label the investigation as to the type of criminal activity involved regardless of whether or not the suspect appears to meet the requirements of 5150 WIC.
  - b. If the suspect is in such an obvious mental state that the jail would not accept that person, then the suspect should be lodged at County Hospital with criminal charges pending.
  - c. Reports carried as 5150 WIC will be only those that are non-criminal in nature.
2. Officers shall obtain supervisory approval for any 5150 detention.
3. **Violent Patients:** If possible, violent subjects should be transported by ambulance.
4. **Use of Force:** Officers shall act in accordance with law and Department procedure when using force to affect a detention for 5150 WIC.
5. **Unconscious Person:** In all cases, unconscious persons shall be first evaluated by emergency medical personnel and then transported by ambulance to a hospital.
6. **Application for 72 Hour Detention for Evaluation and Treatment:**

Officers shall complete the applications for 72-hour detention.

  - a. Officers must remain with 5150 subjects until released by hospital authorities.
  - b. If an officer should experience an unreasonable delay at the hospital, a supervisor should be notified, so that he/she may attempt to expedite the process.

**7. Weapons in the Possession of 5150 Subjects:**

- a. In accordance with Section 8102 WIC, officers shall confiscate and retain custody of any firearm or other deadly weapon which is owned, in the possession, or under the control of any person who has been detained or apprehended for examination of his/her mental condition, or who is a mental patient in any hospital or institution, or who is on leave of absence from such hospital.
  - b. "Deadly weapon" means any weapon, the possession or concealed carrying of, which is prohibited by Section 12020 of the Penal Code. (WIC 8100, Stats. 1985)
  - c. If the 5150 subject has been assessed and admitted to Riverside General Hospital or other County mental health facility for evaluation and treatment because that person is a danger to himself/herself or to others, Section 8103 WIC prohibits that individual from possessing the confiscated firearm or other deadly weapon for a period of five years. The firearm or other deadly weapon shall not be released "except upon an order of the Superior Court based upon a finding that the person may possess the firearm or other deadly weapon without endangering others." (WIC 8103(f)(4))
  - d. Alternatively, if the 5150 subject is detained for the purpose of a mental health evaluation but is not admitted to the facility following the initial assessment, the firearm or other deadly weapon must be returned to the subject unless the City Attorney initiates a petition in the Superior Court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others within 30 days of the subject's release. (WIC 8102) For further direction, please refer to Section 4.47 regarding the seizure of firearms or deadly weapons from mentally disturbed persons.
8. In all cases, officers shall complete a report when persons are detained for a 5150 WIC evaluation.

**9. Handling 72-Hour Mental Health Evaluation (5150) calls at Riverside General Hospital:**

Uniformed officers are occasionally summoned to Riverside General Hospital (RGH) in order to execute the necessary application for a 72-hour mental health evaluation pursuant to Welfare and Institutions Code, Section 5150.

Officers should be aware that completing an application for 72-hour evaluation on a subject effectively transfers probable cause and any potential liability for the detention from the hospital to the Riverside Police Department.

Members of the attending staff at RGH are authorized by Section 5150 to take an individual into custody for the purpose of a 72-hour mental health evaluation. Therefore, it is recommended that officers refuse to participate in the mental health detention of individuals who have not been taken into their custody. This will eliminate potential civil liability surrounding the detention.