

\*Please note: This is a working draft of Directive 850.21. This is proposed language and the Bureau has not implemented any changes to the current policy at this time.

## **850.21 Peace Officer Custody (Civil)**

*2nd Universal Review: 05/15/18-06/14/18 (clean view)*

### **Refer:**

- ORS § 426.005, Definitions for ORS § 426.005 to 426.390
- ORS § 426.228, Custody
- DIR 850.20 Police Response to Mental Health Crisis
- DIR 850.22 Police Response to Mental Health Director's Holds and Elopement
- DIR 850.25 Police Response to Mental Health Facilities
- DIR 630.45 Emergency Medical Custody Transports
- DIR 630.50 Emergency Medical Aid

### **Definitions:**

- **Mental Health Crisis:** An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (e.g., anxiety, depression, anger, fear, panic, hopelessness), a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment), obvious changes in functioning (e.g., neglect of personal hygiene) and/or catastrophic life events (e.g. disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters), which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.
- **Peace Officer Custody:** An exercise of civil authority when there is probable cause to believe a person is dangerous to self or to any other person and is in need of immediate care, custody, or treatment for mental illness.

### **Policy:**

1. In the context of mental health crisis, the Portland Police Bureau recognizes the importance of civil rights and the need for individuals to have control over their person. The Police Bureau also recognizes there are times when, as a result of mental health crisis, a person may lack the capacity to make sound judgments about their personal situation. After considering the alternatives outlined in Directive 850.20, and after finding probable cause exists for a hold, members may take the individual into custody on a Peace Officer Hold. Members shall treat the individual with dignity and compassion at all times.
2. Members shall be guided by law regarding civil custody of persons in mental health crisis with the goal of assessing the need for custody. When the need arises, the act of custody shall be resolved in a safe, constructive, and humane manner as possible.
3. A member's ability to manage custody by this expectation is of critical importance to the involved person, the involved person's support system, community members, mental health providers, and the Police Bureau.

### **Procedure:**

1. Peace Officer Custody:

- 1.1. Members may take a person into peace officer custody if the member has probable cause to believe the person is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness.
- 1.2. Before taking a person into peace officer custody for a mental health evaluation, members shall:
  - 1.2.1. Develop and communicate a tactical plan to participating members, so as to take advantage of the most effective options that may safely resolve the incident. Tactics members should consider in devising a tactical plan include, but are not limited to, the following (“ROADMAP” is a mnemonic device that assists members in remembering tactics taught in training):
    - 1.2.1.1. **R** – Request specialized units,
      - 1.2.1.1.1. Evaluate the need for assistance from individuals with additional training in working with mental health crisis situations (e.g. Enhanced Crisis Intervention Team (ECIT) members, Project Respond, Crisis Negotiation Team (CNT)). When needed, assistance may be requested through the Bureau of Emergency Communications (BOEC).
      - 1.2.1.1.2. Evaluate the need for possible consultation with a mental health provider (Refer to the Behavioral Health Unit’s Community Mental Health Resources Guide), and/or anyone else the member deems appropriate.
    - 1.2.1.2. **O** - Observe or use surveillance to monitor subject or situation,
    - 1.2.1.3. **A** – Area containment (perimeter, containment),
    - 1.2.1.4. **D** – Disengage with a plan to resolve later,
      - 1.2.1.4.1. Disengagement is a tactic to be considered to reduce undue safety risk to the member, the involved persons, or others. Members will consult with a supervisor to determine whether to make contact at a different time or under different circumstances. The tactic requires members to complete a general offense report and notify the Multnomah County Crisis Line of the situation (e.g. name, date of birth, disposition).
    - 1.2.1.5. **M** – More resources/summon reinforcements,
    - 1.2.1.6. **A** – Arrest delayed (get a warrant, or try different time/place),
    - 1.2.1.7. **P** – Patience. Use time and communication to attempt to de-escalate the subject.
  - 1.2.2. Transport or facilitate the transport of the individual to the appropriate secure evaluation facility or nearest designated hospital emergency department that conducts mental health evaluations. Refer to Directives 630.45, Emergency Medical Custody Transports, and 630.50, Emergency Medical Aid, for additional direction and procedures.
- 1.3. Juveniles may be taken into civil custody for a mental health evaluation under the same legal standard as adults. Members shall notify the juvenile's legal guardian or the Department of Human Services prior to transport to a secure evaluation facility or nearest designated hospital emergency department that conducts mental health evaluations.

2. Member Responsibilities:

- 2.1. When a member takes a person into custody under the member's peace officer authority, the member will complete a Report of Peace Officer Custody of an Allegedly Mentally Ill Person (this is Form MHD [ORS § 426.228] of the Mental Health Division of the Oregon Health Authority). Members shall provide the report to AMR or, in those extraordinary circumstances when the officer provides transport, the treating physician at the secure evaluation facility.
- 2.2. When a member takes a person into custody under the direction of the Community Mental Health Program Director or designee, the member shall provide the custody report of the Community Mental Health Program Director or designee to AMR or, in those extraordinary circumstances when the officer provides transport, the treating physician at the secure evaluation facility.
- 2.3. The member will submit a copy of the Report of Peace Officer Custody of an Allegedly Mentally Ill Person, along with an original police report about the incident, to their supervisor before the end of shift.

3. Supervisor Responsibilities:

- 3.1. Supervisors shall ensure their members follow the reporting requirements for peace officer custody.

Provide feedback [here](#)

## 850.21 Peace Officer Custody (Civil)

2nd Universal Review: 05/15/18-06/14/18 (redline markup)

### Refer:

- ORS § 426.005, Definitions for ORS § 426.005 to 426.390
- ORS § 426.228, Custody
- DIR 850.20 Police Response to Mental Health Crisis
- DIR 850.22 Police Response to Mental Health Director's Holds and Elopement
- DIR 850.25 Police Response to Mental Health Facilities
- DIR 630.45 Emergency Medical Custody Transports
- DIR 630.50 Emergency Medical Aid

### Definitions:

- Mental Health Crisis: An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (e.g., anxiety, depression, anger, fear, panic, and/or hopelessness), a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment), obvious changes in functioning (e.g., neglect of personal hygiene) and/or catastrophic life events (e.g. disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters), which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.
- Peace Officer Custody: An exercise of civil authority when there is probable cause to believe a person is dangerous to self or to any other person and is in need of immediate care, custody, or treatment for mental illness. ORS § 426.005 (1) (e); ORS § 426.228.

### Policy:

1. In the context of mental health crisis, the Portland Police Bureau recognizes the importance of civil rights and the need for individuals to have control over their person. However, tThe Police Bureau also recognizes there are times when, as a result of mental health crisis, a person may lack the capacity to make sound judgments about their personal situation. After considering the alternatives outlined in Directive 850.20, and after finding probable cause exists for a hold, members shall may take the individual into custody on a Peace Officer Hold. Members shall treat the individual with dignity and compassion at all times. -
2. Members shall be guided by law regarding civil custody of persons in mental health crisis with the goal of assessing the need for custody. If When the need arises, the act of custody shall be resolved in a safe, constructive, and humane manner as possible. -
3. A member's ability to manage custody by this expectation is of critical importance to the involved person, the involved person's support system, community members, mental health providers, and the Police Bureau. -

### Procedure:

1. ~~1.~~Peace Officer Custody:

1.1. ~~1.1.~~—Members may take a person into peace officer custody if the member has probable cause to believe the person is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness.

1.2. ~~1.2.~~—Before taking a person into peace officer custody for a mental health evaluation, members shall:

1.2.1. ~~1.2.1.~~—Develop and communicate a tactical plan to participating members, so as to take advantage of the most effective options that may safely resolve the incident. Tactics members should consider in devising a tactical plan include, but are not limited to, the following (“ROADMAP” is a mnemonic device that assists members in remembering tactics taught in training):

1.2.1.1. ~~1.2.1.1.~~—**R** – Request specialized units,

1.2.1.1.1. ~~1.2.1.1.1.~~—Evaluate the need for assistance from individuals with additional training in working with mental health crisis situations (e.g. Enhanced Crisis Intervention Team (ECIT) members, Project Respond, Crisis Negotiation Team (CNT)). When needed, assistance may be requested through the Bureau of Emergency Communications (BOEC).

1.2.1.1.2. ~~1.2.1.1.2.~~—Evaluate the need for possible consultation with a mental health provider (Refer to the Behavioral Health Unit’s Community Mental Health Resources Guide), and/or anyone else the member deems appropriate.

1.2.1.2. ~~1.2.1.2.~~—**O** - Observe or use **S**urveillance to monitor subject or situation,

1.2.1.3. ~~1.2.1.3.~~—**A** – Area **C**ontainment (perimeter, containment),

1.2.1.4. ~~1.2.1.4.~~—**D** – Disengage with a plan to resolve later,

1.2.1.4.1. ~~1.2.1.4.1.~~—Disengagement is a tactic to be considered to reduce undue safety risk to the member, the involved persons, or others. Members will consult with a supervisor to determine whether to make contact at a different time or under different circumstances. The tactic requires members to complete a general offense report and notify the Multnomah County **Call CenterCrisis Line** of the situation (e.g. name, date of birth, disposition).

1.2.1.5. ~~1.2.1.5.~~—**M** – More **r**esources/**S**ummon **R**einforcements,

- 1.2.1.6. ~~1.2.1.6.~~ **A** – Arrest ~~D~~delayed (get a warrant, or try different time/place),
- 1.2.1.7. ~~1.2.1.7.~~ **P** – Patience. – Use time and communication to attempt to de-escalate the subject.
- 1.2.2. ~~1.2.2.~~ Transport or facilitate the transport of the individual to the appropriate secure evaluation facility or nearest designated hospital emergency department that conducts mental health evaluations. Refer to Directives 630.45, Emergency Medical Custody Transports, and 630.50, Emergency Medical Aid, for additional ~~information~~direction and procedures.
- 1.3. ~~1.3.~~ Juveniles may be taken into civil custody for a mental health evaluation under the same legal standard as adults. Members ~~will~~shall notify the juvenile's legal guardian or the Department of Human Services prior to transport to a secure evaluation facility or nearest designated hospital emergency department that conducts mental health evaluations.

~~2.~~

## 2. Member Responsibilities:

- 2.1. ~~2.1.~~ When a member takes a person into custody under the member's peace officer authority, the member will complete a Report of Peace Officer Custody of an Allegedly Mentally Ill Person (this is Form MHD [ORS § 426.228] of the Mental Health Division of the Oregon Health Authority). Members shall provide the report to AMR or, in those extraordinary circumstances when the officer provides transport, the treating physician at the ~~hospital or Unity Center~~secure evaluation facility.
- 2.2. ~~2.2.~~ When a member takes a person into custody under the direction of the Community Mental Health Program Director or designee, the member shall provide the custody report of the Community Mental Health Program Director or designee to AMR or, in those extraordinary circumstances when the officer provides transport, the treating physician at the ~~hospital or Unity Center~~secure evaluation facility.
- 2.3. ~~2.3.~~ The member will submit a copy of the Report of Peace Officer Custody of an Allegedly Mentally Ill Person, along with an original police report about the incident, to their supervisor before the end of shift.

## 3. ~~3.~~ Supervisor Responsibilities:

- 3.1. ~~3.1.~~ Supervisors ~~will~~shall ensure their members follow the reporting requirements for peace officer custody.

# #1

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Friday, November 17, 2017 10:06:33 AM  
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## Q1 Please provide feedback for this directive

### Mental Health and Drug Abuse

We have over 800 people living under the care of non-profits and another 680 or so (possibly to be nearly 900 if the proposed shelter is approved) living in shelters in our neighborhood, Old Town Chinatown. Approximately 2/3rd of the people living North of Burnside are either in shelters or in care. A reasonable estimate is 35% have a disability. Another estimate is more than a 1/3 of those with a disability report a mental illness and another 1/3 substance abuse. Latest figures reported for the unsheltered (2017 Point in Time) suggest that 45% or 747 adults report a serious mental illness. Some might say we who live here are living in a homeless ghetto. We who are not sheltered or on the street are outnumbered. With the addition of a 200-bed low barrier shelter, the number of folks here in the North Gate area of the New Chinatown Japantown historic district rises to 657 sheltered/special needs folks to 333+renters/condo owners. Of the 657 it would not be a stretch to estimated over 300 of them has a mental or substance abuse problem. It could be close to 1 to 1 ration of renters to mentally ill. I hope I exaggerate. Now, despite the best of intentions to meet this problem with the Behavioral Health Unit and partners in the mental health and drug abuse field, the bottom line is that we 300 plus renters and condo owners don't feel very safe at all. One murder in the lobby of Pacific Towers, a knifing across the street, and a murder around the corner over the last six months coupled with high rates of assault and drug offenses and a case could be made that we have good reason to not feel safe as we are not. Meanwhile, when City staff to include ONI and police officers come to speak to us residents we get sheets of papers and phone numbers to call when in fact there are few resources to assign to us. The City has not made the investment to support concentrating homeless folks into one small area of the City, and a historic district at that. Many of us have stopped calling. This is so for both reporting those on the street having an episode and in danger as well as reporting drug selling/using activity on our corners. Most of us in the neighborhood believe strongly that mentally ill folks do not commit crimes in any greater number than the general public and may along with drug users be more likely to be assaulted. We understand that the overwhelming number of housing units in our neighborhood are shelters and for special needs. What is not easy to understand is that if you create a ghetto, the City has an obligation to keep those in the ghetto safe, including the homeless and those who rent and own homes. We need more conversations between our protectors and our residents who are not under care and I am not talking one-way informational conversations and where there are no staff members from the Mayor's Office in attendance. They need to be educated as well. I have lived in the Pacific Tower Apartments on the second floor overlooking NW Flanders and NW 4th Avenue since September 2012. I also work out of my apartment so I am here all day and night. I am 71 years old and have lived in San Francisco, Washington, D.C. and New York City (during the late 70's when NYC was out of control both crime and money-wise). I publish (blog) and produce videos (Youtube) as pdxdowntowner.com.

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## Q2 Contact Information (optional)

Name  
Email Address  
Phone Number

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## #2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, December 14, 2017 3:42:34 PM  
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### Q1 Please provide feedback for this directive

#### COMMENTS ON MENTAL HEALTH AND OTHER DIRECTIVES NOVEMBER/DECEMBER 2017

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

First of all, we welcome Chief Outlaw to this process of public review of Bureau policies. The process, which was developed as part of the US Department of Justice Settlement Agreement, is a good example of something both Portland Copwatch and the Bureau might deem "community policing," though shortcomings still exist. In August, we noted that Portland Copwatch (PCW) has commented on over 100 Directives over the last four years, some of them 3 or 4 times, in hopes of creating a more professional, accountable and transparent Bureau, while helping de-emphasize violence and conflict.

While it has been a relief to have two months off since the last set of Directives were posted for comment, we're now faced once again with the Bureau creating overlapping deadlines for sets of policies released in mid-November (addressed in this email) and early December (comments to follow). For the November set of Directives, which were posted at <http://www.portlandoregon.gov/police/59757>, we have put in most of our comments below these introductory thoughts. We note, however, that the Bureau has not taken up our reasonable suggestion to post its current list of intended changes, or even areas requiring attention, when posting Directives for review. Rather, the community is given 30 days to comment on existing Directives with no clue as to what is under scrutiny, but only 15 days to comment once the Bureau releases proposed revisions. The comment period should be at least 30 days on both ends, as we've noted many times, so that organizations including official city advisory boards have time to meet and compile recommendations.

We are not making comments on Directives 414.00 (Pregnancy), 212.20 (Milk Expression) or 410.00 (Injuries/Illness), the latter of which is up for its first review.

We note here that all three Mental Health Directives under review were revised in early 2017 even though they were last posted for input in April 2015, with some of the changes coming after the opening of the Unity Center earlier this year. We very much appreciate that the Policy Section of all three Directives now includes the sentence "Members shall treat the individual with dignity and compassion at all times."

PCW has continually suggested-- to no avail-- that the Bureau add letters to section headings (Definitions, Policy, Procedure) to avoid having multiple sections with the same numbers. We also strongly suggest PPB go back to its earlier practice of enumerating the Definitions, to make referencing them easier. Our comments below refer to the Procedure section unless otherwise noted.

#### DIRECTIVE 850.21 PEACE OFFICER CUSTODY (CIVIL)

This Directive underwent some major revisions.

--Policy Section 1, which we complimented last time for honoring people's civil rights and their ability to control their own lives, has



## Directive 850.21 Feedback

added a few sentences-- beginning with a qualifying "however." The new sentences declare that when a person lacks capacity to make "sound judgments about their personal situation" and with probable cause an officer "shall" take the person into custody. The sentence saying "after considering alternatives outlined in 850.20" should begin "In such circumstances" to be clear that officers should only be directed to use holds in the described situation. PCW also suggests removing the word "shall" which means a mandatory hold, especially since later in the Directive, disengagement is described as a valid tactic, but also because officers may not be objectively assessing a person's mental health status. While arguably anyone in this country who challenges a police officer's authority could be seen as having mental health issues, since the officers are likely to respond unkindly, such assertion of rights should never be construed by police as an inability to "make sound judgments."

--On the topic of disengagement, "delayed custody" was removed from the definitions section, and old Section 1.3.1 which was cut entirely. Presumably Section 1.2.1.4, the "D" in the "ROADMAP" mnemonic, which suggests officers "Disengage with a plan to resolve later" replaces that term.

--It is unfortunate that the clunky "ROADMAP" lettering has "Patience" as the last tactic to be considered rather than the first.

--Old Section 1.2 which told officers to consider the "totality of the circumstances, including.... the governmental interests at stake" when making a non-criminal detention was cut and not replaced.

--Old Sections 1.3.3.1-1.3.3.2, which said officers who do not get a person to voluntarily enter a mental health facility can drop them back at a "safe location" (undefined) were cut. It is not clear if this is because police are no longer transporting persons in crisis to mental health facilities since the Unity Center opened.

--That said, Section 2.2 refers to "AMR" rather than using a generic term for Emergency Medical Services or ambulance services. Should AMR, a private company, not win the County contract for transportation-- and/or if the Portland Fire Bureau makes transports-- the Directive will have to be rewritten.

### CONCLUSION

In our last two sets of comments, we noted that the Portland Committee on Community Engaged Policing (or whatever the replacement for the Community Oversight Advisory Board will be called) will, by City Ordinance, be integrated into the Directives review process. Since the person who will help design the recruitment process does not have to turn in a resume until January 5, we continue to ask that the Bureau recognize PCW's concerns about the process and substance of these policies.

Thank you for the opportunity to comment  
dan handelman and other members of  
Portland Copwatch

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### Q2 Contact Information (optional)

Name

Email Address

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