

OFFICER USE OF HOOPER SOBERING PROGRAM

A Policy Review Conducted by
the Citizen Review Committee and
the Independent Police Review Division

February 2004

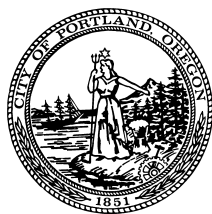


**OFFICE OF THE CITY AUDITOR
PORTLAND, OREGON**

OFFICER USE OF HOOPER SOBERING PROGRAM

A Policy Review Conducted by
the Citizen Review Committee and
the Independent Police Review Division

February 2004



**OFFICE OF THE CITY AUDITOR
PORTLAND, OREGON**

Policy Issue

From January 2, 2002 through June 30, 2003, the Independent Police Review Division (IPR) received 11 complaints and the Citizen Review Committee (CRC) reviewed four appeals from community members who were transported to the Hooper Sobering Program by officers of the Portland Police Bureau (PPB). Complainants generally alleged that they were not inebriated, but were still transported to the Sobering Program. In one case, a complainant was very close to her home and believed that her transport to the Sobering Program was inappropriate and unnecessary. The CRC directed its Policy Work Group to examine the issue, and identify any recommendations that could address these concerns. In particular, two central issues were raised:

- First, some CRC members expressed concern that PPB officers could unnecessarily transport nonintoxicated individuals to the Sobering Program as a form of punishment.
- Second, CRC members asked whether PPB officers or Sobering Program staff conduct breath tests to verify inebriation before transporting or admitting a person.

Methodology

In order to examine these two issues, members of the CRC Policy Work Group, in conjunction with the staff of the IPR, reviewed the history of the Sobering Program, examined statistical information on IPR complaints relating to police transportation to the Sobering Program, and conducted interviews with the Captain of Internal Affairs and the PPB liaison officer to the Hooper Sobering Program. The CRC Policy Work Group and IPR staff also conducted a site visit to the Hooper Detoxification Center (which includes the Sobering Program), toured the facility to observe operations, interviewed Hooper Center staff, reviewed the Sobering Program intake procedures and forms, and learned about the process of police officers bringing citizens to the facility. In addition, the CRC received training on the use of civil holds and transportation of intoxicated individuals to the Sobering Program during a public meeting held in the Spring of 2002. The presenters at that training included the Director of Chemical Dependency Services and the Medical Director for the Hooper Detoxification Center, as well as members of the Portland Police Bureau and the City Attorney's Office.

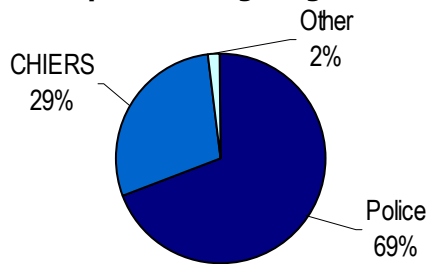
Hooper Detoxification Center Sobering Program

The David P. Hooper Detoxification Center (Hooper Center) was opened in 1971, and was named after the last intoxicated person to die while detained in the City of Portland jail. Central City Concern, a nonprofit organization, assumed management control of the Hooper Center in 1982. The Hooper Center has three interdependent components. First, the center operates an outreach van, called the Central City Concern Hooper Inebriate Response Service (CHIERS). The CHIERS van identifies and picks up publicly inebriated individuals and transports them to the Hooper Center's second component, called the Sobering Program. The Sobering Program was created in order to provide publicly intoxicated individuals with a medically monitored, safe environment in which to sober up. The third element of the Hooper Detoxification Center is a 54-bed Subacute Medical Detox Program, where individuals can stay for four to seven days while they receive counseling, treatment for symptoms of withdrawal, and other addiction-recovery services.

Sobering Program

The Sobering Program was developed with the explicit intent of creating an alternative to the use of the city jail for publicly intoxicated individuals, and was envisioned as a more humane and cost effective means of managing the urban problems associated with public intoxication. In general, the Sobering Program performs both a safety and rehabilitative function: it was designed to be a safe, controlled, and non-judgmental environment in which individuals can sober up. More importantly, it was also designed to function as an entry point into the treatment system. Until February 2003, the Sobering Program was open 24 hours a day, seven days a week. However, state and county budget cuts made early in 2003, forced the Sobering Program to scale back its hours of operation to 5 p.m. through 1 a.m., seven days a week. The City of Portland granted the Sobering Program an extra \$53,000 to keep it open through June 30, 2003. In addition, the passage of Multnomah County Ballot Measure 26-48 allowed the Sobering Program to resume its normal operating hours in July 2003.

FY 2001-2002
Sources of Transportation to
Hooper Sobering Program



A large proportion of the individuals admitted to the Sobering Program are transported there by the police. In Fiscal Year 2001-2002, there were 11,833 admissions to the Sobering Program, of which 8,139 (69%) resulted from police transportation. When the police transport a

person to Hooper, the Sobering Program staff, who are trained Emergency Medical Technicians (EMTs), conduct a detailed evaluation of the person's level of intoxication. This evaluation is conducted independently of the officer who transported the person. When conducting an evaluation, the Sobering Program staff look for the physiological and behavioral indicators of drug and alcohol intoxication, such as abnormal pupil dilation, a strong odor of alcohol, impaired cognitive function, and deficient motor abilities. If the person is cooperative, the staff may also offer a breath test. If the staff admits the person, then he or she is placed in a holding room under constant supervision. However, if the person is combative or physically aggressive, the person may be placed in an isolation room (called a *safety room*). The person is released when the staff conclude that he or she has achieved a sufficient state of sobriety to care for themselves. The average stay for individuals admitted to the Sobering Program is 4.7 hours.

CHIERS

Incapacitated inebriates may also be transported to the Hooper Sobering Program by a van staffed by Hooper Center employees who are trained as EMTs. CHIERS van staff are deputized by Multnomah County and given the limited authority to place civil holds on individuals who are incapacitated as the result of drug or alcohol use. CHIERS will not transport combative individuals. Instead, if they encounter a combative or violent individual who is intoxicated to the point that they are a danger to themselves or others, CHIERS will have a police officer dispatched to the scene to transport the person to the Sobering Program.

In Fiscal Year 2001-2002, CHIERS provided 3,469 of the 11,833 admissions to the Sobering Program (29%). CHIERS is funded by the City of Portland with a yearly budget of \$333,000 to cover the costs of 6.4 full-time equivalent positions. Until the end of February 2003, the CHIERS van operated for two shifts each day from roughly 7:15 a.m. to 12:00 a.m., seven days a week. Due to funding cuts early in 2003, the CHIERS van hours of operation were scaled back to one shift, from 5 p.m. to approximately 12 a.m., seven days a week. Like the Sobering Program, however, the passage of Ballot Measure 26-48 allowed the CHIERS van to resume its normal operating hours in July 2003.

Portland Police Bureau Procedures and Training

Portland Police Bureau Directive 850.10 describes actions to be taken by officers when they encounter a person who is intoxicated or under the influence of a controlled substance. This directive is associated with ORS 430.399-430.401, the Alcoholic Treatment Act, and ORS 426.228, Police Officer taking Person into Custody-Mental Treatment.

The directive allows a PPB officer to take the intoxicated person home if there is someone there to care for him or her, but defines circumstances when specific actions are required. These include:

- the person is incapacitated, or has serious medical problems (medical response);
- the person appears to be unable to make rational decisions regarding the acceptance of assistance, or is a danger to themselves or others (Hooper Sobering Program), unless the person also exhibits mental health problems (mental health facility); or
- the person is arrested on criminal charges (booked into jail, or cited and lodged at the Sobering Program).

The directive requires the officer to document the reasons for the civil hold (in either the Sobering Program or a mental health facility).

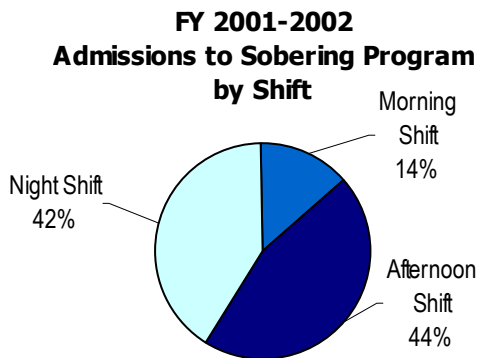
PPB officers are trained to recognize behavior influenced by alcohol or drugs, and are given legal training on Oregon State law as it relates to the use of civil holds. When evaluating whether to transport someone to the Sobering Program, officers assess the subject's demeanor, level of consciousness, whether there is an odor of alcohol, and his or her ability to walk and communicate. Overall, officers use a test that is

somewhat similar to what they would administer to a DUII suspect. Directive 850.10 states that if an officer comes to the conclusion that an individual (given that individual's level of intoxication) is a danger to themselves or others, the officer can transport him or her to the Sobering Program. Officers are also given the option of transporting an intoxicated person home if it can be determined that there is someone there to care for him or her. However, during interviews with the staff of the PPB, it became clear that officers will very rarely transport intoxicated individuals to their homes out of fear of exposing themselves, or the PPB, to legal liability. If an intoxicated individual has also committed a crime, then the officer may take him or her to jail. However, depending on the seriousness of the crime, the officer may choose to issue a citation and then take the individual to the Sobering Program.

In cases where the intoxicated person is not combative or violent, PPB officers also have the option of having the Bureau of Emergency Communication (BOEC) dispatch the CHIERS van to transport the person to the Sobering Program. When this occurs, the CHIERS van staff conduct a second evaluation before transporting the person to the Sobering Program. PPB staff have told us that officers will choose this route on occasion. However, due to the severe resource constraints under which CHIERS currently operates, officers frequently forego this option and instead conduct the transport themselves. In particular, CHIERS only operates one van at a time, so it is frequently tied up when officers request its services. Perhaps more importantly, the CHIERS van stops running at approximately 12 a.m. Unfortunately, PPB officers transport a large number of individuals to the Hooper Center after that time. Overall, 42% of the Sobering Station workload in Fiscal Year 2001-2002, was generated during the night shift when CHIERS was not running. These two resource issues potentially account for part of the disparity in the number of people transported to Hooper by the police versus CHIERS.

In general, it can take an officer anywhere from 30 minutes to several hours to transport someone to the Sobering Program. When transporting someone to the Sobering Program, officers cannot respond to other calls for service. The amount of time it takes to transport can be influenced by a number of factors. First, the Sobering Program may have reached its capacity. More commonly, however, delays are related to police transportation of combative individuals who

require admission to *safety rooms*. The Sobering Program has only four safety rooms, and they tend to fill-up quickly on the weekends. Once an officer places a civil hold, the officer becomes legally responsible for the care of that person.



If the Sobering Program is at capacity, or the safety rooms are full, the officer is faced with a limited slate of options. The officer can wait until space opens up, or if the individual has committed a crime, the officer can transport him or her to jail. If the person suffers from a mental or physical illness, that individual can be taken to a health-care facility. An officer can also transport the person home if it is within a reasonable distance and there is someone there to care for him or her. Finally, if none of the above options are available, the transporting officer may report this to a supervising sergeant, document the incident, and release the person.

--	--

Analysis

QUESTION 1:

IS THE USE OF CIVIL HOLDS FOR THE PURPOSE OF TRANSPORTING SOMEONE TO THE SOBERING PROGRAM BEING USED AS A MEANS OF RETALIATION BY PORTLAND POLICE BUREAU OFFICERS AGAINST NONINTOXICATED COMMUNITY MEMBERS?

No evidence was found that indicated the Sobering Program was being used systematically by Portland Police Bureau officers as a form of punishment for troublesome but nonintoxicated individuals. This conclusion was reached for several reasons.

Independent Sobering Program Evaluations. As was mentioned early in this report, Sobering Program EMTs perform an independent evaluation of all individuals transported by the police. Reviews of Sobering Program intake procedures, coupled with interviews with Hooper Center staff, provided strong evidence that Sobering Program staff were functioning as an adequate check on the discretion of Portland Police Bureau officers.

Sobering Program staff have seldom encountered a person who should not have been transported to the Sobering Program. When asked, Sobering Program staff said that they did not turn away a significant number of people brought in by the police. Admission statistics kept by the Hooper Center support this view. In addition to the 11,833 individuals admitted to the Sobering Program in Fiscal Year 2001-2002, five individuals were seen but not admitted by Sobering Program staff because they were not sufficiently intoxicated to justify admission. Because all Sobering Program records relating to specific individuals are considered confidential medical records, it was not possible to determine whether the five nonintoxicated individuals were brought to the Sobering Program by PPB officers, CHIERS, or by some other mode of

transport. In interviews with staff from the Hooper Center, we were told that these cases tended to be individuals who had been drinking (or under the influence of drugs) and agitated when contacted by the police, but who calmed down enough during transport for Sobering Program staff to determine that they were not a danger to themselves or others. In addition, both Sobering Program and Police Bureau staff mentioned that it can be very difficult on occasion for police officers, and even trained Hooper Center EMTs, to determine if an individual is a danger to themselves or others when that individual is in a highly agitated emotional state. Sobering Program staff pointed out that officers, for liability reasons, may err on the side of caution by transporting individuals to the Sobering Program to be evaluated by the EMTs, rather than leaving them on the street with the chance that they will hurt themselves or others.

There have been no findings of sustained or insufficient evidence on allegations involving the Sobering Program from citizen complaints. All 2002 IPR complaints were reviewed where it was alleged that the complainant was not intoxicated but had been inappropriately transported to the Sobering Program. There have been no sustained allegations, service complaints, or findings of insufficient evidence relating to inappropriate transports to the Sobering Program. A review of the detailed information relating to the complaints demonstrates that almost all of the complainants admitted to drinking, but insisted that they were not drunk. In a majority of cases, the police came into contact with the complainant after having been dispatched as the result of 911 calls that reported public order crime, such as a fight, noise complaint, or public drunkenness. The review of statistical information on the limited number of complaints did not reveal any patterns relating to officer characteristics, precincts, or complainant demographics.

QUESTION 2:

DO OFFICERS AND/OR HOOPER CENTER STAFF PERFORM BREATH TESTS ON INDIVIDUALS TRANSPORTED TO THE SOBERING PROGRAM?

As specified in the Directive 850.10 and in Oregon State law, when a person's behavior indicates that he or she is a danger to self or others, the officer must take the person into custody. There are no objective means of making this determination. Oregon statutes clearly set the maximum allowable intoxication to operate a motor vehicle by specifying limits for blood alcohol content (BAC), which can generally be determined with breath tests. However, there is no statute that indicates at what blood alcohol content level (or other drug level) a person becomes a danger to themselves or others.

Breath tests are available at the Hooper Center to individuals who are transported to the Sobering Program and are used as one indicator of a person's level of intoxication. The only requirements are that the individual be cooperative and that the Sobering Program staff suspect that the person is under the influence of alcohol. If the staff believes that the person is intoxicated through the use of a drug other than alcohol (e.g. narcotics), then they will not offer a breath test.

Portland Police officers do not offer breath tests, but instead rely on their training and field tests to determine whether or not someone needs to be transported to the Sobering Program. From the perspective of the PPB staff, the deployment of field breath tests would needlessly duplicate resources already available at the Hooper Center. More importantly, breath tests do not necessarily provide reliable evidence of impairment. For example, one individual with a blood alcohol content of .10 may be inebriated to the point of being a

danger to themselves or others, while another individual with an identical BAC may experience very little impairment. Thus, because of wide variation in individual responses to alcohol, as well as the fact that breath tests do not determine drug levels other than alcohol, the Portland Police Bureau's perspective is that behavioral clues (e.g. strong odor of alcohol, cognitive/motor impairment) are more valid and reliable indicators that a person is inebriated to the point of being a danger to self or others.

Conclusions and Recommendations

No evidence was found that civil holds were being systematically used by members of the Portland Police Bureau to transport nonintoxicated individuals to the Sobering Program. Intake procedures used by Sobering Program staff appear to provide an independent check on the discretion of PPB officers. In addition, breath tests are currently available to all cooperative individuals who are suspected of alcohol intoxication and transported to the Hooper Sobering Program by either the police or CHIERS.

However, after reviewing complaints involving transportation to Hooper, the CRC remains concerned about several cases where intoxicated individuals were transported to the Hooper Sobering Program even though they were very close to their homes. Accordingly, the CRC recommends that the staff of the Independent Police Review Division, in conjunction with the Portland Police Bureau, further investigate measures that would encourage PPB officers to more frequently transport intoxicated individuals to their homes, when appropriate. An example of such a measure could be the development of a release form to be signed by a competent adult at the intoxicated person's home, where the adult promises to care for the intoxicated individual. This release form could potentially encourage the transportation of intoxicated individuals to their homes by potentially relieving PPB officers of civil liability for any accidents that occur after an intoxicated person has been dropped off at home.

A large empty rectangular area defined by a vertical line on the left and a horizontal line at the top, intended for notes or data entry.

Additional Observations and Recommendations

The City's and County's caretaking efforts are a great credit to the community. The caliber of the Hooper Center staff is impressive, and they are articulate, well-organized, and highly committed to providing a safe, respectful space for publicly intoxicated individuals to sober up. Thus, the Hooper Sobering Program remains a desirable alternative to housing publicly intoxicated individuals in local jails. Those taken to the Sobering Program are not charged with a crime, though if they have committed a minor crime, they may be cited. They are taken into custody with a civil hold and detained only until they can be safely released.

There is, however, one area of concern—the potential underutilization and underfunding of the Sobering Program and CHIERS. And indeed, recent budget cuts and fluctuations in the Sobering Program's and CHIERS' hours of operation have only intensified this concern. One possible way in which complaints about police use of the Sobering Program can be reduced is to simply reduce the number of transports that the Portland Police officers have to make. This could be accomplished by increasing the number of CHIERS vans and/or altering its hours of service so that they match peak demand for Sobering Program transportation. Unfortunately, budget cuts and the current Oregon State fiscal crisis has forced the Sobering Program and CHIERS to move in the opposite direction—to periodically restrict their hours and availability. While this may reduce costs in the near term, it likely carries with it very serious hidden costs to the City of Portland, and inevitably shifts the burden of responding to publicly inebriated individuals to the PPB. A police officer's time is expensive, and transporting an individual to the Sobering Program can be very time consuming. It is possible that increasing the availability of the CHIERS van and the Sobering Program to include peak hours could reduce costs to the City associated with providing police services to calls concerning noncombative, publicly inebriated individuals.

Additionally, expanding the availability of CHIERS, *safety rooms*, and the Sobering Program could potentially function as an inexpensive means by which to increase the number of officers who are available to respond to calls for service on busy weekend nights.

Recommendations:

- ***The City of Portland should consider increasing its funding of the Hooper Center in order to allow for more transports by CHIERS staff.***
- ***Increasing the number of safety rooms, adding a CHIERS van, or extending CHIERS' hours of operation to match peak workload may be a cost-effective means by which to increase the numbers of officers who are available to respond to calls for service.***

Local Interviews

Ed Blackburn, *Director of Chemical Dependency Services,
Central City Concern*

Darrel Schenck, *Captain, Portland Police Bureau
Internal Affairs Division*

Reed Hunt, *Sergeant, Southeast Precinct and Portland
Police Bureau Liaison to Central City Concern*

Interviews with Other Cities

Richard Stronach, *Lieutenant, Eugene Police Department*

Robert Hansen, *Sergeant, Medford Police Department
Internal Affairs Division*

Kevin Lazarchic, *Officer, Minneapolis Police Department*

Site Visit

Hooper Detoxification Center site visit attended by:
Bob Ueland, Denise Stone, Ric Alexander, T.J.
Browning, and Joseph De Angelis. Susan Steiner,
Manager of the Hooper Detoxification Center,
facilitated the visit and conducted the tour on
July 19, 2002.

CRC Training

*Panel Presentation to the CRC on Civil Holds and the
Hooper Sobering Program:*

May 7, 2002—presenters included Ed Blackburn,
Central City Concern; Dr. Chris Thayer, Hooper
Detoxification Center; Officer Kraig McClathery, PPB
Central Precinct; and Dave Woboril, City Attorney's
Office.

Publications and Newspaper Articles

Available for review in the work papers.

--	--

Response from Portland Police Bureau

--	--



CITY OF
PORTLAND, OREGON
BUREAU OF POLICE

VERA KATZ, MAYOR
Derrick Foxworth, Chief of Police
1111 S.W. 2nd Avenue
Portland, Oregon 97204

Service	Compassion	Integrity	Excellence	Respect
---------	------------	-----------	------------	---------

DATE: December 18, 2003

TO: Gary Blackmer
City Auditor

SUBJ: Response to IPR/Citizens Review Committee Report on Officer Use of the Hooper Sobering Program

In September 2003, the Citizens Review Committee and the Independent Police Review Division submitted a draft report through your office to the Portland Police Bureau resulting from their review of police transports to the Hooper Detox facility. Although the CRC and IPR stated in their report that they found no evidence that civil holds were being used improperly by members of the Portland Police Bureau, I would like to discuss recommendations identified in the report that measures be developed to encourage officers to more frequently transport intoxicated persons home, when appropriate.

First of all, I am pleased to learn your research determined no evidence was found indicating the Hooper Sobering Program was being used systematically by PPB officers as a form of punishment for troublesome but non-intoxicated persons. Of the 11,833 persons admitted into the system in 2001-2002, only five were immediately released. I think this is a very telling statistic describing positive use of the system by Portland Police. Additionally, there have been no findings of sustained or insufficient evidence on allegations involving the Sobering Program from citizen complaints. One additional measure in place not noted in the report is supervisory review of officers' reports that work to ensure reasonable cause is established and documented regarding all police actions with intoxicated persons.

Citizen complaints are often made by persons who feel they were not "drunk" at the time they were taken into police custody or that the police officer was just trying to punish them because of their behavior. As a result, CRC and IPR began this review. It is important to recognize that placing someone into police custody for purposes of transporting them home or to Detox is a tool officers use to protect the individual's safety and to resolve disturbances or circumstances that may present a risk to the intoxicated person or others. In reaching a decision, officers certainly weigh the objective evidence about a person who is intoxicated i.e., slurred speech, odor of alcohol, bloodshot or watery eyes, poor balance, etc. But, officers also depend on their subjective evaluation of circumstances that, if no action is taken, may present a risk or immediate future risk to the individual (or others). These are often harder to articulate or document in a report. Officers' actions may be based on their assessment of a person's willingness to be cooperative (in other words, willingness to take directions), their level of anger or belligerence, poor judgement in decision-making, relationship to others in a disturbance or conflict, and various signs that may lead the officer to believe alcohol use may be minimal but use of illegal

drugs are a major element contributing to a person's condition. The officer must take action if, for any of the above reasons, he or she believes there is an immediate danger to the health or safety of the individual in question, or others, because of the person's condition. This may mean that a complainant is accurate in asserting that they were not "drunk" (to the point that they were stumbling and falling down), however, the officer's actions may have been based on myriad other indicators that caused concern that are less obvious and recognizable, but just as important.

CRC has recommended that measures be developed to encourage officers to more frequently transport intoxicated individuals to their homes when appropriate. They also suggest the possible use of a release form to be signed by a competent adult accepting custody of the individual. Officers are given the option, according to Police Bureau policies, to transport an intoxicated individual home instead of Detox. However, as a practical measure, this is rarely done. Detox is a safe location with responsible, trained personnel to monitor intoxicated individuals. Their stay at Detox is often just a few hours. The choice to lodge a person at Detox is much preferred over release at home because the officer cannot guarantee the person's safety (or others) once released. Additionally, it cannot be assured the adult that takes responsibility for the intoxicated person will follow through in monitoring the individual until he or she is sober. The use of a signed release form may help in lessening the City's exposure to liability, but will not guarantee the City will not be held liable should damage or injury occur involving an intoxicated person who has been released at home instead of taken to Detox. I prefer and encourage officers to use the services of Detox and lodge intoxicated persons until they are safe to release.

I appreciate the efforts made by CRC and IPR to review the use of Detox in response to complaints. The information in their report is useful and helpful to the Bureau in monitoring its policies and practice dealing with intoxicated individuals in public.

If you have any questions, please contact Captain Darrel Schenck at (503) 823-0236 or myself.

Sincerely,

A handwritten signature in black ink, appearing to read "Derrick Foxworth". The signature is fluid and cursive, with the first name "Derrick" being more prominent than the last name "Foxworth".

DERRICK FOXWORTH
Chief of Police

DF:ds

c: Mayor Katz
Commissioner Francesconi
Commissioner Leonard
Commissioner Saltzman
Commissioner Sten

Independent Police Review Division
1221 S.W. Fourth Avenue, Room 320
Portland, Oregon 97204-1900

Phone: (503) 823-0146
Fax: (503) 823-3530
TTD: (503) 823-6868

<http://www.portlandonline.com/auditor/ipr>

Copies of this report can be accessed online via the Internet.
The web page report version is the same as this printed version.