

**\*Please Note:** This is a working draft of Directive 0631.60, Premises Entry. 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.

## **0631.60, Premises Entry**

***Second Universal Review: 5/1/23 – 05/31/23***

### **Refer:**

- ORS 133.033 Community Caretaking
- Caniglia v. Strom, 141 S. Ct. 1596 (2021)
- United States v. McConney 728 F.2d 1195 (1984)

### **Definitions:**

- **Emergency Entry:** The entry into a structure to prevent or end an immediate threat of serious harm to people inside; or to render emergency medical aid to someone believed to be injured or in the process of being injured.

### **Policy:**

1. The Bureau recognizes that community members have an essential right to be secure from unreasonable searches and seizures, and to enjoy privacy in their homes and businesses. Recognizing those rights this directive seeks to provide members tools and guidance they need to safely perform their duties of investigating criminal activity, apprehending suspects, rendering aid to community members, and safeguarding the community.
2. Premise entries, both with and without warrants are an essential law enforcement function, however the Bureau recognizes that they come with inherent dangers. When executing these entries Members are expected to focus first and foremost on the preservation of life, and the Bureau will provide methods, training, and equipment necessary to do so.

### **Procedure:**

1. Any entry into a premise must comply with the 4<sup>th</sup> Amendment of the United States Constitution, and Article 1, Section 9 of the State of Oregon’s Constitution. Members must have consent, a warrant, or a valid warrant exception, to enter or remain on a premise.
2. **Warrant Entries:**
  - 2.1. When making entry into a premise for the purpose of serving a search or arrest warrant, members will announce themselves and their purpose.
  - 2.2. Members serving arrest warrants will not make entry into a premise unless the warrant authorizes entry into that premise, and the member has probable cause to believe that the person sought is currently within the premise.
  - 2.3. Members may cause property damage in the course of serving a warrant, prior to announcing their presence, when the following conditions have been met:
    - 2.3.1. When there are specific and articulable safety concerns justifying the damage.
    - 2.3.2. The decision has been approved by an Incident Commander (IC).
3. **Warrantless Entries:**
  - 3.1. Under ORS 133.033, and the 4<sup>th</sup> Amendment to the United States Constitution, a sworn member may, with a valid warrant exception, make a warrantless entry of any premise, without the consent of the person in possession or

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entitled to possession thereof, if they have an objectively reasonable basis for believing entry into the premise is necessary to:

- 3.1.1. Prevent serious harm to any person, including a member.
- 3.1.2. Render emergency medical aid to seriously injured or ill persons.
- 3.1.3. Assist persons who are mentally incompetent/unable to care for themselves, are unaccompanied by a competent party, and whose welfare is at risk.
- 3.1.4. Prevent the escape of a suspect.
- 3.1.5. Arrest a fleeing felon.
- 3.1.6. Prevent the destruction of evidence.

4. Member Responsibilities:

- 4.1. Prior to making an emergency entry to a premise, absent exigent circumstances, members will notify a supervisor of the circumstances justifying the need for an emergency entry.
- 4.2. Members making an emergency entrance into a premise must write the appropriate report(s) explaining the justification for his/her actions.
- 4.3. Emergency Entry is a training term designed to describe a specific response to an immediate risk of harm to a person or persons. It is not a legal justification, and members must establish an independent legal justification for their actions.
- 4.4. 4<sup>th</sup> Amendment Jurisprudence is a continuously evolving area of the law, the Bureau will provide continuing guidance on the state of the law, and members are responsible for learning and following this guidance.

[Provide Feedback Here](#)

## 0631.60, Premises Entry

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- ORS 133.033 Community Caretaking
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### Definitions:

- Emergency Entry: The entry into a structure to prevent or end an immediate threat of serious harm to people inside; or to render emergency medical aid to someone believed to be injured or in the process of being injured.

### Policy:

1. The Bureau recognizes that community members have an essential right to be secure from unreasonable searches and seizures, and to enjoy privacy in their homes and businesses. Recognizing those rights this directive seeks to provide members tools and guidance they need to safely perform their duties of investigating criminal activity, apprehending suspects, rendering aid to community members, and safeguarding the community.
2. Premise entries, both with and without warrants are an essential law enforcement function, however the Bureau recognizes that they come with inherent dangers. When executing these entries Members are expected to focus first and foremost on the preservation of life, and the Bureau will provide methods, training, and equipment necessary to do so.

### Procedure:

#### 1. Search Warrants:

- 1.1. Sworn members may use force to break Any entry into a premise to execute a search warrant if, after notice must comply with the 4<sup>th</sup> Amendment of his/her authority the United States Constitution, and purpose, he/she are refused admittance.

#### 2. Arrest Warrants:

- 2.1. Sworn members may use force to break into a premise to execute an arrest warrant only when all Article 1, Section 9 of the following conditions exist:

- 3.1. The member has reason to believe that the premise is the residence State of the subject sought in the Oregon's Constitution. Members must have consent, a warrant, or a valid warrant and; exception, to enter or remain on a premise. The

#### 2. Warrant Entries:

- 2.1. When making entry into a premise for the purpose of serving a search or arrest warrant, members will announce themselves and their purpose.

- 3.1.2.2. Members serving arrest warrants will not make entry into a premise unless the warrant authorizes entry into that premise, and the member has probable cause (PC) to believe that the person sought by the warrant is currently within the premise and;

- 3.1.1. If, after notice of his/her authority and purpose, he/she are refused admittance.

### Emergency

- 2.3. Members may cause property damage in the course of serving a warrant, prior to announcing their presence, when the following conditions have been met:

- 2.3.1. When there are specific and articulable safety concerns justifying the damage.

2.3.2. The decision has been approved by an Incident Commander (IC).

#### 4.3. Warrantless Entries:

4.1.3.1. Under ORS 133.033, ~~any~~ and the 4<sup>th</sup> Amendment to the United States Constitution, a sworn member may ~~make an emergency, with a valid warrant exception,~~ make a warrantless entry of any premise, without the consent of the person in possession or entitled to possession thereof, if they have an objectively reasonable basis for believing ~~the~~ entry into the premise is ~~required~~ necessary to:

4.1.1.3.1.1. Prevent serious harm to any person ~~or property,~~ including a member.

4.1.2.3.1.2. Render emergency medical aid to seriously injured or ill persons.

4.1.3. ~~Locate missing persons.~~

4.1.4.3.1.3. Assist persons who are mentally incompetent/unable to care for themselves, are unaccompanied by a competent party, and ~~may be in a situation where their~~ whose welfare is at risk.

3.1.4. Prevent the escape of a suspect.

3.1.5. Arrest a fleeing felon.

3.1.6. Prevent the destruction of evidence.

#### 5.4. Member Responsibilities:

5.1.4.1. Prior to making an emergency entry to a premise, absent exigent circumstances, members will notify a supervisor of the circumstances justifying the need for an emergency entry.

4.2. Members making an emergency entrance into a premise must write the appropriate report(s) explaining the justification for his/her actions.

4.3. Emergency Entry is a training term designed to describe a specific response to an immediate risk of harm to a person or persons. It is not a legal justification, and members must establish an independent legal justification for their actions.

5.2.4.4. 4<sup>th</sup> Amendment Jurisprudence is a continuously evolving area of the law, the Bureau will provide continuing guidance on the state of the law, and members are responsible for learning and following this guidance.

# #1

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Tuesday, February 28, 2023 4:34:03 PM  
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**Time Spent:** 00:00:05

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## Q1

Please provide feedback for this directive

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## Q2

**Respondent skipped this question**

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

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## #2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
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### Q1

Please provide feedback for this directive

I would encourage a close examination of the "emergencies" that enable members to enter premises without a warrant. For instance, "locate a missing person" is rather vague considering it might grant members reasonable rights to enter every apartment in a large complex if the only information they have on a missing person is that the person is somewhere within an apartment in the complex. Under the current directive, technically it would then seem appropriate to go door-to-door and search every apartment, and to me, this seems like an abuse of amendment rights each citizen is guaranteed in the Constitution. Quite frankly, I'm certain a creative member with a penchant for big words and confusing, circular reasoning abilities could write a convincing report whereby their entry under "emergency" standards would appear justified even when in actuality their warrantless entry was unnecessary and proved harmful to an innocent victim. I would simply encourage a greater focus on clarity of purpose and guidelines that leave no room for misinterpretation.

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### Q2

Respondent skipped this question

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

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