Module 5
THE LANTERMAN-PETRIS-SHORT (LPS) ACT AND RECOVERY
# Contents

Introduction and Overview ........................................................................................................3
The Lanterman Petris Short Act (LPS) ................................................................................5
Interdepartmental Memoranda of Understanding With Law Enforcement/Other Organizations .................................................................15
Recovery Relevant Mandates Subject to Interpretation ........................................21
Recovery Model Interpretations of the LPS Act .........................................................25
Conclusion ..............................................................................................................................25
The “LPS Law” is the California law governing involuntary detention of mentally disordered persons for evaluation and treatment. The first five sections of the law are presented here in full, with bolding added to indicate issues of special relevance to the CAG Guidelines. Parenthetical comments are made in this manner (COMMENT: ...........).

As noted elsewhere in this Clinical Assessment Guidelines Toolkit, key elements of a recovery orientation are consistent with, and even promoted by professional ethics, well established principles of clinical practice, and third-party payor requirements. Similarly, although the LPS law does not explicitly mandate a recovery orientation per se, familiarity with this law demonstrates that was designed to reflect many of those same underlying ethics and principles of quality clinical practice.
The Lanterman-Petris-Short (LPS) Act
California Welfare and Institutions Code, Sections 5150 - 5155

DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES [5000 - 5912]
(Division 5 repealed and added by Stats. 1967, Ch. 1667.)

PART 1. THE LANTERMAN-PETRIS-SHORT ACT [5000 - 5550]
(Heading of Part 1 amended by Stats. 1968, Ch. 1374.)

CHAPTER 2. Involuntary Treatment [5150 - 5349.5]
(Chapter 2 added by Stats. 1967, Ch. 1667.)

ARTICLE 1. Detention of Mentally Disordered Persons for Evaluation and Treatment [5150 - 5155]
(Heading of Article 1 amended by Stats. 1969, Ch. 1472.)

Sec. 5150.
(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, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. At a minimum, assessment, as defined in Section 5150.4, and evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis. Crisis intervention, as defined in subdivision (e) of Section 5008, may be provided concurrently with assessment, evaluation, or any other service.

COMMENT: Assessment “means the determination of whether a person shall be evaluated and treated pursuant to Section 5150.” Such assessment shall be conducted and provided on an ongoing basis. Such an “ongoing” assessment is necessary in view of the fact that section 5150(b) requires that the facility shall assess the person to determine whether he or she can be properly served without being detained. If in the judgment of the professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, the person can be properly served without being detained, he or she shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis.” An ongoing assessment is needed so that involuntary detention status is maintained no longer than necessary.

COMMENT: Evaluation “consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem..."
Is this evaluation to focus only on conditions that appear to constitute the problem that directly led to the involuntary hold? ...indirectly led to the involuntary hold? ...any significant aspect of the person’s psychosocial functioning for which solutions are needed to further the person’s recovery and well-being? If it has the latter meaning, the evaluations conducted during involuntary holds would have to be substantially integrated with the individual’s ongoing course of recovery and with other ongoing services within the system of care. This interpretation would support adherence to the CAG Guidelines. If it only has the latter meaning evaluations during involuntary holds could focus on the psychiatric emergency in a way that is fragmented from the ongoing course of recovery, contrary to most of the CAG Guidelines.

COMMENT: Crisis intervention “consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family.” This definition of crisis intervention is not limited to “a danger to others, or to himself or herself, or gravely disabled,” the required conditions for an involuntary hold. In other words, an individual may not be involuntarily held for any serious and imminent threat to the health or stability of the person or the family. “Danger” has been interpreted to mean physical dangers involving life or serious physical injury.

Grave disability, as established in Doe v. Gallinot, must involve the physical needs of food, clothing or shelter and the inability must be due to a mental disorder. Such a narrow definition is needed because it is the basis for depriving a person of fundamental civil liberties. In contrast, a “threat to the health or stability of the person or the family” is a much broader concept. The broader concept is appropriate since the crisis intervention is intended to enhance the person’s well-being rather than conflict with civil liberties.

Based on this interpretation, the crisis interventions conducted during involuntary holds would have to be substantially integrated with the individual’s ongoing course of recovery and with other ongoing services within the system of care. They would clearly not have to be limited to physical needs and the language does not limit the crisis intervention assistance only to addressing threats to health or stability that are due to a mental disorder.

This interpretation would support adherence to the CAG Guidelines. If the “crisis intervention” mandate is interpreted to relate only to issues involving threats to the physical health or stability of the person or the family that are due to the mental disorder, crisis intervention during involuntary holds could be conducted in a way that is fragmented from the ongoing course of recovery, contrary to most of the CAG Guidelines.

The Crisis Intervention Interview
The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. The interview or interviews may include family members, significant support persons, providers, or other entities or individuals, as appropriate and as authorized by law. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(b) The professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county shall assess the person to determine whether he or she can be properly served without being detained. If in the judgment of
the professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, **the person can be properly served without being detained, he or she shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis.** Nothing in this subdivision shall be interpreted to prevent a peace officer from delivering individuals to a designated facility for assessment under this section. Furthermore, the assessment requirement of this subdivision shall not be interpreted to require peace officers to perform any additional duties other than those specified in Sections 5150.1 and 5150.2.

**COMMENT:** This section of the LPS act clearly states that if an individual can be served on a voluntary basis, even if the person still needs to be hospitalized, then that individual shall not be detained involuntarily.

(c) Whenever a person is evaluated by a professional person in charge of a facility designated by the county for evaluation or treatment, member of the attending staff, or professional person designated by the county and is found to be in need of mental health services, but is not admitted to the facility, all available alternative services provided pursuant to subdivision (b) shall be offered as determined by the county mental health director.

**COMMENT:** “All available resources” could be narrowly defined as each specific resource that is needed at the moment of not being admitted, or it could be interpreted from a Recovery Model perspective to mean the integrated and coordinated variety of services that the person needs to pursue a course of recovery.

**The 5150 Application**

(d) If, in the judgment of the professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or the professional person designated by the county, **the person cannot be properly served without being detained**, the admitting facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, and stating that the peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county has probable cause to believe that the person is, as a result of a mental health disorder, a danger to others, or to himself or herself, or gravely disabled.

If the probable cause is based on the statement of a person other than the peace officer, professional person in charge of the facility designated by the county for evaluation and treatment, member of the attending staff, or professional person designated by the county, **the person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.**

**Personal Property**

(e) At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person’s personal property, the person taking him or her into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person. The person taking him or her into custody shall then furnish to the court a report generally describing the person’s property so preserved and safeguarded and its disposition, in substantially the form set forth in
Section 5211, except that if a responsible relative or the guardian or conservator of the person is in possession of the person’s property, the report shall include only the name of the relative or guardian or conservator and the location of the property, whereupon responsibility of the person taking him or her into custody for that property shall terminate. As used in this section, “responsible relative” includes the spouse, parent, adult child, domestic partner, grandparent, grandchild, or adult brother or sister of the person.

COMMENT: Among other things, the CIBHS Expert Panels and CAG Guidelines considered it “reasonable” to identify the individual’s needs in regard to securing “personal property, pets, cars, other family members (e.g., children), safety, medical/physical needs...” It also seems clearly reasonable to address these persons or property before they are subject to danger or damage that would have been averted if the detained individual had not been detained.

(f) (1) Each person, at the time he or she is first taken into custody under this section, shall be provided, by the person who takes him or her into custody, the following information orally in a language or modality accessible to the person. If the person cannot understand an oral advisement, the information shall be provided in writing.

The information shall be in substantially the following form:

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 an examination by mental health professionals at_____ (name of facility).

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

(2) If taken into custody at his or her own residence, the person shall also be provided 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.

(g) The designated facility shall keep, for each patient evaluated, a record of the advisement given pursuant to subdivision (f) which shall include all the following:

(1) The name of the person detained for evaluation.
(2) The name and position of the peace officer or mental health professional taking the person into custody.
(3) The date the advisement was completed.
(4) Whether the advisement was completed.
(5) The language or modality used to give the advisement.
(6) If the advisement was not completed, a statement of good cause, as defined by regulations of the State Department of Health Care Services.
(h) (1) Each person admitted to a facility designated by the county for evaluation and treatment shall be given the following information by admission staff of the facility. The information **shall be given orally and in writing** and in a language or modality accessible to the person. The written information shall be available to the person in English and in the language that is the person’s primary means of communication. Accommodations for other disabilities that may affect communication shall also be provided.

The information shall be in substantially the following form:

- My name is ?
- My position here is ?
- You are being placed into this psychiatric facility because it is our professional opinion that, as a result of a mental health disorder, you are likely to (check applicable):
  - ___ Harm yourself.
  - ___ Harm someone else.
  - ___ Be unable to take care of your own food, clothing, and housing needs.

- We believe this is true because ?
(List of the facts upon which the allegation of dangerous or gravely disabled due to mental health disorder is based, including pertinent facts arising from the admission interview.)

- You will be held for a period up to 72 hours. During the 72 hours you may also be transferred to another facility. You may request to be evaluated or treated at a facility of your choice. You may request to be evaluated or treated by a mental health professional of your choice. We cannot guarantee the facility or mental health professional you choose will be available, but we will honor your choice if we can.

- During these 72 hours you will be evaluated by the facility staff, and you may be given treatment, including medications. It is possible for you to be released before the end of the 72 hours. But if the staff decides that you need continued treatment you can be held for a longer period of time. If you are held longer than 72 hours, you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided to you free of charge.

- If you have questions about your legal rights, you may contact the county Patients’ Rights Advocate at _____ (phone number for the county Patients’ Rights Advocacy office) _____ .

- Your 72-hour period began _____ (date/time) _____ .

(2) If the notice is given in a county where weekends and holidays are excluded from the 72-hour period, the patient shall be informed of this fact.

(i) For each patient admitted for evaluation and treatment, the facility shall keep with the patient’s
medical record a record of the advisement given pursuant to subdivision (h), which shall include all the following:

1. The name of the person performing the advisement.
2. The date of the advisement.
3. Whether the advisement was completed.
4. The language or modality used to communicate the advisement.
5. If the advisement was not completed, a statement of good cause.

(Amended by Stats. 2013, Ch. 567, Sec. 5. Effective January 1, 2014.)

Sec. 5150.1

No peace officer seeking to transport, or having transported, a person to a designated facility for assessment under Section 5150, shall be instructed by mental health personnel to take the person to, or keep the person at, a jail solely because of the unavailability of an acute bed, nor shall the peace officer be forbidden to transport the person directly to the designated facility. No mental health employee from any county, state, city, or any private agency providing Short-Doyle psychiatric emergency services shall interfere with a peace officer performing duties under Section 5150 by preventing the peace officer from entering a designated facility with the person to be assessed, nor shall any employee of such an agency require the peace officer to remove the person without assessment as a condition of allowing the peace officer to depart.

“Peace officer” for the purposes of this section also means a jailer seeking to transport or transporting a person in custody to a designated facility for assessment consistent with Section 4011.6 or 4011.8 of the Penal Code and Section 5150.

(Added by Stats. 1985, Ch. 1286, Sec. 6.2. Effective September 30, 1985.)

Sec. 5150.2

In each county whenever a peace officer has transported a person to a designated facility for assessment under Section 5150, that officer shall be detained no longer than the time necessary to complete documentation of the factual basis of the detention under Section 5150 and a safe and orderly transfer of physical custody of the person. The documentation shall include detailed information regarding the factual circumstances and observations constituting probable cause for the peace officer to believe that the individual required psychiatric evaluation under the standards of Section 5105.

Each county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to persons not admitted for evaluation and treatment and who decline alternative mental health services and to relate to the safe and orderly transfer of physical custody of persons under Section 5150, including those who have a criminal detention pending.

(Added by Stats. 1985, Ch. 1286, Sec. 6.4. Effective September 30, 1985.)

Sec. 5150.3 Not in effect.
Sec. 5150.4

“Assessment” for the purposes of this article, means the determination of whether a person shall be evaluated and treated pursuant to Section 5150.
(Added by Stats. 1985, Ch. 1286, Sec. 6.7. Effective September 30, 1985.)

Sec. 5151

If the facility designated by the county for evaluation and treatment admits the person, it may detain him or her for evaluation and treatment for a period not to exceed 72 hours. Saturdays, Sundays, and holidays may be excluded from the period if the State Department of Health Care Services certifies for each facility that evaluation and treatment services cannot reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility can reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.
Prior to admitting a person to the facility for treatment and evaluation pursuant to Section 5150, 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.
(Amended by Stats. 2013, Ch. 567, Sec. 7. Effective January 1, 2014.)

Sec. 5152

(a) Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if the psychiatrist directly responsible for the person's treatment believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is placed under a 72-hour hold and there is a collaborative treatment relationship between the psychiatrist and psychologist, either the psychiatrist or psychologist may authorize the release of the person from the hold, but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who has been placed under a 72-hour hold, the hold shall be maintained unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment.
(b) Any person who has been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.
(c) A person designated by the mental health facility shall give to any person who has been detained at that facility for evaluation and treatment and who is receiving medication as a result of his or her mental illness, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication. The State Department of Health Care Services shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

1. The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.
2. The likelihood of improving or not improving without the medication.
3. Reasonable alternative treatments available.
4. The name and type, frequency, amount, and method of dispensing the medication, and the probable length of time the medication will be taken.

The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

(d) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(Amended by Stats. 1983, Ch. 755, Sec. 1.)

Sec. 5152.1

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 following 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.

(Amended by Stats. 1983, Ch. 755, Sec. 1.)

Sec. 5152.2

Each law enforcement agency within a county shall arrange with the county mental health director a method for giving prompt notification to peace officers pursuant to Section
5152.1.  
(Added by Stats. 1975, Ch. 960.)

Sec. 5153

Whenever possible, officers charged with apprehension of persons pursuant to this article shall dress in plain clothes and travel in unmarked vehicles.  
(Amended by Stats. 1969, Ch. 722.)

Sec. 5154

(a) Notwithstanding Section 5113, if the provisions of Section 5152 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, the psychiatrist directly responsible for the person’s treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, the psychiatrist directly responsible for the person’s treatment, or the psychologist shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

(d) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.  
(Amended by Stats. 2003, Ch. 94, Sec. 2. Effective January 1, 2004.)

Sec. 5155

Nothing in this part shall be construed as granting authority to local entities to issue licenses supplementary to existing state and local licensing laws.  
(Added by Stats. 1968, Ch. 1374.)

***
Interdepartmental Memoranda of Understanding with Law Enforcement and Other Community Organizations
Interdepartmental Memoranda of Understanding with Law Enforcement and Other Community Organizations

The following are key features of the Memorandum of Understanding between Alameda County Behavioral Health Care Services and the City of Oakland Police Department. It is presented here to illustrate the kinds of issues addressed in an MOU of a successful interdepartmental relationship between a county behavioral health department and law enforcement.

Whereas BHCS Crisis Response Program (CRP) will partner with OPD in a pilot project to provide a mobile evaluation service (MET) team that will respond together as a unit to 911 requests regarding a psychiatric or emotional crisis (5150 calls for service);

Whereas the MET team will operate with the goal of avoiding the use of involuntary psychiatric hospitalization when appropriate by providing alternative treatment resources which may include consultation, crisis intervention, and referral to brief treatment and/or diversion to other voluntary crisis services as available.

Now, therefore, BHCS and OPD agree to the following:

I. Term

   The term of this agreement shall be from ______________ to ________________.

II. Purpose and Scope

The purpose of this MOU is to clearly identify the roles and responsibilities of each party as they relate to the implementation of the Mobile Evaluation Team (MET) program between BHCS and OPD.

No relationship of employer and employee is created by this Agreement between BHCS or County or their personnel and OPD or City or their personnel, it being understood that the OPD and BHCS shall act hereunder as independent Agencies, who will each follow its own policies, procedures and guidelines currently in effect.

In particular this MOU is intended to establish a procedural and programmatic working relationship between BHCS and OPD for the development and implementation of the MET pilot program.

Primary function of Mobile Evaluation Team (MET): A BHCS mental health professional from CRP will be partnered with an OPD officer to create a "team" that would provide on-scene crisis intervention and referral. This MET team will ride together in an unmarked patrol car to various 5150 calls for service in the City of Oakland. Each team member will provide proof of auto liability and general insurance through his/her respective employer in case of car accidents or other vehicular issues.
Secondary function: When time allows, the MET team will conduct outreach work with known individuals who have recently had a 5150 hold placed and/or to high risk populations, such as the homeless, who may be in need of crisis intervention or a referral for other community services.

Catchment Area for Services: The area of services to be provided under this agreement shall be the entire City of Oakland, with an emphasis on East Oakland (loosely defined as east of Fruitvale Ave in Oakland out to the San Leandro border also referred to as Bureau of Field Operations [BFO] Police Areas 4 & 5.

1. Hours of operation: The MET team shall operate from Tuesday through Friday, with the MET officer’s hours being 7:00am-5:00pm and the MET clinician working 8:00am-6:00pm with the operational hours, i.e. when the team is in the field, from 8:00am-4:00pm.

MET Team Operating Procedures:

• The MET team will be based out of the Alameda County Behavioral Services North County Crisis Response Office, Eastmont Town Center at 7400 Bancroft Ave Ste 125A, Oakland, CA 94605

• If the MET OPD officer is not available for the shift due to illness or planned leave, the CRP MET staff will be assigned other crisis intervention duties for the day within the CRP program and the MET team will not be in service.

• In the event the designated CRP MET staff is not available for the shift due to illness or planned leave, the MET team officer will still function as a designated officer for crisis intervention calls for service and will consult with the CRP Mobile Crisis Team, (which has the OPD identified call sign of 37C51-OPD) as needed. The MET team officer will continue to provide crisis services primarily in East Oakland.

• The MET team will primarily respond to dispatch calls for Patrol Area 4 & 5 (East Oakland), while the CRP Mobile Crisis Team (37C51-OPD) continues their focus in Downtown Oakland, Patrol Areas1 & 2.

• If either of the MET team staff (clinician or officer) feel the individual in crisis meets the California Welfare and Institutions Code Section 5150 for an involuntary psychiatric hold (“5150 hold”), the team will place the individual on a 5150 hold. For any disagreements between the MET team clinician and officer regarding the decision to place a 5150 hold the team will call the CRP supervisor for consultation. The CRP supervisor will be available during the MET Team’s shift for consultation and support.

• If a 5150 hold is placed on an individual by either member of the Team the individual will always be transported by ambulance following protocols developed by the Alameda County Emergency Medical Services (EMS) department.

• Individuals who have been evaluated and determined safe, may be transported in the back of the MET vehicle (if secure with cage) to voluntary alternative resources.
• The CRP staff member and the OPD officer will report any issue of concern or complexity directly to their respective supervisors as needed. It is expected the MET team will work collaboratively and generally work together to address day-to-day issues. The CRP supervisor will be available by phone throughout the MET shift for consultation.

• In the event of a major OPD deployment during MET field hours, OPD shall return the CRP staff member of the MET team to the North County Crisis office or arrange for the CRP staff member of the MET team to be picked up by the 37C51 unit at a safe location.

• The MET team will ride in a caged, unmarked OPD vehicle driven by the OPD officer.

Training:

1. Both MET team members will complete the Crisis Intervention Training (CIT) that is facilitated by OPD. They will additionally participate in other relevant trainings as identified.
2. The MET team will participate in monthly CRP North County staff meetings along with the Mobile Crisis Team (37C51) to discuss common areas of concern in providing field based crisis intervention services. The MET team shall attend other consultation meetings and supervision specific to the MET team as arranged by BHCS and OPD.

III. BHCS Responsibilities under this MOU

BHCS will:

• Meet and confer on a regular basis with a representative designated by OPD to discuss the implementation and ongoing oversight of the MET Team pilot program.

• Jointly develop, with OPD, a set of policy and procedure guidelines for this project.

• Utilize a mental health clinician (Behavioral Health Clinician II, MFT II, or Clinical Psychologist) to serve as the mental health clinician team member.

• Share, as needed and if available, mental health protected health information on the individual being served through this crisis intervention service, consistent with applicable health privacy laws including the Health Insurance Portability and Accountability Act (“HIPAA”). The rules and restrictions around sharing this information are outlined in the HIPAA Business Associate Agreement attached hereto as Exhibit A.

• Provide the OPD member of the MET team with information that may assist in the crisis intervention calls for service. Information may include but is not limited to mental illness diagnosis and history, current psychiatric medications and side effects, and potential de-escalation strategies.
• Complete all clinical documentation of the crisis intervention service in relation to billing paperwork.

• Complete the BHCS 5150 hold paperwork associated with each crisis intervention call the unit responds to, as needed. It will be up to the discretion of the MET team to decide who will write the 5150 hold paperwork since both the clinician and the officer have the legal ability to do so.

• Provide clerical support for the MET team clinician including data entry for billing of services into the BHCS computer system, data entry into the BHCS contact tracking log for counts of contacts and non-billable services, scanning of all 5150 forms into CRP files etc. It’s anticipated that current CRP clerical staff will be able to incorporate these activities into their existing clerical duties since they already perform these duties for the Mobile Crisis Team.

• The CRP member of the MET team will record and document both billed and non-billed services following the guidelines set forth in the CRP Policy and Procedure Manual section entitled “Clinical Recording” which includes instruction specific to Mobile Crisis Team services and 5150 hold applications.

OPD Responsibilities under this MOU

OPD will:

• Meet and confer on a regular basis with a representative designated by BHCS to discuss the implementation and ongoing oversight of the MET Team pilot program.

• Jointly develop, with BHCS, a set of policy and procedure guidelines for this project.

• Provide a dedicated, uniformed Crisis Intervention Trained (CIT) police officer to serve as the law enforcement member of the MET Team.

• Provide and drive one unmarked police vehicle, preferably with a secured/caged back seat, to be used for the MET Team.

• Complete all law enforcement documentation including but not limited to field interview reports and stop data reports. These two listed reports provide in-depth information on the reason and description for stopping an individual and the result of the stop.

• Complete the OPD involuntary hold (5150) paperwork associated with each crisis intervention call the unit responds to, as needed

• Send an additional police cover unit to each call for service that the MET Team responds to in order to provide safety and security to the crisis scene. The cover unit will stay on scene until OPD deems it safe and then will leave the MET team to handle the crisis situation.
I. Indemnification
Notwithstanding any other provision of this MOU, each party shall indemnify and hold harmless the other party, and each party’s respective Councilmember’s or Board members, officers, agents, and employees (each of which persons and organizations are referred to collectively as “Indemnitees” or individually as “Indemnitee”) from and against any and all liabilities, claims, lawsuits, losses, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorney’s fees) caused or arising out of any:

1. Act or failure to act in the course of performance under this MOU;
2. Negligent or willful acts or omission in the course of performance of this MOU;

II. Timeframe for Implementation

The MET pilot program will begin services in early fall 2014 and will run for six months. Evaluation of the progress and success of the program will begin three months after implementation. If the program is seen to be successful and there are unused Measure A funds from the original $________ then the pilot will continue until the end of FY 14/15 (June 30, 2015).

VI. Notice

Each of the parties to this agreement shall immediately notify the other of any litigation or claim asserted by or against either party regarding this agreement.

All cancellation and other notices hereunder to BHCS shall be made to:

Director
Alameda County Behavioral Health Care Services
2000 Embarcadero Cove #400
Oakland, CA 94606
(510) 567-8100

All cancellation and other notices hereunder to OPD shall be made to:

Chief of Police
455 7th Street
Oakland, CA 94607
(510) 238-3365

Notices shall be given during business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

VII. Integration
This agreement represents the entire and integrated agreement between the parties. It is expressly agreed that all the terms and conditions of this agreement are included herein and no verbal agreements of any kind shall be binding upon the parties. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.

VIII. Severability

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.

IN WITNESS THEREOF, the parties have executed this agreement on the dates as set forth hereinafter.

ALAMEDA COUNTY
BEHAVIORAL HEALTH CARE SERVICES

______________________________
Director

Date: _________________

______________________________
City Administrator

Date: _________________

Approved by:

______________________________
County Counsel

City OF OAKLAND

______________________________
Chief of Police

Date: _________________

______________________________
City Attorney

Date: _________________

Approved by:
Recovery Relevant Mandates
Subject to Interpretation
What constitutes “possible”?

Sec. 5152
(a) Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held...
(c) A person designated by the mental health facility shall give to any person who has been detained at that facility for evaluation and treatment and who is receiving medication as a result of his or her mental illness, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication...

Sec. 5153
Whenever possible, officers charged with apprehension of persons pursuant to this article shall dress in plain clothes and travel in unmarked vehicles.

What Constitutes “all available alternative services”?

The following section of the LPS law would likely be interpreted differently from a Recovery Model perspective than from the perspective of traditional public behavioral health practices.

Sec. 5150 (c)
Whenever a person is evaluated by a professional person in charge of a facility designated by the county for evaluation or treatment, member of the attending staff, or professional person designated by the county and is found to be in need of mental health services, but is not admitted to the facility, all available alternative services provided pursuant to subdivision (b) shall be offered as determined by the county mental health director.

What constitutes “appropriate”?

5150 (a) (regarding “crisis intervention”)
“The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. The interview or interviews may include family members, significant support persons, providers, or other entities or individuals, as appropriate and as authorized by law. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.”

COMMENT: If the Recovery Model is accepted by State and County departments, the interpretation of “appropriate” in this section would include a rich array of services in support of each individual’s recovery journey.

What is “reasonable”?

Sec. 5150 (e)
“At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person’s personal property, the person taking him or her into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person....”

Sec. 5152 (c)  
The State Department of Health Care Services shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:  
(3) Reasonable alternative treatments available...
Recovery Model Interpretations of the LPS Act
From a Recovery Model perspective...

• when Recovery Model practices are not currently possible because of a lack of resources, it is possible to engage in these practices by shifting resources from practices that are irrelevant to recovery or that inhibit recovery.

• when Recovery Model practices are not currently possible because of a lack of training, provide substantial training designed to accomplish specific objectives that involve actual changes in job performance that are evaluated.

• “all available alternative resources” and “reasonable alternative treatments” include all social networks including peer and family supports, vocational support services, primary healthcare, dental care, faith community affiliations, transportation, and resources fostering community participation such as vocational and housing support services, recreational services and socialization services, as well as case management services that support the integration and coordination of these various services. They include “suicide prevention, psychiatric, welfare, psychological, legal, or other social services” as well.

• reasonable means anything that supports a reasonable implementation of the Recovery Model.

These interpretations can be made under existing LPS law by a County behavioral health department that has informed the public that it has adopted the Recovery Model. A Recovery Model can be implemented with existing provisions of the LPS act if a Recovery Model interpretation is applied to provisions such as these. If that does not occur another option would be to modify the LPS act to more explicitly define such Recovery Model interpretations, avoiding words that can be easily interpreted to resist change.

CONCLUSION

The LPS law was written long before “the recovery orientation” was conceptualized as such. Therefore, it does not explicitly refer recovery in those terms. The important thing to keep in mind is that this law is consistent with key elements of a recovery orientation. Furthermore, familiarity with the law can facilitate its use to promote a recovery orientation by those who seek to do so.