



# Roll Call Training Bulletin

Produced by: Ofc Mark Scurria  
Prepared by: Sgt Joe Bailey

Daniel Hahn, Chief of Police  
Volume 62

## July 17th, 2018 5150 HOLDS BASED ON 3<sup>rd</sup> PARTY STATEMENTS

### SCENARIO:

Officers respond to a call for service regarding a 5150 subject. Upon arrival, officers take a statement from a third party. The third party states that prior to officers arriving on scene, the subject was making specific threats to kill himself and insists the subject be placed on a 5150 hold for their safety. The third party also states that the subject has no history of mental health issues and has never tried to commit suicide in the past.

Upon speaking with the subject, officers observe him to be calm, passive, and cooperative with police. The subject relays to officers that he has no intention on harming himself or others and is not gravely disabled.

After running a records check, officers discover the subject has no history of mental health issues and has never been placed on a 5150 hold.

A canvass for witnesses and other involved parties is negative.

### QUESTION:

Can 3<sup>rd</sup> party statements **alone** be used to place someone on a 5150 hold?

### ANSWER:

It depends. Bottom line is this... You must have **probable cause** to place an individual on a 5150 hold. As an officer, you are expected to use **all** information available to you at the time of the evaluation to determine if probable cause exists. "All information" **includes third party statements**. If probable cause **does not** exist, a hold **cannot** be placed. If a third party explains to an officer that a subject has made statements or exhibited behavior that meets 5150 criteria, that officer is only obligated to use that information to determine if probable cause exists, not to use that information alone to place the hold.

In other words, the totality of the circumstances will determine if there is enough probable cause to place the hold, not simply a third party statement. Things you should consider are creditability of the third party, historical information of the subject, relationship of the third party to the subject, current behavior/language, etc.

### ISSUE:

There has recently been confusion as to whether a third party (such as a parent, relative, or even the subject's therapist for example) can mandate that an officer place a 5150 hold... and that if the officer relies solely on the third party's statement to place the hold, liability shifts from the officer to the third party. **This is false.**



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The confusion originates from the language in the Welfare and Institutions Code (specifically the 5150 (e) and 5150.05 (c) sections). These sections simply allow for civil recourse in the event a third party makes a false statement that officers use to place someone on a hold.

In other words, if a third party makes a **false** statement to police that officers subsequently use to determine probable cause and place a hold, that third party can be held civilly liable for the false statement. **It does not shift liability from the officer to the third party**, it simply allows the subject to hold the third party accountable for the false statements. **Officers can still be held liable for placing a hold on a subject without probable cause!!!**

## **WHAT THIS MEANS TO YOU:**

Again, probable cause must exist to place a 5150 hold. Officers are mandated by law to evaluate all information available to them to determine if probable cause exists. If information obtained does not rise to the level of probable cause, a hold cannot be placed, even if a third party insists. If there is doubt as to whether a hold should be placed, contact your supervisor.

## **FOR MORE INFORMATION REGARDING 5150 HOLDS, PLEASE REFERENCE:**

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=5150.&lawCode=WIC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=5150.&lawCode=WIC)

[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=5150.05.&lawCode=WIC](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=5150.05.&lawCode=WIC)

**If you have further questions, contact the Professional Standards Unit @ (916) 808-3790**