

\*Please Note: This is a working draft of Directive 0850.21. The PPB has not implemented any portion of this draft. Submit your comments using the “Provide Feedback Here” link located at the end of the directive.

A redline copy of the updated directive is included in this attachment.

## **0850.21 Peace Officer Custody (Civil)**

*Second Universal Review: 6/15/22 – 7/15/22.*

### **Refer:**

- ORS § 426.005, Definitions for ORS § 426.005 to 426.390 – Persons with Mental Illness
- DIR 0630.45 Emergency Medical Custody Transports
- DIR 0630.50 Emergency Medical Aid
- DIR 0850.20 Police Response to Mental Health Crisis
- DIR 0850.22 Police Response to Mental Health Director’s Holds and Elopement
- DIR 0850.25 Police Response to Mental Health Facilities
- DIR 0850.30, Juvenile Interviews, Detention, and Custody

### **Definitions:**

- De-escalation: A deliberate attempt to reduce the necessity or intensity of force to safely and effectively resolve confrontations.
- Disengagement: The intentional decision, based on the totality of the circumstances, to discontinue contact with a person the member could lawfully take into custody.
- Feasible: When time and safety allow for a particular action.
- Mental Health Crisis: An incident in which *someone with an actual or perceived mental illness* experiences intense feelings of personal distress, a thought disorder, obvious changes in functioning, and/or catastrophic life events, 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, the 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 0850.20, and after finding probable cause exists for a hold, members shall 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 the need arises, the act of custody shall be resolved in as safe, constructive, and humane of a manner as possible.

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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 needs 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, when feasible, to participating members, to take advantage of the most effective options that may safely resolve the incident.

1.2.1.1. When making a tactical plan, members should consider the following resources and strategies:

1.2.1.1.1. Requesting specialized units such as Enhanced Crisis Intervention Team (ECIT) members or the Crisis Negotiation Team (CNT);

1.2.1.1.2. Consulting with a mental health provider;

1.2.1.1.3. Surveillance;

1.2.1.1.4. Area Containment;

1.2.1.1.5. Requesting more resources/summoning reinforcements;

1.2.1.1.6. Delaying arrest (get a warrant, or try different time/place);

1.2.1.1.7. Using time, distance, and communication to attempt to de-escalate the person; and

1.2.1.1.8. Disengagement with a plan to resolve later.

1.2.2. Transport or facilitate the transport of the person to the appropriate secure evaluation facility or nearest designated hospital emergency department that conducts mental health evaluations. Refer to Directives 0630.45 Emergency Medical Custody Transports and 0630.50 Emergency Medical Aid for additional information.

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 before 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 shall 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.

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

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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.

2.3. The member shall 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.

**History:**

- Originating Directive Date: 05/02/17
- Last Revision Signed: 11/18/20
  - Effective Date: 12/18/20
- Next Review Date: 12/18/21

[Provide Feedback Here.](#)

DRAFT

## **0850.21 Peace Officer Custody (Civil)**

### **Refer:**

- ORS § 426.005, Definitions for ORS § 426.005 to 426.390 – Persons with Mental Illness
- DIR ~~6300630~~.45 Emergency Medical Custody Transports
- DIR ~~6300630~~.50 Emergency Medical Aid
- DIR ~~8500850~~.20 Police Response to Mental Health Crisis
- DIR ~~8500850~~.22 Police Response to Mental Health Director’s Holds and Elopement
- DIR ~~8500850~~.25 Police Response to Mental Health Facilities
- DIR 0850.30, Juvenile Interviews, Detention, and Custody

### **Definitions:**

- De-escalation: A deliberate attempt to reduce the necessity or intensity of force to safely and effectively resolve ~~confrontation~~confrontations.
- Disengagement: The intentional decision, based on the totality of the circumstances, to discontinue contact with a person the member could lawfully take into custody.
- Feasible: When time and safety allow for a particular action.
- 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),~~<sub>2</sub> a thought disorder ~~(e.g. visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment),~~<sub>2</sub> obvious changes in functioning ~~(e.g. neglect of personal hygiene),~~<sub>2</sub> 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),~~<sub>2</sub> 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, 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 ~~8500850~~.20, and after finding probable cause exists for a hold, members shall 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 the need arises, the act of custody shall be resolved in as safe, constructive, and humane of a 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~~needs 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, when feasible, to participating members, so as to take advantage of the most effective options that may safely resolve the incident. Tactics

1.2.1.1. When making a tactical plan, 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):resources and strategies:

~~1.2.1.2. R~~ RequestRequesting specialized units;

~~1.2.1.2.1.1.2.1.1.1. Evaluate the need for assistance from individuals with additional training in working with mental health crisis situations (e.g. such as Enhanced Crisis Intervention Team (ECIT) members, Project Respond, or the Crisis Negotiation Team (CNT)). When needed, assistance may be requested through the Bureau of Emergency Communications (BOEC);~~

~~1.2.1.2.2.1.2.1.1.2. Evaluate the need for possible consultation~~Consulting 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;~~

~~1.2.1.2.3.1.2.1.1.3. O~~ Observe or use Surveillance to monitor subject or situation;

~~1.2.1.2.4.1.2.1.1.4. A~~ Area Containment (~~perimeter, containment);~~

~~1.2.1.1.5. D~~ Disengage with a plan to resolve later, Requesting more resources/summoning reinforcements;

#### Delaying arrest

~~1.2.1.2.5. 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 Center of the situation (e.g. name, date of birth, disposition).~~

~~1.2.1.3. M~~ More Resources/Summon Reinforcements;

~~1.2.1.3.1.1.2.1.1.6. A~~ Arrest Delayed (get a warrant, or try different time/place);

~~1.2.1.3.2.1.2.1.1.7. P~~ Patience. UseUsing time, distance, and communication to attempt to de-escalate the subject person; and

1.2.1.1.8. Disengagement with a plan to resolve later.

1.2.2. Transport or facilitate the transport of the individual person to the appropriate secure evaluation facility or nearest designated hospital emergency department that conducts mental health evaluations. Refer to Directives 6300630.45 Emergency Medical Custody Transports and 6300630.50 Emergency Medical Aid for additional information.

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 before 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 hospital or Unity Center.
  - 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.
  - 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 will ensure their members follow the reporting requirements for peace officer custody.

**History:**

- Originating Directive Date: 05/02/17
- Last Revision Signed: 11/18/20
  - Effective Date: 12/18/20
- Next Review Date: 12/18/21

# #1

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, January 16, 2022 2:55:28 PM  
**Last Modified:** Sunday, January 16, 2022 2:56:02 PM  
**Time Spent:** 00:00:34

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## Q1

Please provide feedback for this directive

- 2.1 and 1.2.2 both seem to apply to similar or the same situations, but define expected behavior differently; one suggests members transport people in custody themselves, another directs members to use AMR.
  - 1.2 is potentially awkward in that it says members must take action per 1.2.2 before taking subjects into custody, but completion of 1.2.2 implies the subject is in some sort of custody.
  - Section 2 makes explicit reference to AMR, but that is subject to change; maybe it should refer to a Multnomah County licensed ambulance provider?
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## Q2

Contact Information (optional - your name will be visible on PPB's website)

Name **Nathan Castle**

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#2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Sunday, January 16, 2022 4:48:12 PM  
**Last Modified:** Sunday, January 16, 2022 4:48:41 PM  
**Time Spent:** 00:00:28

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## Q1

Please provide feedback for this directive

COMMENTS ON MENTAL HEALTH, CUSTODY, IMMIGRATION AND OTHER DIRECTIVES, JANUARY 2022

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

Below are Portland Copwatch's comments on the 13 of the 15 Directives posted for review in January . The "First Universal Review" is particularly challenging, not only because of the very short (15 day) timeline, but because it is difficult to know if the Bureau intends to make any changes to the policies. Because the public is presented with the policies as they currently exist, it is extremely challenging to determine if any changes were made between the last Second Universal Review and the present time. We strongly suggest that the Bureau include both (a) a statement of intent if there is a particular reason a Directive has been chosen and (b) a link to an existing implementation memo which might include a final redline of the previous iteration and the Bureau's reflections on public comments.

The wide variety of topics in this set of Directives is offset for us by the fact that we've made comments on all of them, except for 850.30 on Juveniles, previously. We've tried to indicate where the Bureau has made its (rare) changes reflective of our input. Otherwise, many of these comments are repeats of ones we made between January 2015 and January 2021.

Portland Copwatch (PCW) has chosen again not to comment on 660.32 Informant Processing because of the distasteful nature of such government-sponsored subterfuge, and 630.50 on Medical Aid, to which no changes have been made despite its previous posting in 2016.

We continue to ask that the Bureau add numbers or letters to the Definitions, Policy and Procedure sections to make them easier to reference. Our comments below refer to the Procedure section unless otherwise noted.

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\_\_\_\_\_MENTAL HEALTH DIRECTIVES (last commented on April, 2020)\_\_\_\_\_

We begin with general comments we made when these Directives about Mental Health (850.20, 850.21, 850.22 and 850.25) were previously posted, updated here:

--Consistent Humanity Reminders: All four policies should reflect Policy Section 2 of 850.20 and Policy Section 1 of 850.25, which call on officers to treat people in mental health crisis "with dignity," "respect" (850.20) and "compassion" (850.25)-- "at all times" (also 820.25).

--References Mostly Fixed: We previously noted that all four Directives list "Definitions for ORS 426.005 to 426.390" in the Refer section and suggested the summary title "Persons With Mental Illness" be added. This was done in 850.20, 850.21 and 850.22. The summary title appears to be in the wrong place in 850.25.

--Memorize in Priority Order: We continue to believe the PPB should change its inadequate "ROADMAP" mnemonic for handling possible mental health crisis situations. The concept of "Patience" should not be the last item on the list. There are also two letter "A"s, with one standing for "Area Containment" and one for "Arrest Delayed," which can cause confusion. We suggested changing the mnemonic to "PD-MACRO," with the items listed as:

- \_\_Patience
- \_\_Disengagement
- \_\_More Resources
- \_\_Arrest Delayed
- \_\_Containment
- \_\_Request Specialized Units

\_\_Observe or use surveillance.

"PD" should be easy for officers to remember, even though locals know our Department is the PPB. We note here again that officers can use all of these tactics (as well as non-engagement) on someone regardless of whether that person is in mental health crisis as alternatives to using force.

--Be Generic to Avoid Problems: For a few reasons, the Bureau should not refer to AMR, the private company which contracts for ambulance services in the County, in its policies. We suggest using a generic term about ambulances, especially if the Fire Bureau or other agency might transport the individuals, or if AMR ever changes its name. The Bureau has already shown a willingness to do so when references to the Unity Center were replaced by the generic term "secure evaluation facility."

--De-escalation Not About Stopping Using High Force Levels: PCW continues to urge the Bureau to define the term "de-escalation" to mean calming a situation down using verbal and physical tactics, not for lowering the amount of force already being used on a suspect (which is mitigation of force).

Here are comments on the four individual policies drawn from earlier input.

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

--Memorize in Priority Order: As noted in our introduction to these Directives, "ROADMAP" should be changed PD-MACRO (Section 1.2.1).

--Make Officers Think Through Custodies: A previous clause telling officers to consider the "totality of the circumstances, including... the governmental interests at stake" when making a non-criminal detention still has not been reinserted. Examples of such interests should also be included.

--Use Appropriate Language Even When the State Does Not: Section 2.1 refers to ORS 426.228, whose title includes the phrase "An Allegedly Mentally Ill Person." Enlightened language use refers to persons with mental illness rather than making the adjective part of who they are; we don't say "a Cancerous person." So even if quoting the state statute, the PPB should either correct the language in brackets or explain the appropriate use in a separate sentence.

#### CONCLUSION

We recognize that the Directives development process has evolved since it began, particularly with the addition of redline versions and public comments posted in the Second Universal Review. There is still more to be gained by adding the information suggested in our introduction and holding public meetings to exchange ideas about suggested changes. Several advisory bodies including the Citizen Review Committee, Portland Committee on Community Engaged Policing and Training Advisory Council all have a stake in various Directives, but the first two only meet once a month and the latter only meets every two months, so they can't easily meet the Bureau's deadlines for input.

Many of these policies could help reduce harm against vulnerable parts of our population. However, the incidents of use of deadly force against people in mental health crisis continues unabated, with at least three of eight people shot by the PPB in crisis in 2021. Notably, the last time the Bureau was involved in this many deadly force incidents was 2005. Yet after nine years of oversight by the US Department of Justice, it seems the ideas of de-escalation and other tactics outlined in these policies are thrown out the window because an officer or officers default to pulling firearms, pile on an agitated person, or using so-called "less lethal" weapons. The number one priority should always be respecting the dignity and humanity of the civilian and making sure everyone gets to go home safe at night-- whether or not a suspected mental health issue is at play.

We appreciate being invited to provide input into the Bureau's policies. Our goal at Portland Copwatch is that so long as there is a

## 0850.21 Directive Feedback (1UR)

Police Bureau, its should be free of corruption, brutality and racism. We hope that our suggestions will help lead to such a culture.

--dan handelman (and other members of)

--Portland Copwatch

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### Q2

Contact Information (optional - your name will be visible on PPB's website)

Name

**Portland Copwatch**

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