



## Non-Emergent Detention Orders

OPA has recently seen several cases involving Non-Emergent Detention Orders. These orders:

- Are issued by King County Superior Court based on a showing of probable cause;
- Provide legal authority for an individual to be taken into custody for a mental health evaluation;
- Differ from Emergent Detention Orders, which are issued by Designated Crisis Responders (DCRs) based on immediate observations that warrant an involuntary detention; and
- Differ from emergent detentions, which are involuntary detentions based on an officers' own observations.

## If Community Caretaking is Not Present

Non-Emergent Detention Orders do not, alone, allow an officer to enter a constitutionally-protected space to effectuate a detention. For such entry to be permissible, officers must also be able to articulate another exception to the warrant requirement, such as exigent circumstances or, more commonly, community caretaking.

This issue recently arose in an OPA case where officers responded to a residence to assist DCRs in effectuating a Non-Emergent Detention Order. The DCRs informed the officers that: 1) the subject suffered from bi-polar disorder with manic/paranoid states, 2) his psychosis was growing worse, and 3) he had been aggressive during a medical appointment earlier that day, which terrified staff and caused them to call the police. The officers entered the residence and involuntarily detained the subject. While OPA believed that the officers acted in good faith when they made entry, [OPA concluded](#) that they did not meet the community caretaking standard, as there was no evidence, at the time, that the subject posed an imminent danger to himself or others. Ultimately, OPA issued a Not Sustained ([Management Action](#)) finding and recommended that the Department provide a training update on Non-Emergent Detention Orders.

## When is Community Caretaking Present?

In another case, officers were dispatched to a call of a potentially suicidal subject who was staying on a boat. The subject's wife told the officers that the subject said he was planning to overdose on pills and alcohol. When officers arrived at the boat, they saw, through the window, the subject lying down surrounded by pills and alcohol. The officers knocked and spoke loudly to rouse the subject, but he did not wake up. Given their concern that he had potentially overdosed, the officers made a warrantless entry based on community caretaking. [OPA found](#)

that, based on the information available to the officers and their observations at the scene, it was reasonable for them to believe that the subject presented a threat of imminent harm to himself. As such, they met the elements for community caretaking and had a lawful basis to enter the boat and take the subject into custody.

## **Articulation and Legal Guidance**

As is clear from these case examples, the driving factor for the existence of community caretaking is whether officers can establish an imminent danger. Where they can, community caretaking applies. If not, no warrantless entry is permitted. OPA encourages officers to focus on this articulation in their paperwork. In many cases, this can be the determinative factor in OPA's analysis.

Lastly, when evaluating the legal framework surrounding individuals in crisis, involuntary detentions, and community caretaking, OPA often relies on a [legal overview](#) that was created by Sergeant Pisconski in CRU. OPA recommends that officers review this document and use it as a guide where needed.

If you have questions, feedback, content requests, or to add/remove your name from this distribution list, please contact Anne Bettesworth, OPA Deputy Director of Public Affairs, at [anne.bettesworth@seattle.gov](mailto:anne.bettesworth@seattle.gov).