

## **Proposing a Berkeley Police Department General Order that Emphasizes Diversion Away from Policing for People with Behavioral Health Challenges Whenever Possible**

The aim of proposing a Behavioral Health General Order is to address behavioral health— both mental health and/or substance use—for people experiencing urgent or emergency situations in the community by using de-escalation techniques, offering viable voluntary care options, and diverting people away from policing, criminal legal, and incarcerations involvement.

Initially, there are a number of people who may experience an urgent or emergency situation in the community resulting from the impacts of mental illness and/or substance use, particularly for unhoused people and those people living with housing uncertainty. Encampment communities, and overall individuals experiencing the impacts of mental illness and substance use in public spaces, can create vulnerabilities to policing, criminal legal involvement, and jail.

It is further noteworthy that symptoms can manifest from a mental health condition such as schizophrenia that mirror those that emerge from substance use such as with methamphetamine. Symptoms of both mental illness and substance use can further manifest simultaneously and they may not be decipherable unless, for instance, the impacts from substance use diminish in intensity over time. Consequently, this reality means assessing both mental health and substance use issues and conditions in order to offer voluntary care to divert people away from 5150 involuntary holds, arrest, detainment, criminal case processing, and incarceration.

### **Using a Diversion Approach to Policing in the Berkeley Community**

Diversion begins when a 911 call routes to the Berkeley Public Communications Center or an officer initiates it in the community. This type of proposed general police order would address the components that are part of using a diversion approach including:

- using de-escalation techniques,
- presenting viable options for voluntary care,
- avoiding using 5150 involuntary holds, arrest, detainment, criminal case processing, and incarceration whenever possible.

An appropriate level of behavioral health care needs to be trauma-informed, harm reduction oriented, equitable, and inclusive to meet the tailored needs of diverse Berkeley people: Black, Latinx, AAPI, immigrants, LGBTQIA+ and Queer/Trans, people with disabilities (physical, mental, substance use), young, old, formerly incarcerated, historically or currently marginalized, those with multiple identities.

**The Berkeley Police Department General Orders include:**

1. BPD CIT (Crisis Intervention Training) General Order, C-66
2. "Mentally Disordered" General Order, I-16
3. BPD Intoxication General Order, I-15

**BPD Crisis Intervention Team General Order, C-66**

The Berkeley Police Department has a "Crisis Intervention Team" General Order that provides four primary objectives for their CIT Program, including deescalating crises, reducing the necessity for use of force, reducing recidivism, and collaborating with behavioral health providers and consumers to meet these goals. However, this General Order indicates dispatching CIT officers when possible as an ancillary duty. Thus, it is possible Berkeley police officers may respond to crisis who are not trained to de-escalate mental health crisis and potentially if CIT trained, they may not have received substance use training. Overall, the BPD CIT General Order uses a de-escalation approach for people in a mental health crisis. , while It is framed in terms of people experiencing mental illness as generally dangerous, and not necessarily as vulnerable individuals deserving of treatment and services. Thus, an overarching, comprehensive Berkeley Police Department Behavioral Health General Order would potentially provide for streamlining the current orders and diverting as many people as possible away from policing and towards well-being services in the community.

**BPD "Mentally Disordered" Person General Order**

The "Mentally Disordered Person" General Order defines the person as someone "who is a danger to him/herself, others, or is gravely disabled as a result of a "mental disorder." The terminology, "mentally disordered," is stigmatizing language and does not provide exact language need to know what constitutes a danger, or grave disability, which is explained under applicable domestic law **[explain, including role of substance use]**.

Further, persons such as law enforcement or a licensed clinician can only take someone into custody upon probable cause for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for this purpose. The current "Mentally Disordered" General Order does not set forth when a person's mental illness (versus substance use) rises to the level of a danger sufficient or gravely disabled enough for a 5150 involuntary hold. The BPD "Mentally Disordered Person" General Order overall seems mainly designed to state legal requirement and "establish policy and procedure for the custody and transportation of mentally disordered persons to designated treatment facilities, and other processes." This General Order does not describe how to potentially de-escalate persons for purposes of providing options for voluntary care and avoiding 5150 involuntary hold commitments.

### **BPD Intoxication General Order**

The BPD "Intoxication" General Order defines "Intoxicated person" as any person who, by reason or his/her ingestion of an alcoholic beverage and/or drug use, loses the ability to provide for his/her immediate safety and/or welfare needs. The BPD "Intoxication" General Order further states that it is designed to "permit dispositions other than incarceration for intoxicated persons to provide for the welfare of the subject and maintenance of peace." While the BPD "Intoxication" General Order does reference "custody" and the basis for detaining a person, it also provides information about eligibility needed for release and non-criminal disposition. This General Order further sets forth options for police officers such as driving the "intoxicated" person home if not subject to physical arrest and booking. Generally, this "Intoxication" General Order seems to be tailored more for offering social services and diversion from punitive measures such as arrest, detainment, criminal case processing, and incarceration.