

STANDARIZED ROLL CALL TRAINING PROGRAM
Deployment Period #3-06

LESSON PLAN

TOPIC: Human Relations
SUBJECT: Section 8102(a) WIC - Weapons Confiscation
PREPARED BY: Human Relations Training Unit
Training Division, (310) 342-3160
Date Prepared: 2-06
REFERENCES: Welfare and Institutions Code, Sections 5150 & 8102(a)
Manual 4/260.20, 4/260.25
"Just the Facts," Los Angeles City Attorney's Office, June 2004

PERFORMANCE OBJECTIVE

Officers will understand that they shall confiscate weapons in possession of a person who has been detained under the authority of Section 5150 Welfare and Institution Code.

SCENARIO

Officers responded to a 911-radio call of, "Man with possible mental illness," made after the man punctured one of the tires on his father's car. The PR stated that his son is mentally ill and had stopped taking his medication. After the 911 call, the man left his parents' home but then returned to drive past the house and apparently fire shots into the air. The officers searched for the man but were unable to locate him. The man's father led the officers to two guns his son owned. The officers seized the guns under the authority of section 8102(a) of the Welfare and Institution Code.

DISCUSSION

Was the seizure of the guns lawful?

No. Section 8102(a) authorizes officers to confiscate firearms or deadly weapons only if the person is taken into custody pursuant to Section 5150 WIC and is accepted by a hospital for evaluation. When conducting a 5150 investigation, officers should contact the Mental Evaluation Unit (MEU) for advice prior to leaving the scene.

Under the authority of Section 5150, an officer may detain a person for transportation to a designated mental health facility for a 72-hour hold for evaluation if the officer has probable cause to believe that the person, as a result of a mental illness, is a danger to

self, a danger to others, or gravely disabled. The officers clearly had probable cause to take the subject into custody under the authority of Section 5150 had he been present. However, if the subject is not actually taken into custody and accepted by a qualified mental health facility, officers may not seize firearms or other weapons in connection to a 5150 investigation. This rule does not affect the authority of officers to seize weapons for some other valid law enforcement reason, such as on the basis of probable cause to search for evidence of a crime or incident to a lawful arrest. Remember when a person suspected with a mental illness is taken into custody for a criminal offense, you must contact MEU prior to the person being booked (Manual 4/260.20)

When officers have probable cause to believe that a person with a mental illness owns, possesses, or has access to a firearm or any other deadly weapon (prohibited by Section 12020 PC) located inside a residence or any other premises shall, when possible, obtain consent to search for the weapon. If consent cannot be obtained, a search warrant may be necessary. Officers shall contact MEU and be guided by the advice of the investigator on duty (Manual 4/260.25).

REVIEW

A man walked into the lobby of a police station and asked the officers to take him to the hospital. He stated that he was hearing several voices that were telling him to harm himself and police officers. He was off of his medication because he could no longer afford the prescription and he was worried because he had attacked a police officer in the past when was off of his medication. The man stated that he had a gun in his car and handed an officer the keys. The officers detained the man under the authority of section 5150 WIC.

Since the man voluntarily presented himself to the officers for detention, can the officers confiscate the firearm under the authority of section 8102(a) WIC?

Yes. Section 8102(a) also permits confiscation of weapons of persons who have voluntarily admitted themselves to a mental health facility.