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To the Honorable Members of the Sacramento County Behavioral Health Commission
Crisis & Justice Involved Continuum Committee:

Re: Item Not On Agenda: *Dangerous* Failure to Authorize County Personnel to Provide 5150 “danger to self/others” hold orders and safe transport for severely mentally ill persons in dangerous crises

Your agenda for tonight’s meeting touches only tangentially on the biggest behavioral health problem and crisis in Sacramento County: the fact *almost no one in this county* is authorized to place a “5150” emergency hold order or provide safe transport for a decompensating severely mentally ill person who is a danger to self/others, for two reasons:

- The Sacramento Sheriff currently refuses to allow his officers to respond to 5150 emergency calls including when they come from EMTs and mental health crisis teams begging for assistance, unless some unidentified supervisor decides a crime is involved, and
- My understanding direct from Kelli Weaver is that the Sac County Behavioral Health Division refuses to authorize mental health professionals to issue 72 hour “5150” holds unless they first take a test—which is an insult similar to the literacy tests the South historically used to disenfranchise blacks that by definition can have lethal results, and serves only to enhance the BH budget by preventing emergency hospitalizations. It also promotes the criminalization of mental illness by forcing families to “street” loved ones for their own protection, and is inconsistent with LPS Sections 5150.1 – 2, which emphasize the need for hospitalization as opposed to jail.

This crisis has exacerbated the criminalization of severe mental illness here and has already killed people and will kill more—not only SMIs but also family members and eventually members of the public. You can do something about it, by pressuring the Sheriff to accept the Sac County CRC’s recommendations and Dr. Quist to open up 5150 power to all qualified professionals by having them file a simple form, explained below in a discussion of superior law elsewhere, which I have offered to draft. (He ignored that offer but I would be happy to draft a sample for anyone in this group.)

If you were unaware of this crisis or need a reminder, here are news clips and a link to the report on the Sheriff’s refusal to issue or assist with 5150’s of the Community Review Commission which oversees him, which contains sensible recommendations at pp. 33-38 *which the Sheriff has to date ignored*:

<https://www.cbsnews.com/sacramento/news/families-fear-new-sacramento-county-sheriff/>

https://youtu.be/n_Ybt1RskY

<https://agendanet.saccounty.gov/SheriffCommunityReviewCommission/Meetings/Search?dropid=4&mtids=165>

I speak as a Sacramento resident and member of Sacramento FAISMI, Families Advocating for Individuals with Severe Mental Illness, but only on my own behalf as the mother of a SMI adult who is now doing extremely well but would be dead if he had not been 5150'd 11 times as an unstable teen in counties where that was actually possible. (I could tell a long story about how superior but overly restrictive 5150 powers in another county very nearly killed him. Email me if you want to hear it.)

In Sacramento County outside city limits 5150s are now completely impossible, and it is already killing people. I thank God every day that my son does not live here.

I speak also as a retired lawyer with fancy degrees who during an 18 year tenure as a Minnesota Assistant Attorney General, represented (among other public clients) peace officers and mental hospitals—including the Security Hospital, where the most dangerous patients are housed, often for killing one or more family members, loved ones or members of the public. Minnesota has far superior mental health laws. (See Treatment Advocacy Center Grading the States, <https://www.tac.org/wp-content/uploads/2023/11/Grading-the-States-2020.pdf>, where Minnesota gets an A+, whereas California's antiquated, anti-treatment LPS gets a D- along with only 3 other states .) In Minnesota, all physicians and statutorily-enumerated mental health professionals can issue 72 hour "5150" hold orders by filling out a simple form that forces them to precisely articulate the factual and statutory basis for the hold order and provide a relevant clinical history. Police can also place 72 hour holds, but when a "health officer" has done it their only job is to provide safe transport for the patient and the paperwork, if requested. Sensibly, most "5150" and transport decisions are made by "health officers," usually for their own patients and the issue whether police involvement or transport is necessary is left to the "boots on the ground." Only a credentialed professional at the receiving end who has examined the patient and paperwork (which can include clinical records) can lift the 72 hour hold. See Minn Stat Ch. 253B.02 subd. 9 and 253B.051 subds. 1 and 3.

In Sacramento County outside city limits there is currently also *no safe transport* because of our Sheriff's intransigence.

Fellow family members report that under current Sheriff's policy their cries for help—which often include fears of a SMI who may be brandishing some kind of weapon—to emergency personnel are duly sent to a supervisor to determine if a crime is involved in accordance with the Sheriff's enumerated policies. These calls apparently go directly to the "round file" because nothing further happens. I can personally report making a call asking the dispatcher for a welfare check on neighbors in the unincorporated county and being assured that the Sheriff's Office does do welfare checks. The dispatcher immediately requested the address—but when I told her the (fictional) family had a mentally ill son she immediately responded—per the Sheriff's announced policy—that they could only help in that instance if a crime is involved and the matter would be referred to a supervisor for determination.

The previous paragraph describes disability discrimination which is illegal both in state and federal law. *These are also emergencies and cries for help are being ignored. Waiting until someone is already dead so a crime can be punished is not the solution.*

You should inquire what Dr. Quist is actually doing these days about 5150 powers because my information may be outdated. In any event, given the Sheriff's intransigence, he now desperately needs to authorize more people to issue 5150 orders, including *all* members of mental health crisis teams. Here is the provision in LPS that places counties in charge of this decision:

Welf. & Inst. Code Section 5150(a) When a person, as a result of a mental health disorder, is a danger to others, or to themselves, 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....

I am again more than happy to draft a standard form that would make sure all the statutory requirements are met and ensure a well-articulated reason for the 5150, a patient diagnosis and clinical history, and anything else you consider advisable. If there's any chance it would be adopted, just ask.

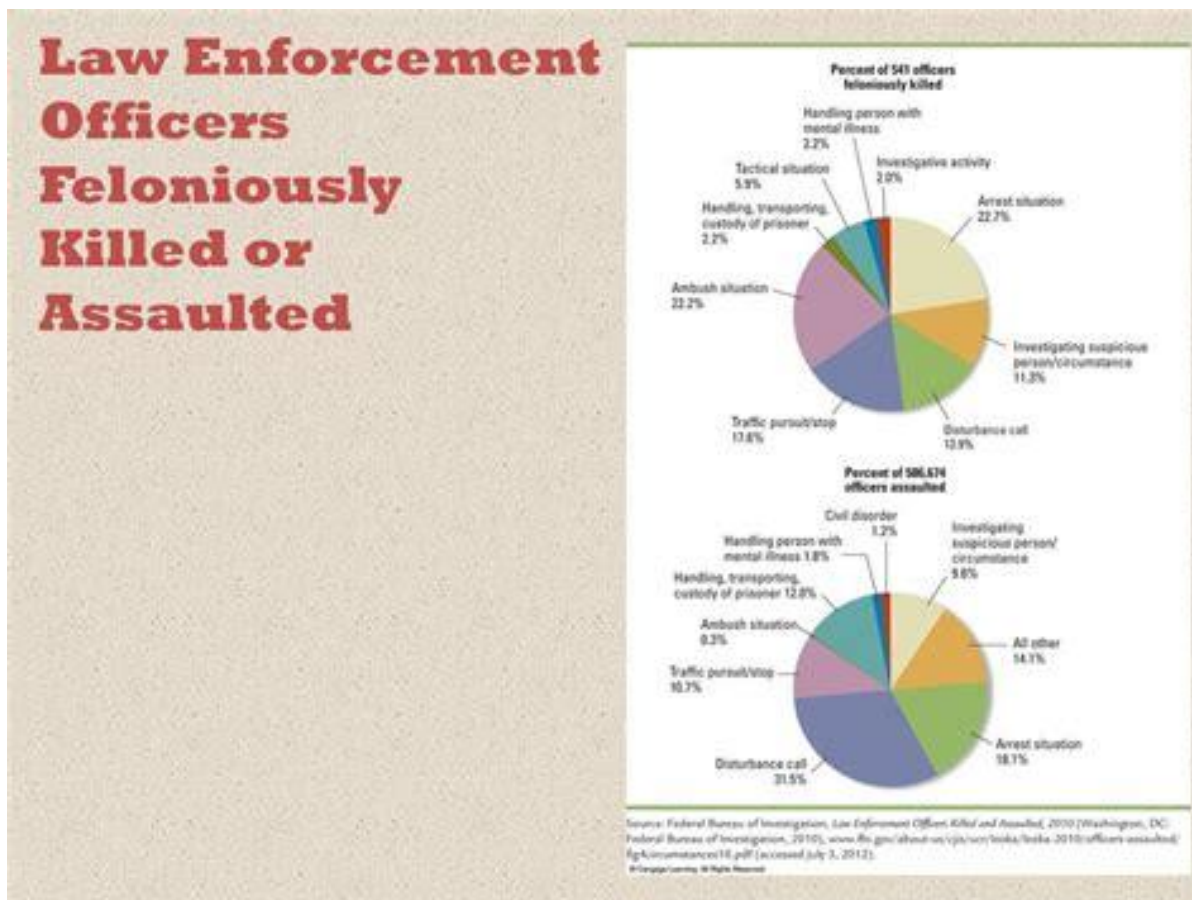
While tangential to your agenda, my opinion as a lawyer with considerable experience in this arena is that the "win-win" solution to this controversy, which is both consistent with the Sacramento Sheriff's Community Review Commission's recommendations and with fn.3 of *Scott v. Smith*, 109 F.4th 1215 (9th Cir. 2024) *cert. den.* Oct. 10, 2025 (Supreme Court # 24-1099), which preserves immunity when peace officers follow the directives of health professionals, is to institute the *original* "Memphis Model," which, if memory serves, used mental health professionals to respond to *all* behavioral health crises, and involved specially-trained peace officers *only* when requested by those professionals.

On a personal note, it is obvious to me because I spoke to him personally that Sheriff Cooper is partly concerned about his officers getting hurt—as he should be. My experience is that all the peace officers I ever worked with have that fear. Minnesota State Patrol officers all had their true stories about a fellow officer shot by a parole violator behind the wheel of a car not yet reported as stolen. Game wardens all had their true stories of other game wardens who were stalked and killed by survivalist types living in the forest off illegally killed game, who are rarely caught. Yet *none of these peace officers ever suggested that they should refuse to enforce traffic laws or game laws, even though most of those laws are civil in nature.* These are terrible events but they are rare—I was told years ago that at that time, statistically farming was a more dangerous occupation than being a peace officer.

Curious, I looked up the statistics set forth in Justice Kavanaugh's concurrence in *Barnes v Felix*, in which the Supreme Court recently narrowed the police doctrines relating to self-defense 9-0 (bad news for the "I feared for my life" old excuse that pushed training films like one I saw, telling peace officers to shoot anyone brandishing a knife). Here are the relevant statistics—chart and link to the FBI document follow:

Deaths from "handling person with mental illness": 2.2% of all officer deaths. Assaults from "handling persons with mental illness:" 1.8% of all officer assaults *The overwhelming number of*

deaths and assaults come from traffic stops and/or “ambush situations” as described above.



Here is the link: <https://external-content.duckduckgo.com/iu/?u=https%3A%2F%2Ftse1.mm.bing.net%2Fth%2Fid%2FOIP.WOpLZlPK8TyqWugrnJXAOgHaFj%3Fpid%3DApi&f=1&ipt=e481966ac12910741c8abe77620926201e17dd950a3d92b49a1528f3ac599712>

Respectfully submitted,

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Stanford with honors '75
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Plaintiff with MHSA drafter Rose King and counsel in *Bernard & King v CHFFA et al* (Third App Dist. CA—the case that put Prop.2 (2018) on the ballot)

Cc: by snail mail

Sheriff Cooper and Andrew Crouse, Deputy County Counsel