

Behavioral Crisis Response Policy Framework

For Oregon Law Enforcement Agencies

*Oregon Mental Health Crisis
Response Work Group*

OREGON ASSOCIATION CHIEFS OF POLICE AND
OREGON STATE SHERIFFS' ASSOCIATION



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Executive Summary

Law enforcement responses to calls involving people suffering from a behavioral health crisis has become an issue that has captured the attention of the public, policy makers, mental health advocates and community leaders who are all seeking more effective outcomes from these encounters. In response, law enforcement officials are looking to specialized approaches to these calls in order to improve these interactions and to reduce the number of individuals suffering from mental illnesses entering the criminal justice system. These approaches show great promise as they are designed to provide training and resources to improve law enforcement officers' ability to safely intervene and connect individuals with needed mental health services and divert them from the criminal justice system where appropriate. Law enforcement officers' contacts with people suffering from mental illness present several challenges as these encounters:

- Generally take longer to resolve than other calls for service,
- Law enforcement officers do not feel adequately trained to effectively respond to mental health crises calls,
- May depend on the availability of community health resources for successful outcomes,
- Typically involve repeat contacts with the same individuals who have unresolved and frequently untreated mental health needs,
- Involve a relatively minor or "nuisance" offense,
- Calls can be unpredictable and dangerous, potentially posing greater risk to the safety of all involved.

Law enforcement officers have discretion as to how they address minor offenses or calls where no crime has been committed but citizens want them to "do something" about the unusual behavior or mere presence of a person who appears to be in a behavioral or mental health crisis. These encounters provide law enforcement officers with the opportunity to connect individuals with appropriate behavioral health supports and services with the hope that future law enforcement encounters are prevented. The following is a recommended policy framework from the work of Oregon's law enforcement Mental Health Task Force:

Policy Framework Recommendations

Purpose of Policy

The intent of this policy is to provide all peace officers with resources to deal with subjects who are in behavioral crisis. This includes people exhibiting signs of mental illness, as well as people suffering from substance abuse and personal crises.

For the purposes of this policy, a behavioral health crisis is defined ***as an episode of mental and/or emotional distress in a person that is creating significant or repeated disturbance and is considered disruptive by the community, friends, family or the person themselves.***

The [Insert Agency] recognizes the need to bring community resources together for the purpose of safety and to assist and resolve behavioral crisis issues. The [Agency] further recognizes that many people suffer crises and that only a small percentage has committed crimes or qualifies for an involuntary evaluation. Persons suffering crises will be treated with dignity and will be given access to the same law enforcement, government and community service provided to all members of the public.

Peace officers are instructed to consider the crises that subjects may be experiencing during all encounters. Peace officers should recognize that subjects may require law enforcement assistance and access to community mental health and substance abuse resources. The ideal resolution for a crisis incident is that the subject is connected with resources that can provide long-term stabilizing support.

Peace officers are trusted to use their best judgment during behavioral crisis incidents, and the [Agency] recognizes that individual peace officers will apply their unique set of education, training and experience when handling crisis intervention. The [Agency] acknowledges that peace officers are not mental health professionals. Peace officers are not expected to diagnose a subject with a mental illness, nor are they expected to counsel a distraught subject into composure. When peace officers need to engage with a subject in behavioral crisis, the [Agency's] expectation is that they will attempt to de-escalate the situation, when feasible and reasonable.

The purpose of de-escalation is to provide the opportunity to refer the subject to the appropriate services. This expectation does not restrict a peace officer's discretion to make an arrest when probable cause exists, nor are peace officers expected to attempt de-

escalation when faced with an imminent safety risk that requires immediate response. A peace officer's use of de-escalation as a reasonable alternative will be judged by the standard of objective reasonableness, from the perspective of a reasonable peace officer's perceptions at the time of the incident.

Definitions

Basic Needs: Oregon appellate courts have held that the 'basic needs' commitment standard focuses on the capacity of the individual to survive, either through own resources or with help of family or friends; to obtain some commodity (food or water) or service (medical care) without which the individual cannot sustain life. The essential question is whether the individual is able to access the resources necessary for continued survival. Danger must be imminent, not speculative. There must be a likelihood that a person probably would not survive in the near future because the person is unable to provide for basic personal needs and is not receiving care necessary for health and safety.

Crisis: "Crisis" means either an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual's mental or physical health or to prevent referral to a significantly higher level of care. OAR 309-019-0105 (29)

Crisis Intervention Training (CIT) program: A model for community policing training that brings together law enforcement, behavioral health providers, hospital emergency departments and individuals with mental illness and their families to improve responses to people in crisis. CIT programs enhance communication, identify mental health resources for assisting people in crisis and ensure that officers get the training and support that they need.

De-escalate/De-escalation: Taking action or using specific strategies or techniques during a potential force or actual use of force event with the goal to stabilize the situation and reduce the immediacy of the threat. De-escalation may include the use of any types of communication or other techniques that may reasonably allow for more time, options, and resources that will be beneficial in resolving the situation or at a minimum reduce the amount of force necessary to resolve the situation. Additionally, strategies that may apply a de minimis or lesser amount of force as a means of decreasing a higher likelihood of a higher level force being used, thus potentially reducing the likelihood of greater injury to any actors related to the use of force event, may also be considered a form of de-escalation.

Delaying Custody: A tactic that can be used if the member determines immediately taking the person into custody may result in an undue safety risk to the individual, peace officers or members of the community.

Disengagement: The intentional decision, based on the totality of the circumstances, to discontinue contact after initial attempts with a person in crisis.

Emotionally disturbed person: A person with emotional, mental or erratic behavior that affects their decision-making process that may include hurting themselves or others.

Engagement: Encounter between a law enforcement officer and an individual experiencing a state of crisis.

Mental Illness: An impairment of an individual's normal cognitive, emotional, or behavioral functioning, caused by physiological or psychosocial factors. A person may be affected by mental illness if he or she displays an inability to think rationally (e.g., delusions or hallucinations); exercise adequate control over behavior or impulses (e.g., aggressive, suicidal, homicidal, sexual); and/or take reasonable care of his or her welfare with regard to basic provisions for clothing, food, shelter, or safety.

Non engagement: The intentional decision, based on the totality of the circumstances, not to make contact with a person in crisis.

Peace Officer Custody: A peace officer may take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness.

Mental Health Program Director Custody: A peace officer shall take a person into custody when the community mental health program director, pursuant to ORS 426.233, notifies the peace officer that the director has probable cause to believe that the person is imminently dangerous to self or to any other person.

Response Alternatives

In determining the appropriate resolution for a person in crisis, members will consider the totality of the circumstances, including the behavior of the person with a suspected mental illness or developmental disability and the governmental interests at stake. Following is a list of dispositions that may be appropriate at the scene, among others:

- Take the person into custody and to jail for a criminal offense that supports custodial arrest and presentation to a magistrate for charging.
- Refer the person to a mental health agency, crisis hotline, or other related service agency.
- Consult with a mental health or medical professional prior to taking action.
- Transport the person to a behavioral health or medical facility for voluntary care. Assisted persons should not be dangerous and should be able to manage their behavior. Peace officers should escort persons into the waiting area and introduce the person to facility staff. Peace officers are not required to standby. Peace officers will complete a report to document the incident and transport.
- Take the person into custody on a peace officer hold, an exercise of civil authority, when there is probable cause to believe the person is a danger to self or to any other person, or is unable to provide for basic personal needs and is not receiving the care necessary for health and safety, and is in need of immediate care, custody, or treatment for mental illness. Peace officers will transport him or her to the appropriate secure evaluation unit or to the nearest designated hospital for mental health evaluation.
- Consider non-engagement or disengagement if the peace officer determines that contact or continued contact with the person will result in an undue safety risk to the person, the public, and/or members.
- Delaying custody if the peace officer determines that taking the person into custody under present circumstances may result in an undue safety risk to the person, the public, and/or peace officers.