

WARM SPRINGS TRIBAL CODE

CHAPTER 330

EMERGENCY DETENTION OF MENTALLY ILL PERSONS

Table of Contents

	Page
I. GENERAL	
330.010 Definitions.....	1
II. EMERGENCY DETENTION PROCEDURES	
330.020 Application for Emergency Detention Order.....	1
330.030 Emergency Detention Order.....	2
330.040 Emergency Detention In Tribal Facility.....	3

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CHAPTER 330

EMERGENCY DETENTION OF MENTALLY ILL PERSONS

I. GENERAL

330.010 **Definitions.** As used in this Chapter, except where the context otherwise requires:

- (1) "Mentally Ill Person" means an Indian who, because of a mental disorder, is either:
 - (a) dangerous to himself or others; or
 - (b) unable to provide for his basic personal needs and is not receiving such care as is necessary for his health or safety.
- (2) "Short Term Detention" means emergency detention of an allegedly mentally ill person in a tribal or federal facility or Oregon Mental Health Division approved community hospital, recognized by the Tribal Court for such purposes, for not more than five (5) days.
- (3) "Long Term Detention" means the emergency detention of an allegedly mentally ill person in a state mental hospital or federal facility, recognized by the Tribal Court for such purposes, for not more than fifteen (15) days.
- (4) "Emergency Detention" means the involuntary detention of an allegedly mentally ill person by order of the Tribal Court upon the application of a qualified tribal official.
- (5) "Indian" means a member of the Confederated Tribes of the Warm Springs Reservation of Oregon or any other person of Indian blood who is a member of a federally recognized Indian tribe or any other person on the reservation who is recognized by the community as an Indian, including a Canadian Indian or an Alaska native.

II. EMERGENCY DETENTION PROCEDURES

330.020 **Application for Emergency Detention Order.** Application for an emergency order of the Tribal Court detaining an allegedly mentally ill person shall be made by a qualified tribal official.

- (1) The following are qualified tribal officials:
 - (a) Any Oregon licensed physician serving the Warm Springs community;

- (b) The Warm Springs Community Mental Health Program director; or
 - (c) The Warm Springs Tribal Health and Social Services Branch manager.
- (2) Application for emergency detention shall be made by sworn affidavit or on the record in open Court.
- (3) Application for emergency detention shall contain the following information:
- (a) Statement that the alleged mentally ill person is an Indian within the jurisdiction of the Warm Springs Tribal Court;
 - (b) Statement of the reasons for alleging that the individual is a mentally ill person;
 - (c) Statement of the reasons why the alleged mentally ill person is in need of emergency detention; and
 - (d) Recommendation as to whether the alleged mentally ill person is in need of short term detention or long term detention.

330.030 Emergency Detention Order. An emergency detention order shall be issued upon application and finding by the Tribal Court that:

- (a) The alleged mentally ill person is an Indian within the jurisdiction of the Warm Springs Tribal Court; and
 - (b) There is probable cause to believe that such individual is a mentally ill person within the meaning of this Chapter; and
 - (c) An emergency exists in which the alleged mentally ill person poses serious harm or danger to himself or to others; and
 - (d) The alleged mentally ill person is in need of immediate detention in a short term or a long-term facility.
- (2) An emergency detention order issued by the Tribal Court shall direct the Tribal Police to take the alleged mentally ill person into custody and either:
- (a) Immediately transport the alleged mentally ill person off the reservation to a short term or long term facility designated by the Tribal Court; or
 - (b) Hold the alleged mentally ill person in a short term facility on the reservation until such person can be transported off the reservation to a short term or long term facility designated by the Tribal Court, or until such person is released.

330.040 Emergency Detention In Tribal Facility.

- (1) If, pursuant to an emergency detention order, an alleged mentally ill person is held at a safe and secure short term facility on the reservation, such person shall receive the care, custody and treatment required for his mental and physical health and safety, and the treating physician serving the Warm Springs community shall report any care, custody or treatment to the Court as required by the emergency detention order. All methods of treatment, including the prescription and administration of drugs, shall be the sole responsibility of the treating physician.
- (2) The emergency detention of an alleged mentally ill person in a short-term facility on the reservation shall be for no more than five (5) calendar days. If, after five days in such detention an alleged mentally ill person has not been transported to a short term or long-term facility off the reservation, he shall be immediately released by the Tribal Police. Such release shall be automatic and shall not require an additional order of the Tribal Court.