
**MENTAL HEALTH CRISIS INTERVENTION/
CONFISCATING DEADLY WEAPONS - 5150/8102 W&I CASES**

A. POLICY STATEMENT

1. Seriously Mentally Ill people may have difficulties with communicating, thinking, controlling their behavior. Mental illness may be mild or may severely impair individuals and cause symptoms such as: Illogical thinking, unusual speech patterns, extreme or inappropriate verbal hostility, bizarre physical appearance, body movements, extreme displays of emotions, and/or creating unusual or unsafe environments. (P.O.S.T. Training Manual Field Guide, "Police Response to People with Mental Illness or Developmental Disability," Section 3-5 & 3-6).
2. Section 5150 of the Welfare and Institutions Code (W&I) provides for a means of directing people who are found to fall under its provisions to mental health professionals for assistance. Law Enforcement is one of the few professions that has the authority to commit someone who meets the criteria of 5150 W&I to a mental health facility. The Concord Police Department is committed to fulfilling its responsibility in a professional manner that strives to serve the needs of the people in need of such assistance.
3. Many times, people who are found to meet the criteria of 5150 W&I have threatened to harm themselves or others by use of a firearm or other deadly weapon. This agency is equally committed to confiscating such weapons in order to remove them from the possibility of being used to carry out the intended process. Any confiscation of a deadly weapon will be done by means that follows current law and department policy.

B. GENERAL

1. The purpose of this Procedure is to establish a uniform process for recognizing and handling mentally ill persons, and the handling of firearms and other deadly weapons confiscated from individuals who are detained pursuant to Welfare and Institutions Code Section 5150.
2. All Concord Police Department patrol personnel shall have available the "APPLICATION FOR 72-HOUR DETENTION FOR EVALUATION AND TREATMENT" three-part form (MR252-3).
3. This procedure shall comply with the requirements of Welfare and Institutions Code Section 8102 and shall be applied in all 5150 W&I cases in which deadly weapons are involved.
 - .1 Welfare and Institutions Code section 8102 requires a police officer to confiscate firearms or other deadly weapons possessed by or under the control of an individual who is being detained pursuant to Welfare and Institutions Code Section 5150.
 - .2 8102 W&I requires the law enforcement agency to file a petition with the Superior court asking that the weapons not be returned on the basis that the return "would be likely to result in endangering the person or others". The amendment further requires that the weapon(s) shall be

made available for release should the agency fail to file a petition within 30 days of the detainee's release.

- .3 Though 8102 W&I requires a police officer to confiscate firearms or other deadly weapons in 5150 W&I cases, it does **NOT** provide authority to violate rules of search and seizure as defined by statute and prevailing court decisions.
 - .01 In order to justify the warrantless, temporary seizure of deadly weapons in such cases, officers must comply with the following:
 - .001 Officers must be lawfully on/in private premises; and
 - .002 The firearm or deadly weapon must be in plain sight, or
 - .003 The weapon must be discovered pursuant to a consensual search.
- .4 Court authorized seizures must be supported by a seizure order signed by a Superior Court judge. Standard criminal search warrants are not a proper process for seizure under Welfare and Institutions Code Section 8102.

C. 5150 WI PROCEDURE

1. When encountering individuals suspected of suffering from a mental illness, officers should obtain as much information as possible to assess and stabilize the situation, to include the reporting person/bystanders and other persons in the area. Officers should consider the following when contacting a person suspected to have a mental illness. (P.O.S.T. Training Manual Field Guide, "Police Response to People with Mental Illness or Developmental Disability", Section 4-1 through 4-9).:
 - .1 Tactical Assessment
 - .01 Ability to physically control the person.
 - .02 Intuition
 - .03 Escape routes (for both the officer and the suspect)
 - .2 Situational Assessment
 - .01 Ability to harm officers/others
 - .02 The presence of a weapon, or report of a weapon
 - .03 Body language clues
 - .04 Awareness of officer presence
 - .05 Ability to respond to questions and commands with appropriate verbal and behavior responses.
 - .06 Amount of self-control the person can demonstrate
 - .3 Non-Compliance
 - .01 Tactical Communication Skills

- .001 Tone – present a calm and firm demeanor
 - .002 Atmosphere – reduce distractions/evaluate distance (respect personal space)
 - .003 Communication – establish contact/listen/develop rapport
 - .004 Time – slow the incident down/reassess
2. Determining involuntary detention criteria for 5150W&I – Persons who are subject to detention under W&I section 5150 are, as a result of a mental disorder:
- .1 Dangerous to Themselves
 - .01 Imminently at risk of self-harm due to suicidal thinking or inability to control self-destructive impulses.
 - .2 Dangerous to Others
 - .01 Imminently at risk of injuring others due to homicidal or assaultive impulses or behaviors.
 - .3 Gravely Disabled
 - .01 Unable to access or utilize services to meet their basic needs for food, clothing or shelter.
3. Persons who are considered for 5150 detention may have a history of mental health treatment and officers are **required** to investigate this possible history pursuant to section **W&I 5150.05**.
4. Persons who are evaluated and not found to meet the criteria for 5150 but who do demonstrate signs of having a mental illness may need other forms of support and officers may consider assisting the person to access mental health or community services providers.
- .1 Some possible referrals or contacts for assistance include:
 - .01 ANKA Multi-Service Center
 - .02 Casa del Pueblo Detoxification Center
 - .03 Community Mental Health Outpatient Clinic / Concord Mental Health
 - .04 Community Mental Health Crisis (CCRMC)
 - .05 Contra Costa Crisis Center
 - .06 The Contra Costa County Mental Health Multi-Disciplinary Team – via the Concord Police Department’s Mental Health Liaison Officer.
 - .07 National Alliance For the Mentally Ill (NAMI)
5. When it becomes necessary to commit an individual, an ambulance should be called to the scene to transport the patient.
- .1 The officer shall complete the commitment form at the scene and deliver the white and blue copies of the signed form to the driver of the ambulance. The yellow copy shall become part of the police report and forwarded to records.

- .01 Officers shall complete the commitment form at the scene without delay so that the ambulance will not be unnecessarily detained.
- .02 Committing officers shall be responsible for completing an Arrest and Detention report.
- .03 The ambulance will deliver the patient and the white and blue copies of the signed form to the County Hospital.
- .2 When a patient is violent or it appears that he/she may become violent, the arresting officers shall lend whatever assistance is necessary, including accompanying the patient and/or ambulance to the hospital.
 - .01 While in the custody of ambulance personnel, patients shall not remain in handcuffs unless in the immediate presence of an officer.

D. 8102 WI PROCEDURE

- 1. In the case where police officers commit a person pursuant to 5150 W&I, and officers determine that the detainee possesses or has in his/her control firearms and/or other deadly weapons, the officer shall confiscate same pursuant to 8102 W&I subject to the limitations described in B3.3 above.
 - .1 The officer will advise the detainee that the firearm(s) and/or other deadly weapon(s) have been confiscated under 8102 W&I, and that the detainee has 30 days to contact the department to inquire about the return of the firearm(s) and/or other deadly weapon(s).
 - .2 The officer shall complete and sign the “DECLARATION IN SUPPORT OF PETITION FOR JUDICIAL DETERMINATION RE: RETURN OF FIREARM(S) OR OTHER DEADLY WEAPON(S)” and attach it to the police report.
 - .3 The reporting officer shall refer the written report to the CSI/ECU Supervisor or his/her designee for review and initiation of the petition process.
 - .001 The reporting officer or his/her designee shall log the confiscated weapons into evidence under the category **FOR SAFETY OF OTHERS**.
 - .002 The ECU Officer shall notify her/his supervisor of any weapons received in each 5150 W&I case.
- 2. Upon receiving notification of a 5150 W&I committal involving an 8102 W&I weapon confiscation, the CSI/ECU Bureau Supervisor or designated follow-up officer shall initiate the case review and superior court petition process.
 - .1 The case and the prior record of the detainee shall be reviewed to assess weapon use, threats/danger to the detainee or others, other risk factors associated with the return of the weapon, prior incidents by the detainee.
 - .2 The CSI/ECU Bureau Supervisor or designated follow-up officer shall submit the case to the City Attorney for review and determination if a petition should be initiated in the superior court.
 - .01 Three copies of the original report, prior record of the detainee, and any supplemental/follow-up reports shall be submitted to the City Attorney.
 - .02 If a petition is to be filed, the City Attorney shall prepare the petition package which shall include Petition Seeking Judicial Determination RE Return of Firearm or Deadly Weapon,

Declaration In Support of Petition for Judicial Determination, Points and Authorities in Support of Petition for Judicial Determination and Proof of Service by Mail.

- .001 The Declaration in Support of Petition shall be signed by the reporting/detaining officer and attached to an Offense Report.
 - .002 The Offense Report shall describe the type of weapon(s) confiscated and the reason for the confiscation.
 - .03 The City Attorney shall cause the detainee to be notified by mail that a petition is being filed in the Superior Court.
 - .04 The CSI/ECU Supervisor shall cause the three copies of the above documents, along with all police reports relating to the specific case, to be filed with the Contra Costa County Superior Court Clerk, Civil Section **WITHIN 30 DAYS OF THE DETAINEE'S RELEASE**.
- .3 If no petition is to be filed, the involved weapon(s) shall be made available for release.
- .01 The CSI/ECU Bureau Supervisor shall cause to be maintained a file tracking each 5150/8102 W&I case.
3. Should a detainee request a hearing under authority of 8102 W&I the Superior Court Clerk will notify the City Attorney's Office in writing of the date, time and place set for the Hearing on Petition. The City Attorney's Office will in turn notify the CSI/ECU Bureau Supervisor.
- .1 A copy of the Notice of Hearing shall be sent to the City Attorney's office, as a member of the City Attorney's legal staff will represent the City and Police Department in the hearing process.
 - .01 The Superior Court hearing is conducted as any other court process, with testimony and evidence being examined to determine whether the return of the firearm or deadly weapon would be likely to result in endangering the involved person or others.
 - .001 Reporting/detaining officers will be subject to subpoena and may be required to appear in order to provide testimony as to the facts of the committal.
4. In the event a detainee fails to respond to the County Clerk within 30 calendar days, the City Attorney shall be requested to prepare a petition asking for an order for default, an order for disposition of the firearm or other deadly weapon.
- .01 The CSI/ECU Supervisor shall cause the petition seeking the order for default to be filed with the County Clerk.
 - .02 The presiding judge of the Superior Court may rule on the petition utilizing a formal hearing in which testimony is taken or through the review of the original and supplemental police reports.
5. A final disposition for weapons confiscated as a result of 5150/8102 W&I cases shall occur only as a result of the following actions:
- .01 No petition is filed by the Concord Police Department; therefore weapons **SHALL** be made available for release after 30 days.
 - .02 Petition is filed and detainee responds, the Superior Court orders disposition (return, destruction, etc.).

.03 Petition is filed and detainee does not respond, the Superior Court rules on petition for order of default and orders disposition (destruction, etc.).

E. TRAINING

1. Officers joining the Concord Police Department shall receive training on the application of this procedure to include an overview of available community resources for mentally ill persons.
2. The Department Training Unit shall provide officers with at least 2 hours of update training on dealing with mentally ill persons at least every 3 years. The training will include updates on the application of this procedure.