

# OREGON STATE HOSPITAL

PORTLAND – SALEM

## POLICIES AND PROCEDURES

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**SECTION 8:** Safety, Security, Emergency Management

**POLICY: 8.019**

**SUBJECT:** Staff Response to Alleged Criminal Acts, Contraband, and Critical Incidents

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**POINT PERSON:** KAREN GARCIA  
DIRECTOR OF SECURITY

**APPROVED:** GREGORY P. ROBERTS  
SUPERINTENDENT



**DATE: JANUARY 31, 2012**

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### I. POLICY

All Oregon State Hospital employees are responsible for protecting patients and staff by reporting alleged criminal acts, observations of contraband being introduced into the organization, and other critical incidents. Staff shall ensure that scenes that are related to alleged criminal acts are secured and evidence is preserved and not destroyed.

### II. DEFINITIONS

"Criminal acts or crimes" include but are not limited to: child abuse, elder abuse, rape, sodomy, arson, serious assaults, unattended deaths, theft, suicide, homicide, violence where a weapon is used or there are multiple assailants, and introduction of contraband into a facility. For the purposes of this procedure, the "attempt" to rape or sodomize shall be considered a criminal act.

An "alleged criminal act" should be considered to have occurred for the purposes of these procedures if:

1. A staff member has reasonable cause to believe a crime has been committed; or
2. Information has been reported to a staff member which, if true, would constitute a crime.

"Contraband" means any item which would be deemed contraband by statute (ORS 162.135) or listed in the Patient Handbook, and the introduction of which is classified in the Oregon Criminal Code as a Class C Felony.

"Critical Incident Scene" means the immediate and surrounding area where a criminal act or critical incident occurs.

"Critical Incident" means any incident where police, fire, or emergency medical personnel, or the medical examiner, are present or responding.

"Correctional Facility" means any place used for the confinement of persons charge with or convicted of a crime or other wise confined under a court order. Correctional Facility applies to the state hospital or a secure intensive community inpatient facility.

"Custodial Sexual Misconduct I" a person commits the crime of custodial sexual misconduct in the first degree if the person:

1. Engages in sexual intercourse or deviant sexual intercourse with another person or penetrates the vagina, anus or penis of another person with any object other than the penis or mouth of the actor knowing that the other person is:
  - a. Confined or detained in a correctional facility;
  - b. Participating in an inmate or offender work crew or work release program; or
  - c. On probation, parole, post-prison supervision or other form of conditional or supervised release; and
2. Is employed by or under contract with the state or local agency that:
  - a. Operates the correctional facility in which the other person is confined or detained; or
  - b. Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release.

Custodial sexual misconduct in the first degree is a Class C felony.

"Custodial Sexual Misconduct II", A person commits the crime of custodial sexual misconduct in the second degree if the person:

1. Engages in sexual contact with another knowing that the other person is:

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**SUBJECT: Staff Response to Alleged Criminal Acts,  
Contraband, and Critical Incidents**

**POLICY NUMBER 8.019**

**DATE: January 31, 2012**

**PAGE 3 OF 7**

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- a. Confined or detained in a correctional facility;
  - b. Participating in an inmate or offender work crew or work release program; or
  - c. On probation, parole, post-prison supervision or other form of conditional or supervised release; and
2. Is employed by or under contract with the state or local agency that:
    - a. Operates the correctional facility in which the other person is confined or detained; or
    - b. Is responsible for supervising the other person in a work crew or work release program or on probation, parole, post-prison supervision or other form of conditional or supervised release.

Custodial sexual misconduct in the second degree is a Class A misdemeanor.

### **III. PROCEDURES**

- A. All alleged criminal acts shall be reported to the attending physician or on-duty physician immediately. The physician shall assess the patient and determine if the patient's report of an "alleged criminal act" is reliable.
- B. For incidents of criminal acts where the victim is a staff member, refer to OSH 8.003 Violence in the Workplace.
- B. When a patient has alleged a crime and it is determined by the interdisciplinary treatment team (IDT) that it is highly unlikely that a criminal act occurred, staff must advise the patient that an emergency grievance may be filed contesting this determination.
- C. All allegations of criminal acts from or toward a patient shall be recorded in the patient's chart and include the basis for the staff action taken. An incident report shall also be completed.
- D. If the alleged victim, patient or staff prefers to file a police report independently and requests staff assistance, staff shall provide the Oregon State Police phone number.

- E. In the event an "alleged criminal act" or critical incident has occurred, the following steps must be taken:
1. Contact the Communication Center in Salem or the Security Director in Portland to report the incident. The Communication Center shall, in turn, report the incident to the appropriate law enforcement agency, fire department, or medical response personnel. Notifications shall be made in accordance with the Critical Incident Grid. These actions shall be documented in the Communication Center log in Salem.
  2. Staff must take every precaution to ensure that the scene is secured and possible physical evidence is preserved and not destroyed.
    - a. The scene of the alleged criminal act or critical incident shall be cordoned off by the Security Department or treatment unit staff until Security staff arrive.
    - b. Security Department staff shall disperse and refuse entry to all nonessential or unauthorized personnel, including OSH staff or members of the general public. However, Security Department staff have the authority to enlist staff assistance necessary to manage the scene. Establish a log of names of persons who enter the scene or were at the scene when the crime occurred.
    - c. Security Department staff shall isolate the patients or staff; and get full names and addresses of any persons present or any person who may have knowledge of the crime. These persons should remain present on OSH grounds until released by the police or superintendent.
    - d. Security Department staff shall secure the incident scene, ensuring preservation of possible evidence, allowing no one to touch or move anything. Walking about the scene can destroy minute evidence such as blood, body hairs, and fingerprints.
    - e. Items such as bedding, blankets, and clothing shall be preserved until the investigating officer arrives.
    - f. Do not allow the victim or the alleged perpetrator to clean up, wash any clothing, or attempt to destroy anything that could be considered evidence. Separate clothing should be

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**SUBJECT: Staff Response to Alleged Criminal Acts,  
Contraband, and Critical Incidents**

**POLICY NUMBER 8.019**

**DATE: January 31, 2012**

**PAGE 5 OF 7**

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located, because the clothes may be seized by the Oregon State Police.

- g. If a police agency is not going to respond, Security staff may photograph the victim's bruises, scratches, or marks. If photographed, use a coin, paper clip, ruler, or some other object to give dimension to the mark.
- h. Whenever practical, involved staff and patients should not be interviewed by anyone except a police agency representative; however, any comments about the crime should be noted. The Oregon State Police may request preliminary information be collected by Security Department personnel.
- i. If it is necessary to remove a weapon, only one person may handle it and keep it in his or her possession until it can be turned over to the Oregon State Police. The weapon should be picked up in a way that shall not disturb any fingerprints that may be there. The weapon should be placed in a paper bag or cardboard box (no plastic) and stored in a secure area at within the Security Department if the police do not respond within a few minutes of the criminal act. If immediate police response is expected, the weapon should be left alone in the secured crime scene. Exercise diligent efforts to protect the weapon for fingerprints by careful handling and minimum touching.
- j. The scene of the alleged criminal act or critical incident shall remain secured and undisturbed until released by the Oregon State Police and Superintendent.

- 3. Staff shall make every effort to provide emotional support to the victim.
- 4. Staff responding to a critical incident shall be offered a quiet place to rest after the incident. Supervisory personnel should offer the employee support through the Employee Assistance Program or through the Hospital Employee's Assistance and Response Team (HEART).

**F. Confiscation, control, and disposition of contraband:**

- 1. All contraband which may be part of an illegal act shall be retained in its existing condition and turned over to the Oregon State Police or other investigating authority. Security Department staff may collect

contraband which may be part of an illegal act and preserve as evidence the item(s) in a secure location until it can be properly released to the investigative authority.

2. All other items considered contraband shall be turned over to the Security Department where it shall be deposited in a secure location awaiting appropriate disposition. Refer to OAR 309-108-0015.

**G. Staff introduction of contraband:**

Staff shall not introduce contraband to the OSH grounds or buildings. Violation of this policy shall result in disciplinary action up to and including dismissal and prosecution under Oregon Law.

**H. In the event a patient discloses to a staff an alleged criminal act where the patient was a victim or perpetrator, the following should occur:**

1. Disclosure is reviewed by the IDT and the following facts are collected: patient name, date of birth, case number, sex, date of disclosure, name of recipient of information, name of disclosing person, and description of information disclosed.
2. If the disclosure includes information that patient abuse has occurred, an immediate report to the Superintendent is required (OSH Policy and Procedure 7.008). If the information falls under the definition of child abuse, elder abuse, nursing home abuse, or adult MED/DD abuse, staff shall follow reporting requirements as described in OSH Policy and Procedure 7.008.

**IV. REFERENCES**

OSH Policy and Procedure 1.003, Incident Reporting  
OSH Policy and Procedure 6.004, Somatic Medical and Surgical Care of Patients  
OSH Policy and Procedure 7.008, Abuse of Hospitalized Patients, and Reporting allegations of Abuse of Non-Hospitalized Children, Adults and Elderly Persons  
ORS 162.135, Offenses against the state and public justice  
ORS 179.505, Confidentiality  
ORS 410.610, Elderly Abuse  
ORS 418.750, Child Abuse  
OAR 309-108-0000 series, Handling of personal property of patients and resident in state institutions  
DHS Privacy Manual

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**SUBJECT:**     **Staff Response to Alleged Criminal Acts,  
                  Contraband, and Critical Incidents**

**POLICY NUMBER 8.019**

**DATE:**        **January 31, 2012**

**PAGE 7 OF 7**

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Replaces Oregon State Hospital Policy and Procedure 8.019, *Staff Response to Alleged Criminal Acts, Including the Introduction of Contraband*, dated 7/11/2006.