

Los Angeles County Department of Mental Health

LPS Authorization Training

Introduction

A discussion on Ethics...



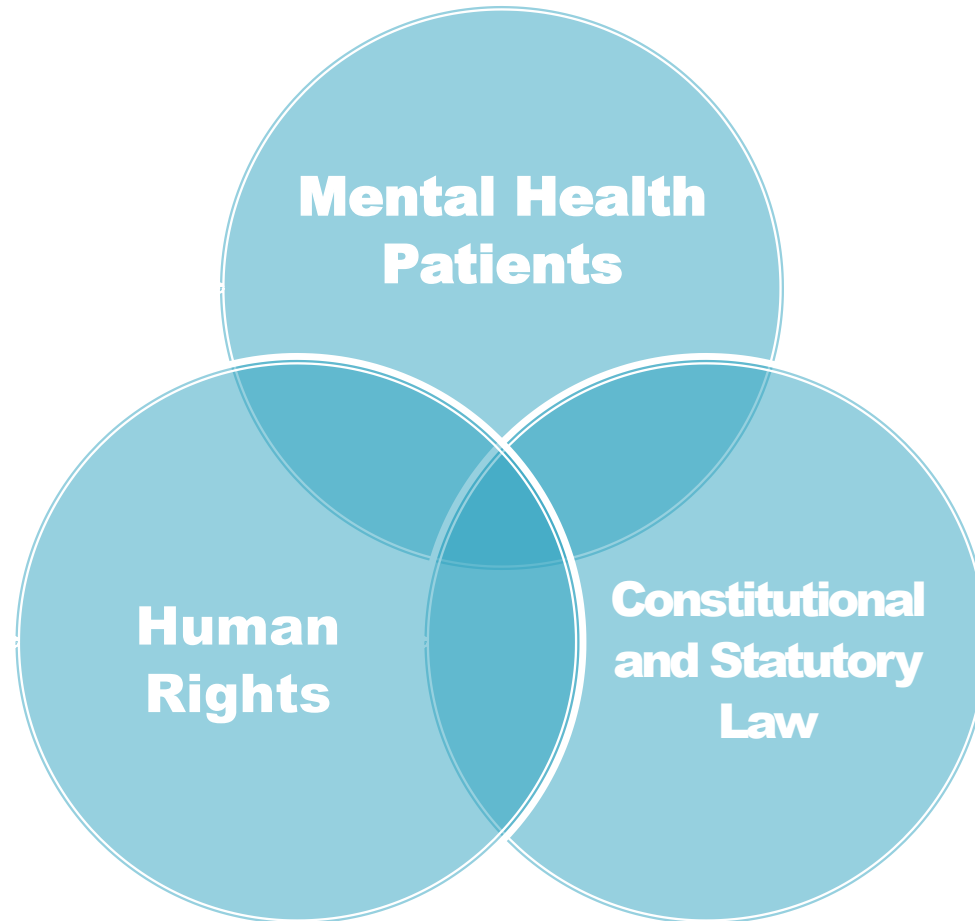
Introduction

- **Prior to LPS - insufficient standards for who could be placed involuntarily into the hospital or for how long**
- **Criminals had more due process rights than mental health patients**
- **No rights once hospitalized**

Lanterman–Petris–Short Act (passes 1969)

Purpose: To end the **inappropriate, indefinite, and involuntary** commitment of mentally disordered persons, developmentally disabled and persons impaired by chronic alcoholism, prompt evaluation, to guarantee and **protect public safety**, safeguard individual rights through judicial review (WIC 5000).

Legal Nuts and Bolts



What is an application for involuntary admission (72 hour Hold)?

5150 is an application for involuntary admission, not an admission form. It gets the individual to the door, then 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*” (face to face assessment) (WIC 5151).

Who can initiate an application for involuntary admission (72 hour hold)?

- Peace officer (includes sheriffs, State Park Rangers, State University Peace Officers, parole or probation officer)
- Member of attending staff* of an evaluation facility authorized by the County
 - “Attending Staff” – responsible for the care and treatment of patients
- Any professional person authorized by the County (WIC 5150).

Persons Authorized to Initiate Involuntary LPS Detention

LA County DMH Policy 307.01

3.1.1 A person licensed in a mental health discipline by the State of California, who is on the psychiatric professional staff of a LPS designated facility or who has completed or is enrolled in an approved psychiatric residency training program in a LPS designated facility in Los Angeles County

3.1.2 A person licensed as a mental health professional by the State of California, or license-waivered, who is employed by LACDMH or a LACDMH contract agency

Liability

- If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows is false (WIC 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).

Where are 72-hour Applications written to?

- LA County does not hospitalize for chronic alcoholism; it has not designated any hospitals for that purpose
- Private authorized person to own hospital only; authorizations are non transferable
- County or County-contracted person - to any designated facility
- County team prevails over private team
- Location limitations: County of LA only
- 5150s can be written on inpatient medical units

Emergency Room Hours

January 1, 2008 – 24 Hours

- A licensed general acute care hospital, licensed psychologist, physician or surgeon can detain a person for up to 24 hours who presents as a danger to self, others or is gravely disabled as a result of a mental health disorder. All time must be accounted for. (Health and Safety Code 1799.111)
- Senate Bill 916: States that as of Jan 1, 2008, immunity for non-designated acute care hospitals will be extended up to 24 hours. All of the following must be met:
 1. The person cannot be released because they meet 5150 criteria
 2. Staff has made and documented efforts to find appropriate Tx
 3. The person is not detained beyond 24 hours
 4. Probable cause exists for detention
- Non-authorized staff immunity for releasing patients who no longer meet criteria

Why is a 72-hour Application written?

"When any person, as a result of **mental health disorder**, is a danger to others, or to himself or herself, or gravely disabled, a [authorized person] may upon **probable cause**, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72 hour evaluation.

(WIC 5150)

Why is a 72-hour Application written? (continued)

- Criteria must be linked to a **mental health disorder**.
- Mental health disorder is not defined by law and the initiator is not required to make a medical diagnosis of mental health disorder.
- Initiator should articulate **behavioral symptoms** of mental health disorder either temporary or prolonged
(All of the above are based on People v Triplett.)

Why is a 72-hour Application written? (cont.)

- The LPS Act does not provide a definition of probable cause, so we look to case law for the answer.
- **Probable Cause** – a definition based on case law (People v. Triplett). The case law contains a working guideline to decide if probable cause exists.
- The case indicates a lay decision not a clinical one. The decision does not require a medical diagnosis.

People v. Triplet

144 Cal.app.3d 283 (1983)

- “To constitute probable cause to detain a person pursuant to California Welfare & Institution Code § 5150, a state of facts must be known 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 to others or is gravely disabled.”
- “In justifying a particular detention, the officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant his/her belief or suspicion.”

Criteria Definition

- **Gravely disabled adult** - a condition in which a person, as a result of a mental health disorder (rather than a chosen life style or lack of funds) is unable to provide for his or her basic personal needs for food, clothing or shelter (WIC 5008). The threat to harm oneself may be through neglect or inability to care for oneself (*Doremus v Ferrell*).
- If a person can survive safely in freedom with the help of willing and responsible family members, friends or third parties, then he or she is not considered gravely disabled.

Indications of Grave Disability

FOOD

- Cannot distinguish between food & non-food
- Eats food not fit for human consumption
- Endangers health by gross negligence in diet & nutrition
- Is dehydrated or malnourished
- States intentions not to eat
- Demonstrates excessive & constant food preferences or aversions -except for genuine religious reasons - which endanger health

Indications of Grave Disability

CLOTHING

- Engages in public nudity or inadvertent exhibitions
- Wears filthy or grossly torn clothing unsuitable to the climate possibly jeopardizing health
- Repeatedly destroys clothing
- Has no realistic plans for obtaining clothing

Note: A person's predilection for unconventional dress, whether due to cultural or personal preference, does not by itself indicate an inability to provide clothing

Indications of Grave Disability

SHELTER

- Is unable to locate housing and make appropriate arrangements or accept assistance by others to do so
- Is unable to manage own, household in such a way to avoid clear dangers to health
- Has no realistic plans for obtaining suitable shelter

Note: A transient lifestyle and or lack of shelter may be due to personal preference or poverty.

Remember that the inability to provide shelter must be the result of a mental health disorder in order to justify involuntary detention.

Criteria Definition

- **Gravely disabled minor definition** – *as a result of a mental health disorder is unable to use the elements of life which are essential to health, safety and development, including food, clothing, shelter, even though provided to the minor by others. (WIC 5585.25)*
- Minors should only be admitted for treatment when parental authorization for treatment is not available. *When any minor, as a result of mental health disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, an [authorized person] may, upon probable cause, take, or cause to be taken, the minor into custody... (WIC 5585.50).*

Criteria Definition

Dangerous to self can be manifested by threats or actions indicating the intent to commit suicide or inflict serious bodily harm on oneself, or actions which place the person in serious physical jeopardy, if these actions are due to a mental health disorder.

Criteria Definition

Dangerous to others can be manifested by words or actions indicating a serious intent to cause bodily harm to another person due to a mental health disorder. If the dangerous to others findings is based on the person's threats rather than acts, the evaluator must believe it is likely that the person will carry out the threats.

Duty To Warn and Protect (The California Tarasoff Statute)

- A psychotherapist has a duty to warn and attempt to protect any reasonably identifiable victim or victims of a serious threat communicated to the psychotherapist by a client.
- “The duty shall be discharged by the psychotherapist, making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency.”
(Civil Code 43.92)

Duty to Warn and Protect

(continued)

In 2004 the Court of Appeals expanded the therapist's duty to warn to include instances when a member of a client's immediate family advises the therapist, for purposes of advancing the client's treatment, that the client has communicated a serious threat of physical violence against a reasonably identifiable victim or victims.

Ewing v. Goldstein, 120 Cal. App.4th 807
(Cal. Ct. App. 2004)

DMH Policy 202.2 – Duty To Warn and Protect Third Parties in Response to a Client Threat

4.1 When a client, a member of the client's immediate family member, or other credible informant, whether during some initial contact or during the course of service, communicates to any staff of a DMH program that the client has made a serious threat of physical violence against a reasonably identifiable victim or victims, then actions pursuant to the Civic Code and *Tarasoff* decision must be implemented in order to protect the third party. Only the minimum amount of information necessary to protect the intended victim or victims shall be released.

Criteria Definition

Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental health disorder. (WIC 5585.25)

Historical Course

“any person who is authorized to take that person or cause a person to be taken, into custody pursuant to that section shall consider available relevant information about the historical course of the person’s mental health disorder if the authorized person determines that the information has a reasonable bearing on the determination as to whether the person is danger to others, or to himself or herself, or is gravely disabled due to a mental health disorder”

(WIC 5150.05)

REPORTING

- Adult/Elder Abuse (WIC 15630)
- Dependent adult - Any person residing in this state between the ages of 18 and 64, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.
- Mandated reporters shall complete reporting form for each report of a known or suspected instance of abuse (physical, sexual, financial, neglect, isolation and abandonment) involving an elder or dependent adult.

Duty To Report to Community Care Licensing Unsafe Conditions in Residential Facilities

- Reportable incidents include, but are not limited to all of the following: incidents of physical abuse; any violation of personal rights; any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition; any situation in which a facility has insufficient personnel or incompetent personnel on duty.
(Penal Code 11164 & Welfare and Institutions Code 15630)
- If the evaluator knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the appropriate licensing agency.
(Health and Safety Code 1536.1)

Memoranda of Understanding

- Due to deaths and other abuses that have occurred in client residences in the last nine years, Los Angeles County has put in place a Memorandum of Understanding with eleven county agencies to track and prevent abuse of mentally disabled residents living in group homes.
- Together, the county agencies developed a formal protocol to address shared monitoring and reporting responsibilities.
- As a mandated reporter, the LPS authorized individual must report any suspected abuse to the appropriate agency, i.e.: the Department of Children and Family Services (DCFS) or Adult Protective Services (APS). (Health and Safety Code 1566.75)

Health and Human Services Agency

APPLICATION FOR ASSESSMENT, EVALUATION, AND CRISIS INTERVENTION OR PLACEMENT FOR EVALUATION AND TREATMENT

Confidential Client/Patient Information

See California W&I Code Section 5328 and HIPAA Privacy Rule
45 C.F.R. § 164.508

Welfare and Institutions Code (W&I Code), Section 5150(f) and (g), require that each person, when first detained for psychiatric evaluation, be given certain specific information orally and a record be kept of the advisement by the evaluating facility.

DETAINMENT ADVISEMENT 1

My name is _____
I am a (peace officer/mental health professional) with (name of agency).

You are not under criminal arrest, but I am taking you for examination by mental health professionals at (name of facility).

You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information:

You may bring a few personal items with you, which I will have to approve. Please inform me if you need assistance turning off any appliance or water. You may make a phone call and leave a note to tell your friends or family where you have been taken.

2 Advisement Complete Advisement Incomplete

Good Cause for Incomplete Advisement:

3 _____

Advisement Completed By: 4	Position: 5	Language or Modality Used: 6	Date of Advisement: 7
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To (name of 5150 designated facility): 8 _____

Application is hereby made for the assessment and evaluation of 9 _____ residing at 10 _____, California, for up to 72- hour

assessment, evaluation and crisis intervention or placement for evaluation and treatment at a designated facility pursuant to Section 5150, et seq. (adult) or Section 5585 et seq. (minor), of the W&I Code. If a minor, authorization for voluntary treatment is not available and to the best of my knowledge, the legally responsible party appears to be / is: (Check one): Parent; Legal Guardian; Conservator;

Juvenile Court under W&I Code 300; Juvenile Court under W&I Code 601/602. 11

If known, provide names, address and telephone numbers in area provided below: _____

The above person's condition was called to my attention under the following circumstances:

12 _____

I have probable cause to believe that the person is, as a result of a mental health disorder, a danger to others, or to himself/ herself, or gravely disabled because: (state specific facts):

13 _____

(CONTINUED ON NEXT PAGE)

14

CLIENT NAME: _____

**APPLICATION FOR 72 HOUR DETENTION FOR EVALUATION AND TREATMENT
(CONTINUED)**

Historical course of the person's mental disorder:

- 15 I have considered the historical course of the person's mental disorder: [Includes evidence presented by service/support provider, family member(s), and person subject to probable cause determination or designee.]

- 16 No reasonable bearing on determination No information available

Advisee's Name	Address	Phone Number	Relation
15A			

Based upon the above information, there is probable cause to believe that said person is, as a result of mental health disorder:

- 17 A danger to himself / herself. Gravely disabled adult.
 A danger to others. Gravely disabled minor.

- 18 **Minors only:** Based upon the above information, it appears that there is probable cause to believe that authorization for voluntary treatment is not available.

Signature, title and badge number of peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, designated members of a mobile crisis team, or professional person designated by the county.

X 19 _____	Badge/ID # _____ 20	Date: _____ 21	Phone: _____ 23
		Time: _____ 22	
Name of Law Enforcement Agency or Evaluation Facility/Person: _____ 24	Address of Law Enforcement Agency or Evaluation Facility/Person: _____ 25	For patients in medical ERs, detention began: Date: _____ 26 Time: _____	

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY 27

Notify (officer/unit & telephone #): _____

**NOTIFICATION OF PERSON'S RELEASE IS REQUESTED BY THE REFERRING PEACE OFFICER
BECAUSE:**

- 28 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.
 Weapon was confiscated pursuant to Section 8102 W&I Code. Upon release, facility is required to provide notice to the person regarding the procedure to obtain return of any confiscated firearm pursuant to Section 8102 W&I Code.

SEE SUBSEQUENT PAGES FOR DEFINITIONS AND REFERENCES

DEFINITIONS AND REFERENCES

“Gravely Disabled” means 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. *SECTION 5008(h) W&I Code*

“Gravely Disabled Minor” means 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. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder.
SECTION 5585.25 W&I Code

“Peace officer” means 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. *SECTION 5008(i) W&I Code*

Section 5152.1 W&I Code: The professional person in charge of the facility providing 72-hour evaluation and treatment, or his or her designee, shall notify the county mental health director or the director’s designee and the peace officer who makes the written application pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72- hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention if all of the conditions apply:

- (a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that 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.
- (b) The notice is limited to the person’s name, address, date of admission for 72-hour evaluation and treatment, and date of release.

If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer, agency, or designee shall destroy that record two years after receipt of notification.

Section 5150.05 W&I Code:

- (a) 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.
- (b) For purposes of this section, “information about the historical course of the person’s mental disorder” includes evidence presented by the person who has provided or is providing mental health or related support services to the person subject to a determination described in subdivision (a), evidence presented by one or more members of the family of that person, and evidence presented by the person subject to a determination described in subdivision (a) or anyone designated by that person.
- (c) If the probable cause in subdivision (a) is based on the statement of a person other than the one authorized to take the person into custody pursuant to Section 5150, a member of the attending staff, or a professional person, the person making the statement shall be liable in a civil action for intentionally giving any statement that he or she knows to be false.
- (d) This section shall not be applied to limit the application of Section 5328.

DEFINITIONS AND REFERENCES (CONTINUED)

Section 5152.2 W&I Code: Each law enforcement agency within a county shall arrange with the county mental health director a method for giving prompt notification to peace officer pursuant to Section 5152.1 W&I Code.

Section 5585.50 W&I Code: The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained. *Section 5585.50 W&I Code.*

A minor under the jurisdiction of the Juvenile Court under Section 300 W&I Code is due to abuse, neglect, or exploitation.

A minor under the jurisdiction of the Juvenile Court under Section 601 W&I Code is due to being adjudged a ward of the court as a result of being out of parental control.

A minor under the jurisdiction of the Juvenile Court under Section 602 W&I Code is due to being adjudged a ward of the court because of crimes committed.

Section 8102 W&I Code (EXCERPTS FROM):

- (a) Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon. "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.
- (b)
 - (1) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall issue a receipt describing the deadly weapon or any firearm and listing any serial number or other identification on the firearm and shall notify the person of the procedure for the return, sale, transfer, or destruction of any firearm or other deadly weapon which has been confiscated. A peace officer or law enforcement agency that provides the receipt and notification described in Section 33800 of the Penal Code satisfies the receipt and notice requirements.
 - (2) If the person is released, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.
 - (3) Health facility personnel shall 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.

Health and Safety Code 1799.111 (e)

A person detained under this section in a medical emergency room shall be credited for the time detained, up to twenty-four hours, in the event he or she is placed on a subsequent 72-hour hold pursuant to Section 5150 of the Welfare and Institutions Code.

Key Points When Completing an Application for 72-Hour Detention

- Please write/print legibly!
- Oral Advisement (completed in language the patient understands) is **ALWAYS** required. Patient has the right to know where they are going; Document the name of the accepting LPS facility in the top right hand box on the application.
- This includes the patients right to make a phone call or leave a note and their right to bring a few belongings which may be approved by the evaluator.
- Safeguarding the personal possessions being transported with the patient or left on the premises occupied by the patient, including pets, is also important.

Key Points

cont.

- Insure the patients safety until transported to the accepting LPS facility.
- Other important responsibilities – Reporting to agencies if abuse or neglect is detected; Duty to Warn when required.
- Check appropriate boxes/provide information when Notify Law Enforcement is requested/indicated.
- Timeframes - 72 hours, counting involuntary time spent by the patient in an ER; where ER documentation notes when patient was involuntary detained.

Lastly...

- Don't forget to sign and date the Application!
- For Badge #...
DMH staff use their Employee #
Contract Providers please use the last 4 digits of your SS#
- Don't forget to note time detention began.
- Always avoid psychological jargon.
- Original copy to accepting LPS facility; copy to the patients chart/record.

Practical Application

When responding to a Crisis Situation and conducting an evaluation...

- Safety First! Know and follow your Agency Safety Protocols.
- Plan of Action! Know where you are going and what you will do if problems arise!
- Practice ‘Situational Awareness’ when responding...in every setting.

Crisis Response

- Call ahead. Let the requestor know your ETA.
- Try and do your assessment in a quiet and separate area to insure confidentiality.
- Always identify yourself and explain your role.
- Take your time.
- Cultural awareness, sensitivity, and accommodation is important.
- Keep appropriate parties involved and informed.
- Always be sure the person is safe/secure as you conduct your assessment.

Crisis Assessment

- Gather information from all available sources; this includes collateral contacts.
- Documentation is essential.
- Assess the persons threat; explore their Intent/Plan/Means.
- Determine their Ability/Capacity to act/carry out the threat.
- Consider the persons prior history/background when determining risk; previous suicide attempts; threatening behavior; history of violence, incarcerations, substance abuse, etc..

Establishing and Documenting Probable Cause

- You need to determine and document the ‘probable cause’ that leads you to believe this person is mentally disordered and meets LPS criteria for involuntary hospitalization.
- The Application for 72 Hour Detention is grounded on Law; clinical science or practice may be used to insure the Law is applied appropriately; establishing Probable Cause.
- In short, your challenge is to utilize your skills and judgment in determining if the person is at serious risk of hurting self, others, and/or gravely disabled, due to a mental health disorder.

Assessment, cont.

- Your written assessment summary on the Application needs to specify the reason you believe that probable cause exists; simply recounting suicidal statements or threats is insufficient.
- For example, ‘the individual threatened to shoot self’ is insufficient to document probable cause; ‘the individual threatened to shoot self, has a gun in their possession, and is distraught’, would be sufficient.

Assessment, cont.

- If the client does not meet LPS criteria, develop and document your safety plan for the person. Who is taking responsibility to insure the individual remains safe?
- Consultation, Consultation, Consultation.
- A 'no suicide/violence contract' is not appropriate.
- Always provide the person with information; referrals to appropriate community services and/or other interventions as appropriate to the persons circumstance.

LOS ANGELES COUNTY DEPARTMENT OF MENTAL HEALTH

Please go to [Part II](#) to continue the LA County
DMH LPS Authorization Training

Thank you!



LOS ANGELES COUNTY
DEPARTMENT OF
MENTAL HEALTH
hope. recovery. wellbeing.