

**\*Please Note:** This is a working draft of Directive 0850.10 Custody, Civil Holds. 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.

## **0850.10 Custody, Civil Holds**

***Second Universal Review: 7/3/23 – 8/02/23***

### **Refer:**

- ORS 430.399 – 430.401 Alcoholic Treatment Act
- ORS 430.306 Definitions
- DIR 870.20 Custody and Transportation of Subjects
- Larry v. Helzer, 2006 WL 1455615

### **Definitions:**

- **Public Place:** a premise open to the public, such as a sidewalk, street, public parking lot, or business open to the general public. This does not include private residences, or their curtilage such as yards and pathways.
- **Treatment Facility:** either a designated sobering center operated for the purpose of providing people a safe supervised environment to wait until they are no longer acutely intoxicated, or if a sobering center is unavailable a hospital emergency room.

### **Policy:**

1. Sworn members have an important responsibility to assist members of the community who are acutely intoxicated and unable to care for themselves or creating a risk to the public.
2. Intoxication is not a crime and members should seek to use their legal authority sparingly, and attempt to resolve issues without resorting to custody where feasible.

### **Procedure:**

1. **Legal Authority:** ORS 430.399 provides sworn members the authority to take people who are incapacitated by a controlled substance, including alcohol, into custody and transport them to an appropriate sobering or treatment facility.
  - 1.1. The standard for determining whether someone is incapacitated is whether the officer has probable cause to believe that the person is a intoxicated and one of the following conditions are met:
    - 1.1.1. The person’s health is in immediate danger.
    - 1.1.2. The person is dangerous to themselves or any other person.
    - 1.1.3. The person is unable to make a rational decision as to the acceptance of care.
  - 1.2. The authority granted in ORS 430.399 applies only to an intoxicated person in a public place.
2. **Member Responsibilities:**
  - 2.1. When members encounter someone they have probable cause to believe is intoxicated and meets the criteria set forth in section 1.1. of this directive they may take them into custody.

\*Please Note: This is a working draft of Directive 0850.10 Custody, Civil Holds. 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.

- 2.2. After taking the person into custody the member shall fill out the civil hold form with the person’s identity, if known, and the basis of the member’s probable cause.
- 2.3. Members will contact AMR to transport the intoxicated person to the appropriate facility, either an emergency room, or sobering center.
  - 2.3.1. Members will provide the transporting medical personnel with a copy of the Civil Hold form.
  - 2.3.2. Members will follow the transporting ambulance to the destination.
  - 2.3.3. If AMR is delayed or unavailable Members may transport the intoxicated person to the appropriate facility in a police vehicle.
  - 2.3.4. The appropriate facility will be determined at the time based on availability, and the medical condition of the intoxicated person.
- 2.4. Members will assist in the handoff of the intoxicated person to the staff at the appropriate treatment facility, and provide them a copy of the completed form.
- 2.5. At the completion of the contact members will document the custody in an appropriate police report.
3. Criminal charges: Intoxicated subjects arrested on criminal charges will either be booked into jail or issued the appropriate criminal citation and transported in accordance with this directive.

[Provide Feedback Here](#)

**POLICE OFFICER CUSTODY OF AN INTOXICATED PERSON ORS 430.399(1)**

TO THE TREATING PHYSICIAN OR STAFF OF AN APPROVED EMERGENCY ROOM  
OR NONHOSPITAL FACILITY:

In the matter of \_\_\_\_\_

Date of Birth \_\_\_\_\_

I, \_\_\_\_\_, a police officer for the Portland Police  
Bureau, DPSST # \_\_\_\_\_ took the above-named person into custody at the following  
date and time \_\_\_\_\_ for the following specific reasons:


Pursuant to:

ORS 430.399(1) Any person who is intoxicated or under the influence of controlled substances in a public place may be sent home or taken to a sobering facility or to a treatment facility by a police officer. If the person is incapacitated, the person shall be taken by the police officer to an appropriate treatment facility or sobering facility. If the health of the person appears to be in immediate danger, or the police officer has reasonable cause to believe the person is dangerous to self or to any other person, the person shall be taken by the police officer to an appropriate treatment facility or sobering facility. A person shall be deemed incapacitated when in the opinion of the police officer the person is unable to make a rational decision as to acceptance of assistance.

X \_\_\_\_\_

Police Officer Signature

\_\_\_\_\_

PPB Case Number

## INSTRUCTIONS FOR DETOXIFICATION CUSTODY

**Legal Standard:** A police officer may take an intoxicated person contacted in a PUBLIC PLACE into custody when the police officer has probable cause to believe that the person is intoxicated and a danger to themselves or others, or incapacitated to the point where they are unable to make a rational decision as to the acceptance of assistance.

### Hold Process:

1. After taking a person into custody, the person may be transported to an Emergency Room or Designated Sobering Facility either in a police vehicle or by AMR.
2. AMR does not have legal transport authority. If the person is transported by AMR, an officer must follow the ambulance to the location.
3. The reporting officers shall complete this form and provide copies to AMR (if applicable), and the facility staff.
4. The retained copy shall be submitted as an orphan document.
5. The reporting officer will complete a GO documenting the custody and use the Detox Hold T-Code.

## 0850.10 Custody—Mental Treatment, Civil Holds

### **Refer:** \_\_\_\_\_

- ORS 430.399 – 430.401 Alcoholic Treatment Act
- ORS 430.306 Definitions
- DIR 870.20 -Custody and Transportation of Subjects
- Larry v. Helzer, 2006 WL 1455615

### **Definitions:**

- Public Place: a premise open to the public, such as a sidewalk, street, public parking lot, or business open to the general public. This does not include private residences, or their curtilage such as yards and pathways.
- Treatment Facility: either a designated sobering center operated for the purpose of providing people a safe supervised environment to wait until they are no longer acutely intoxicated, or if a sobering center is unavailable a hospital emergency room.

### **Policy:**

1. Sworn members have an important responsibility to assist members of the community who are acutely intoxicated and unable to care for themselves or creating a risk to the public.
2. Intoxication is not a crime and members should seek to use their legal authority sparingly, and attempt to resolve issues without resorting to custody where feasible.

### **Procedure:**

1. Legal Authority: ORS 430.399 provides sworn members the authority to take people who are incapacitated by a controlled substance, including alcohol, into custody and transport them to an appropriate sobering or treatment facility.
  - 1.1. The standard for determining whether someone is incapacitated is whether the officer has probable cause to believe that the person is a intoxicated and one of the following conditions are met:
    - 1.1.1. The person's health is in immediate danger.
    - 1.1.2. The person is dangerous to themselves or any other person.
    - 1.1.3. The person is unable to make a rational decision as to the acceptance of care.
  - 1.2. The authority granted in ORS 430.399 applies only to an intoxicated person in a public place.
2. Member Responsibilities:

### **POLICY (850.10)**

~~Members may take a person who is in a public place into custody with or without the presence of a criminal charge if the subject is intoxicated or under the influence of a controlled substance. Under no circumstances may an individual who is only intoxicated or under the influence of a controlled substance be placed in custody while inside a private residence.~~

Members may act in such situations by taking or sending the subject home or to a detoxification center such as the Hooper Memorial Center (Detox).

2.1. members encounter someone they have probable cause to believe is intoxicated and meets the criteria set forth in section 1.1. of this directive they may take them into custody.

2.2. After taking the person into custody the member shall fill out the civil hold form with the person's identity, if known, and the basis of the member's probable cause.

2.3. Members will contact AMR to transport the intoxicated person to the appropriate facility, either an emergency room, or sobering center.

2.3.1. Members will provide the transporting medical personnel with a copy of the Civil Hold form.

2.3.2. Members locating, or being called to deal with, incapacitated inebriates in public places will check the physical will follow the transporting ambulance to the destination.

2.3.3. If AMR is delayed or unavailable Members may transport the intoxicated person to the appropriate facility in a police vehicle.

1.1.1.2.3.4. The appropriate facility will be determined at the time based on availability, and the medical condition of the intoxicated person for:

a. Visible injury.

b. Breathing and a normal rate Members will assist in the handoff of respiration.

c. Normal skin color.

1.2.2.4. If these physical conditions appear normal, the member will attempt to rouse the intoxicated person to consciousness. If any the staff at the appropriate treatment facility, and provide them a copy of those factors appear abnormal or the person cannot be roused within 30 seconds, the member will then call EMS to respond. Members will stand by until EMS is prepared to transport or declares there is no medical danger. In all instances, the member will stand by any person they determine is unable to make a rational decision. If CHIERS (Central City Concern-Hooper Inebriate Emergency Response Service) is not available or delayed, the member will transport the person to Detox. completed form.

**PROCEDURE (850.10)** At the completion a member has contact with a person exhibiting any of the following conditions, they contact members will see that document the subject is taken into custody and transported to in an appropriate treatment facility:

- a. ~~There is an immediate danger to the subject's health caused by alcohol or drugs.~~
- b. ~~There is an immediate danger to others due to the subject's condition.~~
- c. ~~The subject is suicidal.~~
- d. ~~When, in the opinion of the member, the subject is unable to make rational decisions concerning acceptance of assistance (incapacitated).~~
- e. ~~The subject is intoxicated and an insulin-using diabetic.~~

~~Regardless of the level of sobriety, if a person's physical condition is such that immediate medical attention is required, members must call for an ambulance or cab to transport the subject to the appropriate medical facility.~~

#### 2.5. Individuals who meet the criteria for a police report.

~~Criminal emergency mental committal will not be admitted to a sobering program even though they are intoxicated. charges: Intoxicated/disoriented persons exhibiting signs of being either mentally or emotionally disturbed, but not meeting the criteria allowing for a police committal, may be admitted to Detox. If, after being placed in Detox, it is determined that a person is suicidal, that person will be removed to an appropriate facility by the admitting member.~~

#### ~~Criminal Charges (850.10)~~

~~2.3. Intoxicated subjects arrested on criminal charges will either be booked into MCDCjail or issued the appropriate criminal citation and lodged in Detox. ~~Inebriates who are violent and/or combative, but to the member's knowledge have not committed any criminal acts, will be lodged in Detox.~~ transported in accordance with this directive.~~

#### **Detox Admission Process (850.10)**

~~The following procedure will be used when invoking a civil hold:~~

- a. ~~All subjects taken into custody under the treatment act will be restrained and transported as directed in DIR 870.20.~~
- b. ~~Upon arriving at Detox, members may use the weapons locker provided in the admitting area.~~
- c. ~~A Detox staff person will receive, identify and assess the subject's behavior. If not needed by the staff, the member may use the police desk to complete the report.~~

~~A Detox staff person will confer with the member(s) regarding the appropriate disposition for the inebriate. The member(s) may be requested to remain at Detox until the subject is placed in a sobering room or, if unruly, for the remainder of the admitting process.~~

- ~~e. The Detox staff will determine if the subject is to be placed in a safety room. A search will be conducted by the Detox staff. Unruly subjects will be restrained by the member(s) during the search. If illegal weapons or contraband are found, the admission process will be terminated. The subject will be arrested and either issued a citation or removed to MCDC. If removed to MCDC, a Seen But Not Admitted Detox form will be completed.~~
- ~~f. Following the staff search, if admittance to Detox is to occur and the subject is unruly, they will be moved by both the staff and the member(s) to a safety room. At this time, the handcuffs will be removed.~~

### **Removal of Subjects from Detox (850.10)**

If a subject placed in Detox is uncooperative and an involuntary transport to another facility becomes necessary, a Detox employee will call 9-1-1 to request the presence of a patrol unit for transport. If the member who admitted the person into Detox is not available, the closest free unit will be dispatched. Prior to leaving the center, the referral facility must be confirmed by the Detox staff. Voluntary committals requiring transfer to another facility are the responsibility of Detox. When requested to remove violent or combative persons from Detox, members will:

- ~~a. Respond to Detox using an appropriate driving response.~~
- ~~b. Take appropriate action to safeguard Detox staff and clients.~~
- ~~c. Assist the staff in restraining violent or combative individuals.~~
- ~~d. Ensure that the Detox staff has confirmed acceptance of the individual in an alternate facility.~~
- ~~e. Conduct the transport or use an ambulance with restraints.~~

### **Reporting Requirements (850.10)**

All civil holds will be documented on an Investigation Report. The narrative will contain information that justifies the hold. A copy of the report will be presented to the Detox staff prior to departure. The completed original will be routed to Records through normal channels. Regardless of disposition, a records check will be conducted prior to releasing the individual.

### **CHIERS (850.10)**

The CHIERS program provides for first responder assistance for certain medical emergencies and transport of incapacitated inebriates to Detox by Hooper Center staff members. Most CHIERS operators are



~~emergency medical technician certified and deputized with authority limited to the pick up and transport of incapacitated individuals who cannot stand or walk unassisted and who are a danger to themselves as a result of their intoxicated condition. CHIERS cannot transport combative individuals.~~

# #1

**COMPLETE**

**Collector:** Web Link 1 (Web Link)  
**Started:** Wednesday, April 12, 2023 12:27:19 PM  
**Last Modified:** Wednesday, April 12, 2023 12:27:26 PM  
**Time Spent:** 00:00:06

---

Page 1

## Q1

Please provide feedback for this directive

Test

---

## Q2

Respondent skipped this question

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

---

#2

COMPLETE

**Collector:** Web Link 1 (Web Link)  
**Started:** Thursday, April 27, 2023 3:19:25 PM  
**Last Modified:** Thursday, April 27, 2023 3:20:02 PM  
**Time Spent:** 00:00:36

---

Page 1

## Q1

Please provide feedback for this directive

COMMENTS ON OFFICER LGBTQIA2S+, WELLNESS AND CIVIL HOLDS DIRECTIVES, APRIL 2023

To Chief Lovell, Inspector Buckley, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee on Community Engaged Policing, Mayor/Police Commissioner Wheeler, US Dept. of Justice, Citizen Review Committee, Training Advisory Council and the Portland Police Bureau:

Portland Copwatch (PCW) is presenting these comments on the Directives covering PPB interactions with the LGBTQIA2S+ community, Officer Wellness, and civil holds posted for comment in April at . Notably, the first two were originally posted in March, but due to the changeover of the Bureau's website, no email alert was sent.

We repeat here these items:

- 1) Portland Copwatch is a group focused on police accountability and our comments should be read in that context. We hope the Bureau is contacting people from the communities directly affected by these policies for input.
- 2) The LGBTQIA2S+ Directive is possibly the Bureau's most inclusive, progressive and forward-looking and should serve as an example of how all community focused policies are developed, written and instituted.
- 3) The Bureau has, for the second time, incorporated comments from PCW into the Wellness Directive which improve the policy.

The first inclusion of the Civil Holds policy for community review gives the Bureau an opportunity to begin numbering Directives in the way PCW has been suggesting for years: assign a letter to each section (Refer, Definitions, Policy, Procedure), then number all subsections for easy reference. All comments below are about the Procedure sections unless otherwise noted.

Before getting to the comments on these policies, PCW notes that community input into the Body Worn Camera policy was truncated, and that the policy's presentation to City Council came under the veil of legal and collective bargaining negotiations, leading to a process where community voices were not seriously considered. To approach any issue this way, particularly one that will have such an impact on community members, undermines the purpose of this entire exercise. That there were at least eight other Directives posted in February and March without adequate notice\* and not re-posted only adds to the continued fracturing of the relationship between the PPB and the public.

DIRECTIVE 850.10 Custody, Civil Holds (first comments)

It's quite amazing this is the first time this policy has come up for review (a) since it seems to be related to the mental health directives which have been posted many times and (b) because the Detox and CHIERS programs described in the Directive were either radically changed or have been non-existent since 2020.

Here are the comments, with the best we can do to describe what parts of this old-fashioned Directive we're addressing.

Don't Define People by Behavior: In the same way it is not right to say "the houseless" or "a mental," the Bureau should not use the adjective "inebriate" to describe someone under the influence. This is used in the third paragraph of the Policy Section and in the Criminal Charges Section.

Be Specific or Violence is Authorized: The last paragraph of the Policy Section asks officers to "attempt to rouse [a] person to consciousness." Is this with smelling salts, by shaking them vigorously, kicking them, slapping them in the face, pouring cold water on them, or gently speaking to them and perhaps placing a hand on their shoulder? Without instruction, any of the seemingly absurd examples we gave would be permitted under the Directive.

## 0850.10 Directive Feedback (1UR)

Gun Lockup: As is required (and apparently now practiced) in mental health facilities, officers are given the option to lock their weapons up when entering a detox facility (Detox Admission Process, first paragraph subsection [b]). We urge that this be mandatory unless the officers are responding to a person in the facility whose actions might justify the use of deadly force (even though we don't encourage police to do so).

### CONCLUSION

It's very frustrating that Portland Copwatch is complimenting the Bureau on changes made based on our comments at the same time it feels as if the community has been cut out of this important process. We imagine that the advisory committees who may have wanted to comment on the Directives posted in February and March were not given any special heads up about them being available for review. In particular, the Joint Terrorism Task Force policy, which came up in March, was the subject of an annual report given to City Council and yet the Bureau did not even minimally inform the groups who testified on that topic about the policy. Also as noted above, the fact that the 900 member Portland Police Association has the ability to comment privately on these policies before they are finalized in a way that can outweigh the input from as many as 650,000 Portlanders is highly inequitable. Please fix your notification system as soon as possible. From a sheer point of view of expended energy, it is not reasonable to ask however many people were on the email list to visit the Bureau's website on an ongoing basis rather than one person sending an email to that list.

Thank you,

--dan handelman (and other members of)

--Portland Copwatch

\*-600.00-- Aircraft use, 612.00-- Radio Use, 670.00-- Trimet enforcement, 880.30--Security deposit/bail, 850.00-- Enforcement/private property, 631.60--Premises Entry, 750.00--Joint Terrorism Task Force and 850.00--Enforcement/private property.

---

### Q2

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

Name

**Portland Copwatch**

---