



CITY OF PORTLAND, OREGON



Bureau of Police

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Directive 825.00, Protection Orders and Domestic Violence Cases (formerly, “Domestic Violence, Arrests, and Restraining Orders”) Executive Summary

Introduction

The Bureau originally initiated its review of Directive 825.00, Protection Orders and Domestic Violence Cases (formerly, “Domestic Violence, Arrests, and Restraining Orders”), in early 2019 to address operational adjustments and changes to applicable laws. Over the course of the review, the Bureau made further revisions to the directive to account for recommendations received from internal and external stakeholders.

Public Comments

The Bureau received few comments during the universal review and public comment periods for the directive. Commenters identified a relevant shift in state law that affects the policy, recommended the incorporation of language regarding the enforcement of protection orders issued by federally-recognized tribes, called on the Bureau to consider the genders of the survivors and responding Bureau members when responding to domestic violence (DV) calls, and suggested the Bureau expand the scope of the directive to include guidance for the issuance and enforcement of other types of protection orders.

Expanding the Scope of the Directive

The Police Review Board (PRB) recommended that the Bureau incorporate guidance about different protection orders into the directive. Although Bureau members tend to typically assist with the handling of Family Abuse Prevention Act (FAPA)-related restraining orders, as the PRB identified, members may encounter other protection orders allowable under Oregon law. Recognizing that both community and Bureau members would be better served by including such guidance, the Policy Development team expanded the scope of the directive to include references to and direction regarding the relevant requirements of various types of protection orders.

Tribal Protection Orders

The Bureau received feedback from a community member, as well as representatives from the City’s Government Relations Office, regarding the validity and enforcement of protection orders issued by federally-recognized tribes, specifically highlighting the omission of references to those orders in the previous version of the policy. National research indicates that indigenous women experience higher rates of domestic violence than women of other races and that the murder rate within the group exceeds the national average. Given those sets of facts, coupled with full faith and credit provisions required under federal law, the Bureau recognized the importance of including specific guidance in this regard, to ensure that members are aware of and properly enforcing legal protections in place for particularly vulnerable populations.

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Bureau Response to Domestic Violence Calls

One commenter suggested that the Bureau consider the gender of responding members when handling DV calls (e.g., a male member questioning or interviewing a female survivor who has been abused or assaulted by a man). As the comment implies, exposure of a DV survivor to an individual (i.e., a responding Bureau member) who has similar traits as the perpetrator may elicit a trauma response. While current staffing does not allow for a directive requirement for a particular response to DV calls, the Bureau is conscious of the impact that an initial contact with a survivor may have and as a result, the Bureau strives to be mindful in its response to calls of this nature.

We thank every individual who took the time to provide feedback on this directive. All comments received during both review periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

The Bureau's Revised Policy

The Bureau preserved most of the policy guidance pertaining to the Bureau's response to domestic disputes and enhanced the directive by making necessary revisions to comport with changes in the law, expanding its scope to include direction for the handling of all protection orders allowable under Oregon law, and including language to account for tribal protection orders. The revised policy also aligns with recent changes to applicable laws and more sufficiently addresses relevant state statutes to provide greater context to Bureau members.

The Bureau believes that the revised directive provides more clarity and enhanced guidance to its members; however, any suggestions to further improve this policy are welcome during its next review.

This directive will become effective on April 3, 2020.

Published on 3/4/2020

825.00, Protection Orders and Domestic Violence Cases

Refer:

- 18 U.S. Code 2265 Full Faith and Credit Given to Protection Orders
- Family Abuse Prevention Act
- Elderly Persons and Persons with Disabilities Abuse Prevention Act Restraining Order
- Sexual Abuse Protective Order
- Stalking Protective Order
- Extreme Risk Protection Order
- ORS 107.705 Other Family and Household Relationships, defined
- ORS 107.718 Restraining Order
- ORS 107.719 Removal of personal effects
- ORS 107.720 Enforcement of Restraining Orders
- ORS 133.035 Ex Parte Emergency Protective Orders
- ORS 133.055 Criminal Citation
- ORS 133.310 Authority of Peace Officer to Arrest Without Warrant
- ORS 135.230 Domestic Violence Relationships Applied to Conditional Release Restrictions
- ORS § 135.260 (2) Prohibit Contact of Victim on Conditional Release for Domestic Violence
- ORS 163.160 Assault IV
- ORS 163.187 Strangulation
- ORS 163.190 Menacing
- ORS 163.192 Endangering A Person Protected by a Family Abuse Prevention Act (FAPA) Restraining Order
- DIR 640.02, Photography and Digital Imaging
- DIR 640.20, Sexual Assault Kits and Sexual Assault Investigations
- DIR 660.10, Property and Evidence Procedures
- DIR 825.10, Domestic Violence, Member Involved
- Family Services Division Standard Operating Procedure #3, Restraining Orders: Surrender and Return of Firearms by Respondents
- Family Services Division Notice of Legal Rights and Remedies for Victims of Domestic Abuse

Definitions:

- **Domestic Violence:** The occurrence of one or more of the following acts between family or household members: 1) attempting to cause or intentionally, knowingly or recklessly causing bodily injury; 2) intentionally, knowingly or recklessly placing another in fear of imminent bodily injury; or 3) causing another to engage in involuntary sexual relations by force or threat of force.
- **Family or Household Members:** Spouses; former spouses; adult persons related by blood, marriage, or adoption; persons who are cohabiting or who have cohabited with each other; persons who have been involved in a sexually intimate relationship with each other within

two years immediately preceding the filing by one of them of a petition to circuit court for relief; unmarried parents of a child.

- **Intimate Partner:** With respect to a person, the person's spouse or former spouse, a parent of the person's child or another person who has cohabited or is cohabiting with the person in a relationship akin to a spouse.
- **Menacing:** A person who, by word or conduct, intentionally attempts to place another person in fear of imminent serious physical injury.
- **Petitioner:** For the purposes of this directive, a person requesting a protection order within the specified time frame of the order sought, who A) has been abused, stalked, or assaulted by a family or household member, or an intimate partner; B) is at imminent risk of physical injury; or C) reasonably believes that another individual (the potential respondent) is at imminent risk of suicide or causing physical injury to another person. This also may include a law enforcement officer who reasonably believes that another individual is at imminent risk of causing physical injury to themselves or another person.
- **Protection Order:** Any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing the following: 1) violent or threatening acts or harassment against another person; 2) sexual violence against another person; or 3) contact or communication with or physical proximity to another person. This includes any temporary or final order issued by a civil or criminal court whether obtained by filing an independent action or as an order put into effect while litigation is pending in another proceeding, so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. This also includes orders for the purpose of preventing suicide when an imminent risk exists.
- **Respondent:** A person named in a protection order who has been prohibited, or who a petitioner is seeking to prohibit, by judicial order, from contacting or engaging in certain activities that involve the petitioner.
- **Strangulation:** Knowingly impeding the normal breathing or circulation of the blood of another person by either applying pressure on the throat, neck, or chest of the other person or blocking the nose or mouth of the other person.

Policy:

1. This policy establishes procedures for the Portland Police Bureau's enforcement of protection orders and its response to domestic violence (DV) incidents. DV incidents have specific legal requirements (e.g., mandatory arrest); therefore, the directive includes more comprehensive guidance for those cases.
2. The Bureau is committed to protecting and working to reduce ongoing risks to the safety of survivors of DV by thoroughly investigating DV incidents and connecting survivors to resources. Furthermore, in addition to complying with the Oregon law requiring the mandatory arrest of DV suspects, Bureau members shall give full faith and credit to valid

protection orders issued by all other jurisdictions and arrest and take into custody suspects in domestic disputes and individuals who have violated a protection order, in an effort to prevent further injury or abuse.

Procedure:

1. Protection Orders.

1.1. State and federal law allow for the use of protection orders as a civil means by which an individual can seek protection from a person who has abused, stalked, assaulted, caused or attempted to cause physical injury to the individual, or who has put the individual in imminent risk of physical injury. Petitioners for protection orders do not need an attorney to file the order. There is no cost to the petitioner for obtaining a protection order.

1.2. Members should consult the relevant Oregon Revised Statute or contact the City Attorney's Office for specific eligibility, issuance, proof of service, and enforcement requirements by protection order type, as needed.

1.3. Issuance.

1.3.1. A petitioner cannot serve their own protection order. A protection order can only be served by:

1.3.1.1. A sheriff's deputy,

1.3.1.2. A police officer,

1.3.1.3. A private process server or

1.3.1.4. An Oregon resident 18 years of age or older.

1.3.2. If a member serves a copy of the protection order to the respondent, the member shall also include the following documents, when applicable:

1.3.2.1. Firearms Surrender and Return Terms For Respondents Under Restraining Orders Form;

1.3.2.2. Frequently Asked Questions: Surrender and Return of Firearms in Multnomah County, Family Abuse Prevention Act Restraining Order Cases; and

1.3.2.3. A firearms affidavit.

1.3.3. In situations where a protection order has not yet been served and both the petitioner and respondent are present, members on the scene shall assist by personally serving the order or ensuring the order is served by a third party, if this is allowable by state law and can be accomplished in a timely manner. The petitioner copy may be served upon the respondent if the respondent copy is unavailable. Should the respondent refuse to comply with the protection order before the order can be entered into the Law Enforcement Data System (LEDS), the order can be enforced to protect the petitioner.

1.4. Proof of Service.

1.4.1. If a member serves the protection order, the member shall deliver a true copy of the affidavit of proof of service and, when applicable, the documents referenced in Sub-sections 1.3.2.1.-1.3.2.3. of this directive. The member shall also:

- 1.4.1.1. Complete Notification of Service form (available at all precincts), then call Multnomah County Sheriff's Office (MCSO) Records Division to confirm that the protection order has been served and indicate whether they will fax or hand-deliver the Notification of Service form. The current phone number is in the Problem Solving Resource Guide.
 - 1.4.1.1.1. Members shall fax or deliver the completed form prior to the end of their shift. If submitting by fax, the member shall send the original form via interoffice mail to Family Court/BLDG 101/Rm 211.
 - 1.4.1.1.2. Members shall include the Computer Aided Dispatch (CAD) number on the form, if available, and note in the CAD the date, time, location, name of the person(s) served and the protection order number.
- 1.4.2. Complete a General Offense (GO) Report documenting the service.
- 1.5. Violation and Enforcement of Protection Orders.
 - 1.5.1. Verification.
 - 1.5.1.1. Members shall search the LEDS and National Crime Information Center (NCIC) to authenticate protection orders. A protection order does not need to be registered in LEDS or NCIC to be deemed valid or enforceable.
 - 1.5.1.2. If a petitioner provides a copy of the protection order that does not appear in LEDS or NCIC, members shall make a good faith effort to verify the copy is a true copy and the respondent has been served with that order or appeared in person before the court, therefore waiving the proof of service requirement. The member shall consider the copy to be valid if the order:
 - 1.5.1.2.1. Includes the names of the petitioner and respondent;
 - 1.5.1.2.2. Appears to be in effect (i.e., includes an issuance date);
 - 1.5.1.2.3. Indicates issuance by a judicial official; and
 - 1.5.1.2.4. Identifies the conditions of relief awarded by the judicial official.
 - 1.5.1.3. Members shall enforce a protection order whether or not the victim or presumptive petitioner has a copy of the order, if the member is able to verify the existence of the order.
 - 1.5.2. Members shall enforce protection order violations for orders issued by another state, U.S. territory or by a federally-recognized tribe. Those protection orders are entitled to full enforcement of the order for violations occurring within this jurisdiction, as if it were a valid Oregon order.
 - 1.5.2.1. Members shall arrest the respondent if probable cause is established. If available, the member shall obtain a copy of the original copy of the protection order to include in their reporting.
 - 1.5.2.1.1. The Multnomah County District Attorney's Office (DA) shall review the member's report for prosecution or referral to the U.S. Attorney's Office.
 - 1.5.3. Because protection orders contain different prohibitions for each respondent, members shall utilize eCourt to view the complete order or call the issuing jurisdiction to confirm what actions and/or contacts the respondent is prohibited from committing. If this is not possible, members shall make a good faith effort to enforce the order.

- 1.5.4. Only the respondent is restrained by the order. A petitioner may initiate contact with the respondent; however, should the respondent have contact with the petitioner, the respondent, not the petitioner, may be in violation of the order and subject to arrest.
- 1.5.5. If the respondent intentionally engaged in conduct prohibited by the order while the order was in effect; thereby, recklessly creating a substantial risk of physical injury to a person protected by the order, or intentionally attempting to place the petitioner in fear of imminent physical injury, they shall be subject to arrest.
- 1.5.6. Protection orders can prohibit the respondent from possessing or carrying a firearm(s) or ammunition. Respondents are in violation of the protection order if they possess or carry a firearm or ammunition, even if the petitioner or anyone named in the order is not present or involved in an incident with the respondent.
- 1.5.7. The respondent or a petitioner may request that a member take control of the respondent's firearm(s), pursuant to the protection order. If a member receives this request and there has not been a violation of the protection order as of that time, the member may take any firearms for safekeeping. Members shall document on the Property Evidence Receipt, the relevant protection order number and whether the owner/respondent is prohibited from possessing or carrying the weapon(s), pursuant to a protection order that is in effect.
- 1.5.8. If firearm possession is part of a violation of the protection order, safekeeping no longer applies, and members shall take the weapon(s) as evidence. Members shall document the relevant protection order number on the Property Evidence Receipt.
- 1.5.9. Members shall not issue citations in lieu of custody for violation of a protection order.

2. Domestic Disputes.

- 2.1. All domestic dispute calls require at least a two-Bureau member response. Members shall not be allowed to cancel cover.
- 2.2. Members shall make every effort to determine the identity of the primary or potential suspect by considering the following factors, which include but are not limited to:
 - 2.2.1. The comparative injuries inflicted or the severity of the threats that created a fear of physical injury;
 - 2.2.2. If reasonably ascertainable (e.g., acquiring background information from another jurisdiction, incident witnesses or available databases), the history of DV between the persons;
 - 2.2.3. Whether any alleged crime was committed in self-defense; and
 - 2.2.4. The potential for future assaults.
- 2.3. Members shall arrest and take into custody an offender if the dispute involves family or household members and the responding members have probable cause to believe one of the persons has:
 - 2.3.1. Assaulted the other person; or
 - 2.3.2. Committed the crime of strangulation or menacing.

- 2.4. Members shall not issue citations in lieu of taking a suspect into custody for any DV offense.
 - 2.5. If the suspect has left the scene, members shall make a reasonable effort to secure the scene and locate, arrest and take the suspect into custody.
 - 2.6. Members shall provide a victim rights card to advise the victim and any other person directly impacted by the incident of their legal rights and available resources and sources of support.
3. Felony Assault IV and Felony Strangulation.
 - 3.1. In Assault IV and/or Strangulation situations where existing conditions elevate the crime(s) to a felony as defined by ORS 163.160 and ORS 163.187, members shall charge the suspect with Assault IV – Felony and or Strangulation – Felony.
 - 3.2. The reporting members shall submit a completed electronic case envelope and required reports to the Detective Division as soon as practicable.
 - 3.2.1. The Detective Division shall be responsible for distributing the Assault IV- Felony electronic case envelope, upon receipt.
4. Photographic Evidence.
 - 4.1. Visible injury is evidence of the crime, and members are expected to preserve it. This can be done with the use of digital cameras or a Bureau-issued cell phone, but this is not meant to be a replacement for call outs of or follow ups by the Forensics Evidence Division (FED).
 - 4.1.1. Members shall document any evidence of visible injury either by using their Bureau-issued cell phone to take pictures or by calling criminalists to photograph the injuries. Members shall act in accordance with Directive 640.02, Photography and Digital Imaging, when documenting evidence of visible injuries.
 - 4.1.2. When the collection of fingerprints or other forensic evidence is necessary for documentation, members shall contact FED. Upon any referral, the reporting member shall provide information about the incident to FED.
5. Reporting Requirements.
 - 5.1. Protection Order Reporting.
 - 5.1.1. Members shall complete a GO Report when responding to or handling a protection order violation call or case.
 - 5.2. Domestic Dispute Mandatory Reporting.
 - 5.2.1. Members shall write a police report for all domestic dispute cases and submit the completed report prior to the end of their shift. Under no circumstances, even if the allegations appear unfounded, shall members provide a coded response to the Bureau of Emergency Communication (BOEC) in lieu of writing and submitting a report.

- 5.2.1.1. In cases where no crime has been committed, members shall complete a GO Report DV- Unfounded.
 - 5.2.1.2. Members shall complete a GO Report and a Family Abuse Supplemental Report when responding to domestic dispute calls where there is probable cause that a crime has occurred. The report should include documentation of any other crimes committed that are not subject to mandatory arrest.
6. Civil Standbys.
 - 6.1. A civil standby is intended only to facilitate the removal of essential personal belongings (e.g., clothing, diapers, medication, proof of identification). Personal effects belonging to children may be removed if the respondent has custody of the child or children.
 - 6.2. If there is a valid protection order prohibiting the respondent from going to the petitioner's residence or having contact with the petitioner, and the respondent needs to get essential personal effects from the petitioner's residence, the respondent may request a civil standby.
 - 6.3. BOEC codes a two-member, Priority 6 for all DV-related civil standby calls. Assigned members shall not leave the call until the standby or move out is completed.
 - 6.4. Responding members shall meet the respondent at a neutral location to confirm with the petitioner that there will be a maximum of 20 minutes allowed for the standby and to review the items the respondent wants to obtain from the standby location.
 - 6.4.1. Members shall refer the respondent to the Essential Personal Effects section of the protection order, if applicable. Articles that, the member is aware of, are in dispute will not be removed from the residence. The member may advise the respondent to seek private legal advice as to the distribution of disputed property.
 - 6.5. Members shall then accompany the respondent to the standby location. Prior to allowing the respondent inside the location address, members shall consult with the petitioner to determine if they will allow the removal of property.
 - 6.5.1. If the petitioner is uncooperative, the member shall inform the respondent that they must obtain a court order that authorizes the legal retrieval of the desired personal effects. The member shall then direct the respondent to leave the scene. Respondents who refuse to leave are subject to arrest for violation of the protection order.
 - 6.5.2. If the petitioner is not present, the member shall not allow the respondent to enter or remove property from the residence. The member shall direct the respondent to attempt to return to the residence with a Bureau member when the petitioner may be present.
7. Follow-up Investigations for Domestic Violence Cases.
 - 7.1. The Special Victims Unit (SVU) (formerly, the Domestic Violence Reduction Unit) shall perform follow-up on Measure 11 crimes stemming from domestic violence reports, as well as misdemeanor and non-Measure 11 felony DV reports based on

lethality, likelihood of recidivism, the presence of children, and the history of the suspect.

- 7.2. Members are encouraged to perform follow-up and email reports and/or the case number to SVU on DV crimes.

History:

- Originating Directive Date: 09/06/01
- Last Revision Signed: 03/04/2020
 - Effective Date: 04/03/2020
- Next Review Date: 04/03/2022

~~825.00 DOMESTIC VIOLENCE, ARRESTS AND RESTRAINING ORDERS~~
825.00, Protection Orders and Domestic Violence Cases

Refer:

- 18 U.S. Code 2265 Full Faith and Credit Given to Protection Orders
- Family Abuse Prevention Act
- Elderly Persons and Persons with Disabilities Abuse Prevention Act Restraining Order
- Sexual Abuse Protective Order
- Stalking Protective Order
- Extreme Risk Protection Order
- ORS 107.705 Other Family and Household Relationships, defined:
- ORS 107.718 Restraining Order
- ORS 107.719 Removal of personal effects
- ORS 107.720 Enforcement of Restraining Orders
- ORS 133.035 Ex Parte Emergency Protective Orders
- ORS 133.055 (2)(a) Mandatory Arrest for Domestic Violence Criminal Citation
- ~~ORS 133.055 (2)(b) Not Required to Arrest Both Parties~~
- ORS 133.055 (2)(c) Requirement 310 Authority of Peace Officer to Determine Primary Assailant Arrest Without Warrant
- ~~ORS 133.055 (3) Requirement to Use All Reasonable Means to Prevent Further Abuse From Family or Household Members~~
- ORS 135.230 Domestic Violence Relationships Applied to Conditional Release Restrictions
- ORS § 135.260 (2) Prohibit Contact of Victim on Conditional Release for Domestic Violence
- ORS 163.160 (3) Assault IV
- ORS 163.187 Strangulation
- ORS 163.190 Menacing
- ORS 163.192 Endangering A Person Protected by a Family Abuse Prevention Act (FAPA) Restraining Order
- DIR 640.02, Photography and Digital Imaging
- DIR 640.20, Sexual Assault Kits and Sexual Assault Investigations
- DIR 660.10, Property and Evidence Procedures
- DIR 825.10, Domestic Violence, Member Involved
- Family Services Division Standard Operating Procedure #3, Restraining Orders: Surrender and Return of Firearms by Respondents
- Family Services Division Notice of Legal Rights and Remedies for Victims of Domestic Abuse (FSD)

• ~~PROCEDURE (825.00)~~

Definitions:

~~1. Domestic Disputes:~~

~~All domestic disputes require a two-member minimum response. Members will not be allowed to advise on cover who is assailant seriousness creating~~

~~1.1. A member shall arrest and take into custody Violence: The occurrence of one or more of the offender if the dispute involves following acts between family or household members (refer to Category 3 for definition) and responding members have probable: 1) attempting to cause to believe one of the persons has either:~~

- ~~Assaulted the other person as defined by ORS 163.187 Placed the other person or intentionally, knowingly or recklessly causing bodily injury; 2) intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury; bodily injury; or 3) causing another to engage in involuntary sexual relations by force or threat of force.~~
- ~~Family or Household and family members are spouses, Members: Spouses; former spouses; adult persons related by blood, marriage, or adoption, persons of opposite sex residing together or who formerly resided together, persons co-habiting; persons who are cohabiting or who have cohabited, with each other; persons who have been involved in a sexually intimate relationship with each other within two (2) years (including same sex relationships); and persons who are immediately preceding the filing by one of them of a petition to circuit court for relief; unmarried parents of a child. If the suspect has left the scene, the members shall make a reasonable effort to locate, arrest and take the subject into custody. Members will not issue citations in lieu of custody for any domestic violence (DV) offense.~~
- ~~1.2. Members shall make every effort to determine who is the primary assailant or potential assailant by considering, among other factors:
 - ~~1.2.1. The comparative injuries inflicted or the seriousness of threats creating fear of physical injury.~~
 - ~~1.2.2. If reasonably ascertainable, the history of domestic violence between the persons.~~
 - ~~1.2.3. Whether any alleged crime was committed in self-defense.~~
 - ~~1.2.4.1.1.1. The potential for future assaults.~~~~
- Intimate Partner: With respect to a person, the person's spouse or former spouse, a parent of the person's child or another person who has cohabited or is cohabiting with the person in a relationship akin to a spouse.
- Menacing: A person who, by word or conduct, intentionally attempts to place another person in fear of imminent serious physical injury.
- Petitioner: For the purposes of this directive, a person requesting a protection order within the specified time frame of the order sought, who A) has been abused, stalked, or assaulted by a family or household member, or an intimate partner; B) is at imminent risk of physical injury; or C) reasonably believes that another individual (the potential respondent) is at imminent risk of suicide or causing physical injury to another person. This also may include a law enforcement officer who reasonably believes that another individual is at imminent risk of causing physical injury to themselves or another person.
- Protection Order: Any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing the following: 1) violent or threatening acts or harassment against another person; 2) sexual violence against another person; or 3) contact or communication with or physical proximity to another person. This includes any temporary

or final order issued by a civil or criminal court whether obtained by filing an independent action or as an order put into effect while litigation is pending in another proceeding, so long as any civil or criminal order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. This also includes orders for the purpose of preventing suicide when an imminent risk exists.

- Respondent: A person named in a protection order who has been prohibited, or who a petitioner is seeking to prohibit, by judicial order, from contacting or engaging in certain activities that involve the petitioner.
- Strangulation: Knowingly impeding the normal breathing or circulation of the blood of another person by either applying pressure on the throat, neck, or chest of the other person or blocking the nose or mouth of the other person.

Policy:

1. This policy establishes procedures for the Portland Police Bureau’s enforcement of protection orders and its response to domestic violence (DV) incidents. DV incidents have specific legal requirements (e.g., mandatory arrest); therefore, the directive includes more comprehensive guidance for those cases.
2. The Members shall provide each person immediate notice of the legal rights and remedies available. Bureau is committed to protecting and working to reduce ongoing risks to the safety of survivors of DV by thoroughly investigating DV incidents and connecting survivors to resources. Furthermore, in addition to complying with the Oregon law requiring the mandatory arrest of DV suspects, Bureau members shall give full faith and credit to valid protection orders issued by all other jurisdictions and arrest and take into custody suspects in domestic disputes and individuals who have violated a protection order, in an effort to prevent further injury or abuse.

Procedure:

1. Protection Orders.

~~1.3.1.1. State and federal law allow:~~

~~Felony Assault IV (825.00) In Assault IV situations where minor children or stepchildren of either the assailant or victim, or children residing within either household, were present during, or witnessed, the assault, or the assailant has a prior conviction for assaulting the same victim, or the person has previously been convicted at least three times under ORS 163.160 or equivalent laws, as defined by ORS 135.230, in this or any other jurisdiction, members shall charge the assailant with Assault IV—Felony, ORS 163.160. Witnessed in this section is the assault being seen or directly perceived in any other manner by a child.~~

~~1.3.1.1.1.1. The reporting member will complete a case envelope, in addition to required reports. The case envelope will be delivered to the Detective Division prior to 1000 hours on the same business day for crimes occurring prior to 0400, and by 1000 the following day for crimes occurring after 0400. The Detective~~

Division is responsible for the Assault IV Felony distribution, once the completed case envelope is received.

~~2. Photographic Evidence (825.00)~~

~~2.1.1.1.1.1. Visible injury is evidence of the crime and officers are expected to preserve it. This can be done with the use of digital cameras, but this is not meant to be a replacement for call-outs of, or follow-ups by, Forensics Evidence Division (Forensics). Criminalists are to be called when 35 mm photographs, fingerprints, or other forensic evidence is necessary for documentation. The reporting member will contact Forensics, upon any referral, with information about the incident protection.~~

~~3. Domestic Dispute Mandatory Reporting (825.00)~~

~~3.1.1. In all cases of domestic disputes a police report will be written and submitted prior to the end of the member's shift. Under no circumstances, even if the allegations appear unfounded, will members give BOEC a coded response in lieu of writing a report. In cases where there has been no crime committed, members will complete a Special Domestic Violence Report. Members will complete an Investigation Report and a Family Abuse Supplemental Report when responding to domestic dispute calls where probable cause exists that a crime has occurred. Crimes such as harassment or vandalism shall be documented on an investigation report. The Special Domestic Violence Report is only for situations where no crime occurred.~~

~~4. Restraining Orders (825.00)~~

~~4.1.1.1. The Family Abuse Prevention Act provides for restraining orders as a civil means to protect the abused from the abuser by which an individual can seek protection from a person who has abused, stalked, assaulted, caused or attempted to cause physical injury to the individual, or who has put the individual in imminent risk of physical injury. Petitioners for restraining protection orders do not need an attorney to file for a restraining the order. Restraining orders do not There is no cost anything to obtain for the petitioner for obtaining a protection order.~~

~~A petitioner must be a person who has been either assaulted or threatened with violence by a person who is in a household relationship with the victim within the past 180 days. If the respondent has been out of town or in jail, the 180-day time limit can be extended by the courts.~~

1.2. Members should consult the relevant Oregon Revised Statute or contact the City Attorney's Office for specific eligibility, issuance, proof of service, and enforcement requirements by protection order type, as needed.

1.3. Issuance.

~~4.1.1.1.3.1. A petitioner cannot serve his or her their own restraining protection order.~~

~~A restraining protection order can only be served by:~~

~~4.1.1.1.3.1.1. Sheriff's Office civil A sheriff's deputy,~~

~~1.3.1.2. Police A police officer,~~

~~1.3.1.3. A private process server or~~

- 4.1.1.2.1.3.1.4. An Oregon resident 18 years of age or older.
- 1.3.2. If a member serves a copy of the protection order to the respondent, the member shall also include the following documents, when applicable:
- 4.1.1.3.1.3.2.1. Firearms Surrender and Return Terms For Respondents Under Restraining Orders ~~can be confirmed in LEADS/NCIC Form;~~
- 1.3.2.2. Frequently Asked Questions: Surrender and Return of Firearms in Multnomah County, Family Abuse Prevention Act Restraining Order Cases; and
- 1.3.2.3. A firearms affidavit.
- 4.1.2.1.3.3. In situations where ~~thea protection~~ order has not yet been served and both the petitioner and respondent are present, members on the scene shall assist by personally serving the order or ensuring the order is served by a third party, if this is allowable by state law and can be accomplished in a timely manner. The petitioner copy may be served upon the respondent if the respondent copy is unavailable. Should the respondent refuse to comply with the ~~restraining protection~~ order before the order can be entered into the Law Enforcement Data System (LEADS;), the order can be enforced to protect the petitioner.

1.4. Proof of ~~Services. (825.00)Service.~~

- 4.1.3.1.4.1. If a member serves the ~~restraining protection~~ order ~~is served by a member,~~ it becomes the responsibility of, the member ~~serving the order to shall~~ deliver a true copy of the affidavit of proof of service using the following procedures and, when applicable, the documents referenced in Sub-sections 1.3.2.1.-1.3.2.3. of this directive. The member shall also:
- 4.1.3.1.1.4.1.1. ~~Call~~ Complete Notification of Service form (available at all precincts), ~~then call Multnomah County Sheriff's Office (MCSO records) Records Division to advise confirm~~ that the ~~Restraining Order protection order~~ has been served and indicate whether ~~you they~~ will fax or hand-deliver the "Notification of Service" form ~~in person.~~ The current phone number is in the Problem Solving Resource Guide.
- 4.1.3.1.1.1.4.1.1.1. ~~Complete "Notification of Service" form (available at all precincts), and either~~ Members shall fax or deliver the completed form ~~in person prior to MCSO records no later than the completion end of the member's normal their shift. This form states that personal service of the petition and order was served on the respondent. If the form is faxed submitting by fax,~~ the member ~~will need to shall~~ send the original form via interoffice mail to Family Court/BLDG 101/Rm 211.
- 4.1.4. ~~Include VCAD# on~~ Members shall include the Computer Aided Dispatch (CAD) number on the form, if available.
- 4.1.4.1.1.1.4.1.1.2. ~~Note,~~ and note in ~~VCAD~~ the CAD the date/₂ time/₂ location/~~persons,~~ name of the person(s) served and ~~RO#.~~ the protection order number.
- 1.4.2. Complete a General Offense (GO) Report documenting the service.

1.5. Violation and Enforcement of ~~Restraining Protection~~ Orders. ~~(825.00)Restraining~~

1.5.1. Verification.

1.5.1.1. Members shall search the LEADS and National Crime Information Center (NCIC) to authenticate protection orders. A protection order does not need to be registered in LEADS or NCIC to be deemed valid or enforceable.

1.5.1.2. If a petitioner provides a copy of the protection order that does not appear in LEADS or NCIC, members shall make a good faith effort to verify the copy is a true copy and the respondent has been served with that order or appeared in person before the court, therefore waiving the proof of service requirement. The member shall consider the copy to be valid if the order:

1.5.1.2.1. Includes the names of the petitioner and respondent;

1.5.1.2.2. Appears to be in effect (i.e., includes an issuance date);

1.5.1.2.3. Indicates issuance by a judicial official; and

1.5.1.2.4. Identifies the conditions of relief awarded by the judicial official.

1.5.1.3. Members shall enforce a protection order whether or not the victim or presumptive petitioner has a copy of the order, if the member is able to verify the existence of the order.

1.5.2. Members shall enforce protection order violations for orders issued by another state, U.S. territory or by a federally-recognized tribe. Those protection orders are entitled to full enforcement of the order for violations occurring within this jurisdiction, as if it were a valid Oregon order.

1.5.2.1. Members shall arrest the respondent if probable cause is established. If available, the member shall obtain a copy of the original copy of the protection order to include in their reporting.

1.5.2.1.1. The Multnomah County District Attorney's Office (DA) shall review the member's report for prosecution or referral to the U.S. Attorney's Office.

4.1.5.1.5.3. Because protection orders contain different prohibitions for each respondent, ~~if possible~~, members ~~should~~ shall utilize eCourt to view the complete order or call the issuing ~~county~~ jurisdiction to confirm what actions ~~and/or~~ contacts the respondent is ~~ordered~~ prohibited from committing. If this is not possible, members ~~should~~ shall make a good faith effort to enforce the order.

1.5.4. Only the respondent is restrained by the order. A petitioner may initiate contact with the respondent. ~~However; however~~, should the respondent have ~~the~~ contact, ~~with the petitioner~~, the respondent, not the petitioner, ~~is~~ may be in violation of the order and subject to arrest. ~~Restraining~~

1.5.5. If the respondent intentionally engaged in conduct prohibited by the order while the order was in effect; thereby, recklessly creating a substantial risk of physical injury to a person protected by the order, or intentionally attempting to place the petitioner in fear of imminent physical injury, they shall be subject to arrest.

4.1.6.1.5.6. Protection orders can ~~mandate~~ prohibit the respondent ~~not have any firearms in their possession from possessing or carrying a firearm(s) or ammunition~~. Respondents are in violation of the protection order if they possess or carry a firearm or ammunition, even if the petitioner or anyone named in the order is not present or involved in an incident with the respondent.

1.5.7. ~~Members may be requested to~~ The respondent or a petitioner may request that a member take control of ~~firearms by either the respondent or petitioner,~~ the

~~respondent's firearm(s), pursuant to the restraining protection order. When If a member receives this request is made and there has not been a violation of the restraining protection order as of that time, the member may take any firearms may be taken as for safekeeping. Note Members shall document on the Property Evidence Receipt, the relevant restraining protection order number, and not whether the owner/respondent cannot have the weapons released to them is prohibited from possessing or carrying the weapon(s), pursuant to a restraining protection order- that is in effect.~~

~~4.1.7.1.5.8. If firearms are firearm possession is part of a violation of the restraining order, they will be taken as evidence since protection order, safekeeping no longer applies, and members shall take the weapon(s) as evidence. Members shall document the relevant protection order number on the Property Evidence Receipt.~~

~~1.5.9. When probable cause is established that Members shall not issue citations in lieu of custody for violation of a restraining protection order.~~

~~2. Domestic has been violated, members on Disputes.~~

~~2.1. All domestic dispute calls require at least a two-Bureau member response. Members shall not be allowed to cancel cover.~~

~~2.2. Members shall make every effort to determine the identity of the primary or potential suspect by considering the following factors, which include but are not limited to:~~

~~2.2.1. The comparative injuries inflicted or the severity of the threats that created a fear of physical injury;~~

~~2.2.2. If reasonably ascertainable (e.g., acquiring background information from another jurisdiction, incident witnesses or available databases), the history of DV between the persons;~~

~~2.2.3. Whether any alleged crime was committed in self-defense; and~~

~~2.2.4. The potential for future assaults.~~

~~scene~~

~~2.3. Members shall arrest and take the violator into custody, an offender if present. the dispute involves family or household members and the responding members have probable cause to believe one of the persons has:~~

~~2.3.1. Assaulted the other person; or~~

~~2.3.2. Committed the crime of strangulation or menacing.~~

~~2.4. Members shall not issue citations in lieu of taking a suspect into custody for any DV offense.~~

~~4.2.2.5. If the violator suspect has left the scene, members shall make a reasonable effort to secure the scene and locate and, arrest and take the violator suspect into custody.~~

~~2.6. Members shall provide a victim rights card to advise the victim and any other person directly impacted by the incident of their legal rights and available resources and sources of support.~~

3. Felony Assault IV and Felony Strangulation.

3.1. In Assault IV and/or Strangulation situations where existing conditions elevate the crime(s) to a felony as defined by ORS 163.160 and ORS 163.187, members shall charge the suspect with Assault IV – Felony and or Strangulation – Felony.

3.2. The reporting members shall submit a completed electronic case envelope and required reports to the Detective Division as soon as practicable.

3.2.1. The Detective Division shall be responsible for distributing the Assault IV-Felony electronic case envelope, upon receipt.

Photographic Evidence~~Members will not issue citations in lieu of custody for violation of a restraining order.~~

~~The Federal Violence Against Women Act allows petitioners holding restraining orders issued in another state to be entitled to full enforcement of the order for violations occurring within our jurisdiction. If the order is not entered in an accessible data base, LEDS, NCIC, etc., members need to make a good faith effort to verify the copy of the order the petitioner has is a true copy and the respondent has been served with that order.~~

~~4.2.1. A violation of an out of state restraining order will be enforced in the same manner as an in-state restraining order. Once probable cause is established, the violator will be arrested. If possible, the member should obtain a copy of the true (original) copy to be attached to the original reports. The report will be reviewed by the Multnomah County District Attorney's Office for prosecution or referral to the U.S. Attorney's Office.~~

~~4.3. Restraining Order Reporting. (825.00)The violation of a restraining order is a crime. This requires an Investigation Report to be filed when a violation is reported. The Supplemental Family Abuse Report will not be necessary, unless there is an additional domestic dispute associated with the prohibited contact.~~

4. .

4.1. Visible injury is evidence of the crime, and members are expected to preserve it. This can be done with the use of digital cameras or a Bureau-issued cell phone, but this is not meant to be a replacement for call outs of or follow ups by the Forensics Evidence Division (FED).

4.1.1. Members shall document any evidence of visible injury either by using their Bureau-issued cell phone to take pictures or by calling criminalists to photograph the injuries. Members shall act in accordance with Directive 640.02, Photography and Digital Imaging, when documenting evidence of visible injuries.

4.1.2. When the collection of fingerprints or other forensic evidence is necessary for documentation, members shall contact FED. Upon any referral, the reporting member shall provide information about the incident to FED.

5. Reporting Requirements.

5.1. Protection Order Reporting.

5.1.1. Members shall complete a GO Report when responding to or handling a protection order violation call or case.

5.2. Domestic Dispute Mandatory Reporting.

5.2.1. Members shall write a police report for all domestic dispute cases and submit the completed report prior to the end of their shift. Under no circumstances, even if the allegations appear unfounded, shall members provide a coded response to the Bureau of Emergency Communication (BOEC) in lieu of writing and submitting a report.

5.2.1.1. In cases where no crime has been committed, members shall complete a GO Report DV- Unfounded.

5.2.1.2. Members shall complete a GO Report and a Family Abuse Supplemental Report when responding to domestic dispute calls where there is probable cause that a crime has occurred. The report should include documentation of any other crimes committed that are not subject to mandatory arrest.

6. Civil Standbys. ~~(825.00)~~

6.1. A civil standby is intended only to facilitate the removal of essential personal belongings (e.g., clothing, diapers, medication, proof of identification). Personal effects belonging to children may be removed if the respondent has custody of the child or children.

4.4.6.2. If there is a valid ~~restraining~~protection order prohibiting the respondent from going to the petitioner's residence, or having contact with the petitioner, and the respondent needs to get essential personal effects from the petitioner's residence, the respondent may request a civil standby.

~~A civil standby will be coded~~

4.5.6.3. BOEC codes a two-member, Priority 3 call by BOEC. Members assigned will ~~leave the call until the standby or~~ move out is completed.

6.4. Responding members ~~will~~shall meet the respondent at a neutral location ~~and~~to confirm with the ~~requestor~~petitioner that there will be a maximum of 20 minutes allowed for the standby. ~~The~~ and to review the items the respondent ~~may be referred~~wants to obtain from the ~~restraining order~~understandby location.

4.5.1.6.4.1. Members shall refer the respondent to the Essential Personal Effects: ~~section of the protection order, if applicable.~~ Articles that, the member is aware of, are in dispute will not be removed from the residence. The member may advise ~~the~~respondent to seek private legal advice as to the distribution of disputed property.

4.6.6.5. Members ~~will~~shall then accompany the respondent to the ~~standby~~ location. Prior to allowing the respondent inside the location address, members ~~will ascertain if~~shall consult with the petitioner to determine if they will allow the removal of property.

4.6.1.6.5.1. If the petitioner is uncooperative, the ~~member shall inform the~~respondent ~~will be instructed to seek private legal advice and~~that they must obtain a court

order ~~to obtain that authorizes the legal retrieval of~~ the desired personal effects; ~~and. The member shall then direct~~ the respondent ~~will be asked~~ to leave the scene. Respondents who refuse to leave are subject to arrest for violation of the ~~restraining protection~~ order.

~~4.6.2.6.5.2.~~ If the petitioner is not present, the member ~~will~~shall not allow ~~entry into~~ the ~~residence~~respondent to enter or ~~the removal of~~remove property from the residence ~~or location.~~ The ~~members will instruct the respondent that the~~ ~~restraining order is still in effect and the respondent should leave.~~ ~~The member shall direct the~~ respondent ~~may try again, to attempt to return to the residence~~ with a Bureau member when the petitioner ~~is~~may be present.

~~4.7.~~ A civil standby is intended ~~only to facilitate the removal of essential personal belongings, which include, but are not limited to, clothing, diapers, medications, Social Security cards, birth certificates and identification. Personal effects belonging to children may be removed, if the respondent has custody of the child/children.~~

~~5.7.~~ Follow-Up Investigations ~~(825.00)~~ for Domestic Violence Cases.

~~7.1.~~ ~~The~~ The Special Victims Unit (SVU) (formerly, the Domestic Violence Reduction Unit (DVRU) will shall perform follow-up on Measure 11 crimes stemming from domestic violence reports, as well as misdemeanor and non-~~measure~~Measure 11 felony ~~domestic violence~~DV reports based on ~~criteria including~~ lethality, likelihood of recidivism, the presence of children, and the history of the ~~offender.~~ ~~Officers~~suspect.

~~5.1.7.2.~~ Members are encouraged to perform follow-up and email reports and/or fax reports to DVRU on domestic violence crimes. ~~Officers are required by this directive to make a thorough initial investigation including interviews of witnesses and the collection of evidence. Officers should make a reasonable effort~~ the case number to locate and arrest suspects who have fled the scene prior to their arrival. ~~The DVRU will work in conjunction with the Detective Division, if requested, on other felonious assaults stemming from domestic violence.~~ SVU on DV crimes.

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, March 15, 2019 6:27:22 PM
Last Modified: Friday, March 15, 2019 6:37:32 PM
Time Spent: 00:10:10
IP Address: 73.240.68.107

Page 1

Q1 Please provide feedback for this directive

Officers at East Precinct were not helpful when asked to help serve a restraining order and we had to ask several times to get an officer dispatched. The attitude was it isn't our job call county but , obviously we had already called the county numerous times and the respondent was playing cat & mouse. so needed an officers help. The RO was for elder abuse and set up through Adult Protective Services so time was important. When we finally were able to get the restraining order served the office never notified the county/court the RO had been served. When calling East Precinct to ask officer to follow through the officer never did call back nor did the Sgt. It appears the East Precinct still has a few rouge officers that still believe they can do what they want and show little concern for the community they serve New leadership is needed and an investigation needed on East Precinct Officers/Sgts appear to be doing what they want and not following policy. Yes, it is that bad!

Q2 Contact Information (optional)

Respondent skipped this question

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, March 20, 2019 1:09:06 PM
Last Modified: Wednesday, March 20, 2019 1:09:59 PM
Time Spent: 00:00:52
IP Address: 74.120.152.144

Page 1

Q1 Please provide feedback for this directive

You forgot mandatory arrest for strangulation. Also did not mention the new Felony strangulation for DV.

Q2 Contact Information (optional)

Respondent skipped this question

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, March 27, 2019 7:09:44 AM
Last Modified: Wednesday, March 27, 2019 7:13:35 AM
Time Spent: 00:03:51
IP Address: 68.185.25.10

Page 1

Q1 Please provide feedback for this directive

You need to address tribal protection orders. Under VAWA they are to be treated the same as any state issued order. It would be good to direct officers to enforce facially valid protection orders issued by any federally recognized tribe the same as they would an order issued by a court in the State of Oregon. If questions exist, they should be encouraged to err on the side of enforcing the order and protecting the victim as written.

It would also be good to add a section for missing and murdered indian women. Officers working missing persons or homicide cases should be directed to determine if the victim or missing person is a member of a federally recognized Indian tribe, and if so, that information should be reflected in state criminal databases and notice of the matter should go to the tribe in question as well as the FBI for their law enforcement and investigative purposes.

Q2 Contact Information (optional)

Name
Email Address
Phone Number

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, March 29, 2019 3:42:28 PM
Last Modified: Friday, March 29, 2019 3:43:41 PM
Time Spent: 00:01:13
IP Address: 97.120.206.243

Page 1

Directive 825.00 Feedback

Q1 Please provide feedback for this directive

COMMENTS ON DOMESTIC VIOLENCE AND INSPECTIONS DIRECTIVES, March 2019

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, US Dept. of Justice, Independent Police Review, Citizen Review Committee and the Portland Police Bureau:

Below are Portland Copwatch's comments on the Domestic Violence Arrests (825.00) and Inspections (1200.00) Directives posted for review in late March (<https://www.portlandoregon.gov/police/73677>). Like the policy posted on March 1, Directive 825.00 was posted in the past (September 2015) but was not changed after the initial request for input. The Inspections policy was last posted in June 2017 and adopted without changes from the draft posted at that time. Therefore, we are posting our comments from those time periods once again with only slight modifications (several DV policies were posted together in 2015).

As always, we encourage the Bureau to revise the structure of the Directives so that the definitions sections have numbers like all the other sections, and that each section get a letter or other designation so there are not multiple sections marked "1." We also continue to believe the Bureau should give a longer time period for comments for those groups, particularly city-run advisory groups, who only meet once a month.

825.00 DOMESTIC VIOLENCE, ARRESTS AND RESTRAINING ORDERS

--In the Domestic Violence Directive, the definition of household and family members states:

Household and family members are spouses, former spouses, adult persons related by blood, marriage or adoption, persons of opposite sex residing together or who formerly resided together, persons co-habiting, or who have cohabited, persons who have been sexually intimate with each other within two (2) years (including same sex relationships), and persons who are unmarried parents of a child.

We're not experts in the field of Domestic Violence, but it seems there may be some omissions, such as persons of the same sex who reside together but not necessarily having been sexually intimate.

--Similarly, we wonder whether, included in the requirement that at least two officers attend any Domestic Violence call (825.00 Section 1.1), there should be some consideration of the genders of the victim and the officers, so that for instance a woman who has been abused by a man does not necessarily have to talk to a male officer.

Thank you as always for the opportunity to comment

portland copwatch

Q2 Contact Information (optional)

Name

Email Address

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, August 01, 2019 10:56:16 AM
Last Modified: Thursday, August 01, 2019 11:08:47 AM
Time Spent: 00:12:30

Page 1

Q1 Please provide feedback for this directive

Please consider adding in section 9.3 or within the draft: Restriction of accessibility to remove children physically from school, day-care, or from the residence of the petitioner within the restraining order. Because temporary custody can be provided through a restraining order the ability to protect minor children who may only have physical or temporary custody is imperative.

Additionally, The fee to file for permanent custody impedes on the abused parent (petitioner's) ability to file permanent custody documents. Please consider adding a waiver or payment plan option for parents filing for permanent custody that are below or near the federal poverty guide line level.

Because of the possibility of continued harm and threats through involved children in disputes children need to be protected and not used as a means of accessing the petitioner in person or information about the petitioners residence or physical location.

Q2 Contact Information (optional)

Name

Email Address

Phone Number

Directive 825.00 – 2nd Universal Review and Public Comment Submission

Actually, a protection order is an order and not the petition. Consider using the federal FFC definition:

“any injunction, restraining order, or any other order issued ... for the purpose of preventing violent or threatening acts or harassment against, sexual violence, or contact or communication with or physical proximity to, another person ... including any support, child custody or visitation provision or order issued as part of a protection order ... pursuant to state, tribal, territorial or local law authorizing the issuance of an order or injunction for the protection of victims of domestic violence, sexual assault, dating violence or stalking.” See 18 U.S.C. § 2266(5) (2006).

This should not reference a tribal law enforcement agency, but rather simply a "federally recognized tribe". You should consider also adding "as if it were a valid Oregon order" to the end of the sentence as Oregon is required to enforce a foreign order entitled to FFC the same as it would an order issued by an Oregon court.