

# Civil versus Criminal evaluation

- This is not a “criminal procedure” hence the term “civil.” The individual has not committed a crime--- however their behavior is endangering themselves or the public. Civil commitment is the way to get the person into treatment, even if they don’t want it.
- A 5150 evaluation most often occurs at a mental health facility versus a criminal justice facility (although it can be conducted at a jail, or an inmate can be transferred from jail on a 5150.)

## Probable Cause to Detain A Person Pursuant to Section 5150

- A state of facts that would lead a person of ordinary care and prudence to believe or entertain a strong suspicion that the person being detained is mentally disordered and is a danger to himself or others or is gravely disabled.
- This is a lay decision, NOT a clinical one and does not require a diagnosis

# PES Admission Criteria

- Anyone with a psychiatric crisis (any age)
- Voluntary or involuntary
- Any income
- Must be medically stable (would be able to be home if not for their psychiatric symptoms.)
- Patients with acute medical problems are diverted to ED's for medical stabilization BEFORE PES assessment. Nursing staff should be consulted before accepting any patient on the unit.

# WIC 5150 Criteria

- Danger to self
- Danger to others
- Gravely disabled

(AS A RESULT OF A MENTAL DISORDER)

INVOLUNTARY (if voluntary, a 5150 commitment is not necessary)

**The following conditions, *by themselves*, DO NOT constitute a mental disorder and would not meet the criteria for a 5150.**

- Epilepsy
- Mental Retardation
- Developmental Disabilities
- Substance Abuse
- Dementia/Alzheimer's
- Repeated anti-social behaviors
- Brain damage (by injury or organic)
- Refusal to accept medical treatment

# Just Because You Can, Should You Write A 5150?

- In Marin County we adhere to the recovery philosophy of mental illness, partnering with the client in their treatment means taking the least restrictive approach.
- The law actually states that the designated person “may” place an individual on a hold, not “must”.
- This means that we should first attempt to have the client seek treatment voluntarily. Be sure to ask if they are willing to go to PES for evaluation voluntarily, if not, then let’s look at the criteria more closely.
- Placing someone on a 5150 is in essence taking away their civil rights! Do so with prudence.

# Danger to Self

- A deliberate intention to injure oneself (i.e. overdose) or a disregard of personal safety to the point where injury is imminent (i.e. wandering in traffic)
- Danger (real or perceived) must be present, immediate, substantial, physical, and demonstrable.

# DTS Documentation

- Words or actions showing intent to commit suicide or bodily harm
- Words or actions indicating gross disregard for personal safety.
- Words or actions indicating a specific plan for suicide.
- Means available to carry out suicide plan (i.e. pills, firearms present or available.)
- Reports by significant others which describe client's actions.



# Danger to Others

- Threats or actions of intent to harm another as a *result of a psychological disorder*.
- Person intends to cause harm to a particular individual or intends to engage in dangerous acts with gross disregard for the safety of others.
- Reasonable suspicion by evaluator that the person will carry out the plan.

# DTO Documentation

- Threats against particular individuals.
- Attempts to harm certain individuals
- Means available to carry out threats or to repeat attempts (i.e. firearms or other weapons)
- Expressed intention or attempts to engage in dangerous activity.
- Reports by significant others of client's attempts to hurt other.
- Psychological symptoms present that differentiate the above from a criminal act (i.e. delusions, hallucinations, paranoia--SMI).

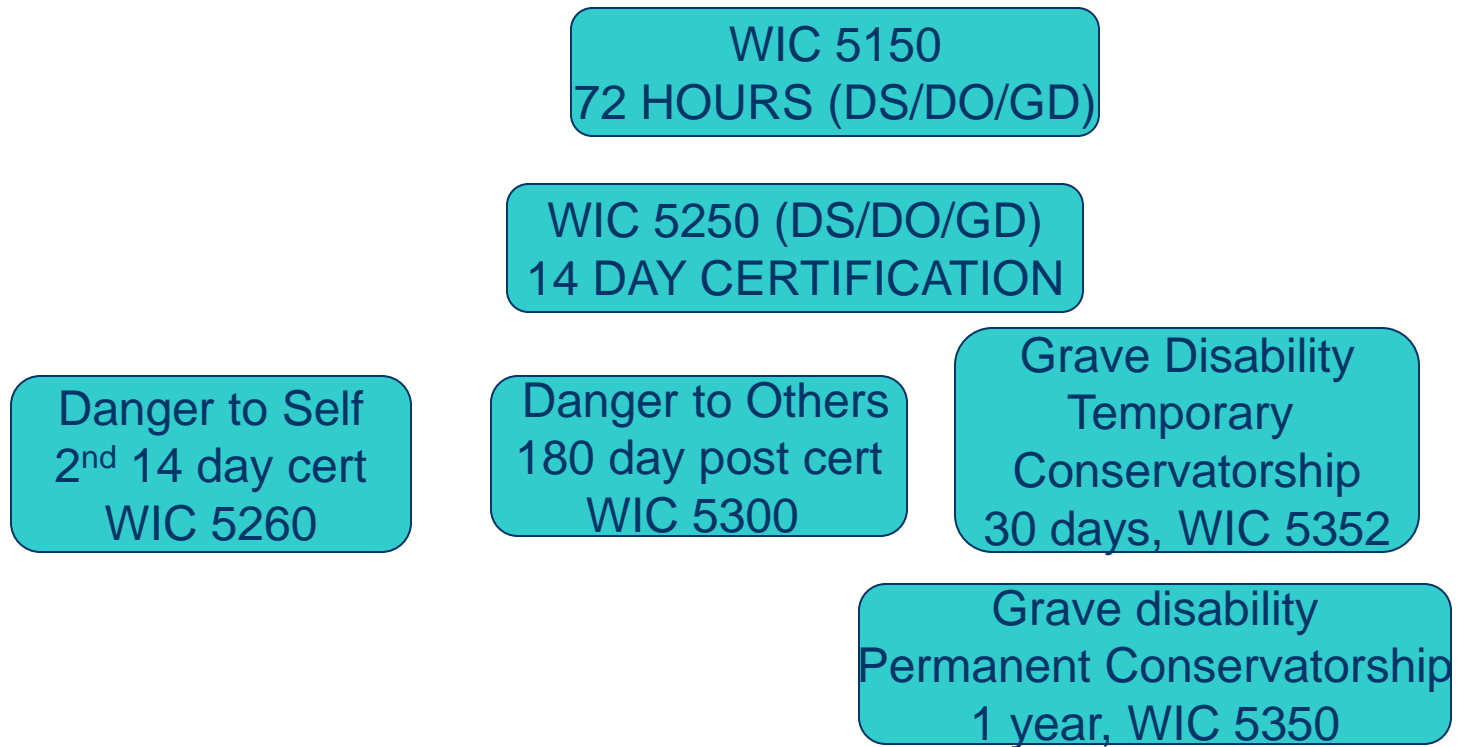
# Gravely Disabled

- A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, and shelter.
- Must determine if the person is presently gravely disabled (not just at risk of being disabled in the future.)
- Homelessness (by itself) does not constitute grave disability.
- If a 3<sup>rd</sup> party is willing and able to provide for the person's needs, the person is not considered gravely disabled.

# 5150 Parameters

- A 5150 hold allows for evaluation and treatment for up to 72 hours
- PES is only licensed for 24 hours, so we have one day to evaluate and attempt to stabilize the patient.
- If PES staff determine the client requires treatment for longer than 24 hours, the client is hospitalized.

# Civil Commitment Flow Chart



# Who can write a 5150?

- In California, the Mental Health Director of each county Community Mental Health program makes the decision who can perform the 5150.
- It can vary from county to county what persons/entities are authorized.

# Marin County 5150 Authorization

**The following facilities (and roles within them are authorized to place someone on a 5150 in Marin)**

- All police officers in the county (13 departments)
- Marin County Community Mental Health psych emergency staff and licensed clinicians
- Marin General Hospital social work staff and psychiatrists
- Kaiser Terra Linda psychology department

# Marin County 5150 Receiving Facilities

- Marin County Psychiatric Emergency Service
- Marin General Emergency Department
- Kaiser Terra Linda Emergency Department

Novato Community Hospital ED does not have 5150 authority---after medical stabilization, a 5150 client from NCH is transferred to the County PES for evaluation.



# Who can write a 5150?

- A staff member is only authorized to perform a 5150 within their role at a designated facility. For example, someone working at PES can write a 5150 only when working within their job with the county, but not in their private practice.
- A social worker designated to write 5150 in their job at MGH, would not be able to do this at NCH (since that hospital does not have 5150 authority.)

## WIC 5150.05 Historical Information

- The Law states that information about the historical course of the person's mental disorder **shall** be considered when it has direct bearing on what is currently happening with the person being assessed.
- This information can come from family members, mental health providers, or support service providers

# Advisement

- When persons are taken into custody on a 72-hour hold, they must be told (WIC 5157):
  - (a) The name, position, and agency of the person initiating the custody;
  - (b) The name of the facility where they will be evaluated;
  - (c) That they are not under criminal arrest, but are being detained for evaluation by mental health professionals; and
  - (d) That they will be told their rights by the staff at the facility.

# Lifting a Hold

- The police and psychology staff at any designated facility can place a hold.
- Psychology staff at designated facilities can evaluate and treat clients on a hold.
- Only a psychiatrist can lift a hold. PES nursing staff are required to document on a med order sheet when the doctor lifts the hold.

# Minors

- DTO, DTS, GD for minors is under WIC 5585.
- GD for minors: As a result of a mental disorder, a minor is unable to utilize the elements of life, which are essential to health, safety and development, including food, clothing or shelter, even though provided to the minor by others (WIC 5585.25)
- If the parents are willing to sign in their child voluntarily, then that is the preferred approach.
- Even if parents are unwilling for the child to be admitted for treatment, this code allows a designated facility to treat for 72 hours.

# Liability

- Anyone who knowingly or willfully is responsible for detaining a person in violation of the commitment statutes is liable in a civil code action by the detained party (WIC 5259).
- The writer of the 5150 shall **NOT** be held civilly or criminally liable for any action by a person released before the end of the 72 hours (WIC 5154)

# New Law - SB 364

- Effective Jan. 1, 2014
- Biggest change: Recognizes role of crisis stabilization and adds a new assessment possibility that would permit a custodial hold to be “lifted” (discontinued) before patient is transported to designated facility if patient can be served voluntarily in less restrictive environment (W&I 5150)

# New 5150 Language

- (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...
  1. peace officer
  2. professional person in charge of designated facility
  3. member of attending staff of facility
  4. designated member of mobile crisis team
  5. professional person designated by county



# 5150 –New Language continued

- (a) continued:

may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours...

- 1) for assessment, evaluation, and crisis intervention,  
**OR**
- 2) placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by State Dept. of Health Care Services

# 5150 – New Language continued

- (b) The ...
  1. professional person in charge of the facility,
  2. member of the attending staff, or
  3. the professional person designated by the county

shall assess the person to determine whether he or she can be properly served without being detained.

**(if so, patient is provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis)**

## 5150 – New Language continued

- (d)...If patient cannot be served voluntarily, admitting facility shall require an application in writing stating the probable cause to believe patient is DTO, DTS, or GD

# W&I 5151

- Prior to admitting to designated facility, 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.
- If the person cannot be served voluntarily or as an outpatient they will then be admitted for evaluation and treatment **for up to 72 hours.**

## **SB 364 – New Advisement in the field (if done at person’s home)**

- Oral advisement at time person taken into custody now includes statement to client:

**“please inform me if you need assistance turning off any appliance or water”**

## SB 364 –Administrative Tasks

- W&I 5008 - Each agency or facility providing “evaluation services” shall maintain a current and comprehensive file of all community services, public and private, and all agreements with agencies or individuals accepting referrals as well as appraisals of the results of past referrals

## SB 364 –Administrative Tasks continued

- W&I 5013 - Each city or county mental health department is *encouraged* to include on its Internet Web site a current list of ambulatory services and other resources for persons with mental health disorders and substance use disorders in the city or county that may be accessed by providers and consumers of mental health services – the list should be updated at least annually.

## SB 364 –Administrative Tasks continued

- W&I 5121 - County mental health director may develop procedures for county's designation and training of professionals who will be designated to perform functions under 5150.



**Comments/Questions:**

