



**FINAL REPORT ON
EXAMINING PRETRIAL DETENTION IN OREGON:
A QUALITATIVE ANALYSIS OF DECISION MAKING**

Submitted to:

Oregon Criminal Justice Commission

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Executive Summary

Many jurisdictions in Oregon have been reevaluating their pretrial release system in an effort to reduce pretrial detention rates and costs, reduce crimes committed while on pretrial supervision, and increase court appearance rates. Within the context of statutorily prescribed criteria of pretrial release, jurisdictions continue to weigh the utility of risk assessment-based release as opposed to financial-based release, and aim to decrease jail populations. In an effort to address these and other issues, we build from prior research in Oregon (Campbell et al., 2020) to examine how release decisions are made, paying attention to the legal actors involved, the factors that influence decisions, and the role of risk assessment tools in formulating release decisions. Via a sub-grant from Arnold Ventures, National Criminal Justice Association, and the National Criminal Justice Reform Project, researchers from Portland State University (PSU) aimed to gain insight into multiple areas. Over five months (June through October of 2020), our team collected 21 surveys and interviewed 71 justice officials associated with pretrial processes across 31 counties in Oregon.

Findings

Current pretrial practices. Generally, the pretrial structures across Oregon can be captured in one of three Types, which we label as A, B, and C. The most common is Type A, which largely relies on bail and law enforcement contacts as the release and monitoring mechanisms. Type B structures rely on the executive branch where sheriff's offices, probation and parole, or community justice personnel oversee release and monitoring. Type C structures use either a court-based release officer, or a joint venture between the sheriff's office and the courts. Several Type C positions have either been recently established or are planned to launch as the pandemic subsides. Type B and Type C jurisdictions are more efficient in terms of collecting information, monitoring pretrial defendants, and supplying pretrial decision-making information to the courts. Reflecting on the classifications, we recommend the following:

1. Reduce overall length of stay in pretrial detention and help jail capacity problems by standardizing risk-based decisions for release authorities.
2. Collaboratively establish pretrial program structures in terms of oversight and justification. Jurisdictions should consider that Type B and C structures provide more information for release decisions (consistent with the Public Safety Task Force's recommendations; Budbill & Weinerman, 2020).
3. Establish a basic philosophy regarding the aim of a pretrial release officer.

Focal concerns of judges and release authorities. From interviews with judges and pretrial release authorities we identified basic areas of emphasis for release or bail/detention decisions. Commonly known as focal concerns, the current study suggests they are largely influenced by primary and secondary release criteria, local jail capacity, and alcohol/drug and mental health factors. Five focal concerns were consistently rated as "very important." Four of these are *primary release criteria* as codified in Oregon statute: FTA history, criminal history, public/victim safety, and current charge crime type. One *secondary release criterion*, stable residence or community ties, was highlighted as a very important factor. Beyond these factors, several judges identified other important areas in decision-making such as jail capacity and lacking options for defendants

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with drug/alcohol dependency and/or mental health problems. From these findings, we recommend the following:

4. Standardize information collection and how to relay it to judges by arraignment.
5. Efforts should focus on triage classification and medical needs of defendants with drug/alcohol dependency and/or mental health issues.
6. Accurately identify failure to appear (FTA) and community/victim public safety risks, but also account for the wellbeing of the defendant whether in or out of custody.
7. Counties with jail capacity problems should develop standardized processes for identifying defendants of lowest risk.

Possible reasons for the pretrial detention-prison sentence relationship. Considering the context of the prior study's assessment (Campbell et al., 2020), we asked judges to discuss possible reasons for the relationship between pretrial detention and receiving a prison versus probation sentence. Judges indicated that if someone is released prior to disposition sentencing then that individual has the *opportunity* to demonstrate an ability to be successful on probation. Judges also noted that length of stay in jail drives defendants to accept guilty pleas that include prison time. Similarly, a defendant remaining in jail can influence judges to view defendants as someone who is likely dangerous, making prison sentences more likely. Finally, the "prison presumptive" category of the sentencing guidelines makes some judges feel prison is a foregone conclusion. Subsequently, we recommend:

8. Counties and the state should monitor the relationship between pretrial detention and sentencing. Monitoring should involve conversations with legal actors to address any policy or procedure that contributes to inequitable outcomes for detained defendants.

Risk assessments and their role in pretrial decisions. There was strong support for having risk assessment information available to assist in release decision-making. Key to this support is a desire for pretrial staff to have access to jailed defendants, gather information on secondary release criteria, and monitor defendants in the community. Despite the support, most jurisdictions noted a concern that pretrial risk tools may create or perpetuate systemic racism and bias. Based on these findings, we recommend the following:

9. Pretrial risk assessments should be considered an important tool to standardize the collection of primary and secondary release criteria.
10. Legal actors need, and request, more training on risk assessments. Counties using risk tools ought to have an annual training/refreshers process that explains what pretrial risk tools are, how they work, and how they should be used in decision-making (consistent with the Public Safety Task Force's recommendations; Budbill & Weinerman, 2020).
11. Any risk tool used should be validated for that county's population, in the pretrial context (consistent with the Public Safety Task Force's recommendations; Budbill & Weinerman, 2020), and tested for any potential bias for race and ethnicity.

Unpacking bail / security practices. Oregon relies on a system of cash bail, where defendants are expected to pay a 10% deposit to the court for release. The interviews uncovered a belief that cash bail might be phased out by the state in the future, and legal actors indicated that they were

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open to the idea of transitioning from financial-based release to risk-based release. Many expressed concerns about what such a transition would mean regarding release on recognizance (ROR) and emergency release protocols. If a risk-based system were to replace bail, many defense attorneys and judges believe that moderate and high-risk defendants may never be released. Based on observations, we recommend:

12. Counties and policymakers should identify and monitor areas in their protocols and data where a transition away from the cash bail system could positively *and* negatively impact defendants, jail capacity, and pretrial monitoring.
13. Counties should also identify areas in which risk-based release decisions can be created that involve fewer resources without sacrificing public safety and court appearance issues.

Common practices of adapting to COVID-19. Across the state, Oregon's counties have swiftly modified procedures to limit the spread of COVID-19. Primary responses have been to: Cite and release rather than book, reduce existing jail populations, reduce the use of pretrial detention, and use virtual hearings and arraignments. While many interviewees noted a concern over increased FTAs as a result of the changes in fewer security holds, others highlighted how virtual conferences for some proceedings may have decreased FTAs. Interviewees indicated that having a pretrial program in place helped to meet some of the challenges of COVID-19. Similarly, having strong relationships with community partners was highlighted as helpful in enacting policies and practices to protect defendants, and those who work within the criminal justice system. Finally, we recommend:

14. Counties should track all procedural modifications made to aid in efforts to identify the effects of COVID-19 on court and pretrial operations.
15. Policymakers should consider the unintended benefits to system resilience when pretrial programs form strong relationships with community partners.

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Background

On any given day, two-thirds of jail inmates nationwide are awaiting trial, which equates to roughly half a million people housed in jails (Bureau of Justice Statistics, 2020). In 2018, jails in the United States reported 10.7 million admissions, with the average length of stay of 25 days (Zeng, 2020). Depending on the jurisdiction and the size of the jail population, these costs could be devastating for the local community and taxpayers. In fact, the Bureau of Justice Statistics estimates that local communities spend over \$22 billion on jails annually (data from 2011; Vera Institute of Justice, 2015).

As such, the pretrial system is perceived as “ripe for reform” (Stevenson & Mayson, 2017, p. 20). This push to reform is driven largely by increased jail population and costs, documented disparities resulting from inability to pay cash bail (Stevenson & Mayson, 2017), and differences in sentencing outcomes correlated with pretrial detention status (e.g., Campbell et al., 2020). Some strategies for reform are suggested, such as increasing immediate release for low-risk defendants, utilizing an actuarial risk assessment in decisions, providing defendants with notice of upcoming court dates, and limiting the use of cash bail (Stevenson & Mayson, 2017). Oregon has been on the forefront of pretrial reform, both through Justice Reinvestment, coordinated groups of practitioners discussing reform efforts and challenges (e.g., Pretrial Network), and contracted research projects on pretrial in the state (e.g., Phase 1 study, Campbell et al., 2020).

In an effort to determine the relationship between pretrial detention on prison sentencing, the Criminal Justice Commission (CJC) in 2018-2019 contracted Portland State University (PSU) researchers to conduct a study using a sample of 3,390 defendants in nine Oregon counties. The findings suggest that with all else being equal, defendants detained during their pretrial period were more than twice as likely to be incarcerated as part of their sentence (Campbell et al., 2020). This study highlighted important considerations in the decision to detain, and how that decision impacts defendant outcomes.

Generally, the fiscal and social costs of pretrial detention are high (for the defendant, state, and taxpayers). Recognizing this, particularly during the COVID-19 pandemic, many jurisdictions, including those in Oregon, are re-evaluating their pretrial release system in an effort to reduce pretrial detention rates and costs, reduce crimes committed while on pretrial supervision, and increase court appearance rates. Although policies and practices differ by jurisdiction, in general defendants can be placed in pretrial detention if a judge believes that the defendant represents an imminent threat to public safety or poses a serious flight risk. In addition, some individuals may remain in pretrial detention because they do not have money to post bail (Gupta, Hansman, & Frenchman, 2016). With this in mind, jurisdictions continue to weigh the utility of risk-based release as opposed to financial-based release (e.g., reliance on risk assessment tools), and aim to decrease jail populations (e.g., Justice Reinvestment). In an effort to address these issues and more, we build from prior research (Campbell et al., 2020) to examine how release decisions are made locally and the variations that exist, paying careful attention to the legal actors involved, the factors that influence decisions, and the role of risk assessment tools in formulating release decisions.

Reviewing the Literature: Factors Found to Impact Pretrial Decisions

Research on pretrial release has emphasized the importance of case-level (e.g., pending charge), defendant-level (e.g., criminal history), and jurisdiction-level factors (e.g., level of local resources such as substance abuse and mental health treatment), on recommendations and

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decisions to release or detain pretrial. Overwhelmingly, variables related to community safety and risk of flight are *extremely* or *very* important in the decision to detain (DeMichele et al., 2018). In a sample of 171 individuals involved in pretrial release (judges, prosecutors, defenders, and pretrial staff), 76% rated ‘current charge(s)’ as *extremely* or *very* important in the decision to detain or release, 91% rated ‘criminal history’ as *important* and 90% rated ‘pending charge(s)’ as *important*. Judges and prosecutors were also more likely than defense attorneys to be attuned to victim injury and weapon involvement in forming release decisions (DeMichele et al., 2018). Also important to judges, past failure to appear and any indication that the defendant may not return for court dates should they be released pretrial (DeMichele et al., 2018). This research suggests some factors may be more heavily weighed by certain legal actors within the courtroom workgroup than others.

Many of the above-mentioned factors are primary statutory release conditions in Oregon (ORS 135.230 to 135.290) and are likely to be captured on a risk assessment tool (e.g., Virginia Pretrial Risk Assessment Tool). Evidence is mounting that judges rely on the defendant’s level of risk based on a risk assessment tool in informing their release decision (Barno et al., 2019; DeMichele et al., 2018), and utilizing these tools results in decreased restrictive placements (incarceration and detention; Viljoen et al., 2019). This is important given findings that defendants detained pretrial were significantly more likely than those who were released to be sentenced to jail or prison and also to receive longer sentences (Lowenkamp & VanNostrand, 2013). This negative effect of pretrial detention on sentencing outcomes has also been documented in several other jurisdictions, including New Jersey (Sacks & Ackerman, 2012), Pennsylvania (Gupta et al., 2016), Philadelphia and Miami (Dobbie et al., 2018), New York (Leslie & Pope, 2017), Texas (Heaton, Mayson, & Stevenson, 2017), in the federal court system (Oleson et al., 2016; Wooldredge et al., 2017), and here in Oregon (Campbell et al., 2020). These evaluations controlled for the influence of demographic, offense, and criminal history information through the use of multivariate regression analyses. As such, one of the key elements of this project was to examine what systematic, unobserved differences between the detained and released defendants may have had an influence on the outcomes. We did this by collecting survey data at the jurisdiction level, and conducting qualitative interviews with those tasked with making release decisions.

Current Study

Considering the Phase I findings, it is possible the observed relationships may be related in part to courtroom scheduling, procedures, idiosyncratic case and defendant details, and discretion. However, the Phase I conclusions could not speak to the complexities and informal decision-making that occurs across courtroom agents (i.e., judges and prosecutors in particular). Identifying the causes, procedures, and consequences related to these complexities requires more data. Most importantly, more measures are required of both quantitative data (e.g., failure to appear information) and qualitative data. Subsequently, PSU researchers have set out to examine the pre-COVID decision-making processes of pretrial detention in Oregon counties in more detail. Via a sub-grant from Arnold Ventures, National Criminal Justice Association, and the National Criminal Justice Reform Project, PSU aimed to complete the following tasks:

1. Identify the current pretrial practices across Oregon, and how the processes might differ between counties with and without pretrial programs.
 - a. Determine why counties have chosen to structure pre-trial practices in the current manner.

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2. Determine the key factors considered by the courtroom workgroup or legal actors (i.e., judges, prosecutors, and defense attorneys), and if such factors...
 - a. Can explain how defendants are held in detention through the case disposition
 - b. Are associated with receiving a prison sentence versus jail or probation
 - c. Differ between each courtroom agent (e.g., judges versus prosecutors)
 - d. Differ/change across jurisdictions (both with and without pretrial programs)
3. Identify possible reasons for the relationship between pretrial detention and sentencing in Oregon (Campbell et al., 2020).
 - a. Determine if such reasons highlight what other data ought to be gathered to help capture decision-making on a more macro-, quantitative level.
4. Examine how pretrial practices and tools (e.g., risk assessments) may influence the process.
 - a. Determine what types of changes to programs and practices (e.g., including an actuarial risk assessment) may help pretrial processes for each county and if counties are interested in such changes.
5. Unpack how bail/security is set by county, and examine potential issues related to race/ethnicity.
6. Identify the common practices of adapting to COVID-19.

Methodology

Survey and Semi-Structured Interviews with Legal Actors

Oregon has 36 counties represented by 27 circuit court districts. As shown in Figure 1, the counties and circuits are largely urban/metro areas along the I-5 corridor and Cascade Mountain Range, with rural/non-metro areas to the east and west. Over the course of five months (June through October of 2020), our team collected survey and qualitative data to represent the state as a whole, including both urban and rural settings. Ultimately, we collected 21 surveys sent to each county,¹ and followed up the survey using a snowball sampling technique² to interview 71 justice officials associated with pretrial processes across 31 counties in Oregon. The study involved in-depth, interviews of judges, prosecutors, defense attorneys, jail/detention officials, and pretrial services personnel. We sought to include a representative voice from counties with established pretrial programs (e.g., utilizing a risk tool, pretrial supervision) and those counties without such programs. Due to concerns associated with COVID-19, all interviews were conducted via Zoom (virtual), and averaged approximately 60 minutes. We used a purposeful sampling³ strategy to solicit involvement from the courtroom workgroup, specifically targeting counties with and without pretrial programs, counties from rural and urban jurisdictions, and counties from each of the 26 circuits across the state of Oregon. The PSU research team compiled a spreadsheet of eligible

¹ To ensure all participating counties were included in analyses, for nine counties that did not complete a survey, we back-filled the survey using interview data collected. Only one county completed a survey but did not have an interview.

² Snowball sampling involves identifying an individual with whom we begin the interview process, and then ask that person to suggest others involved in the process who might also be interested in speaking with us. As the number of contacts grows, so too does the sample; much like a snowball rolling down a hill.

³ Purposeful sampling means targeting one's sampling efforts – selecting individuals/cases based on a particular purpose or eligibility criteria.

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individuals within each county to solicit for recruitment. Eligible individuals were sent an email about the project’s goals and procedures, requesting their involvement.

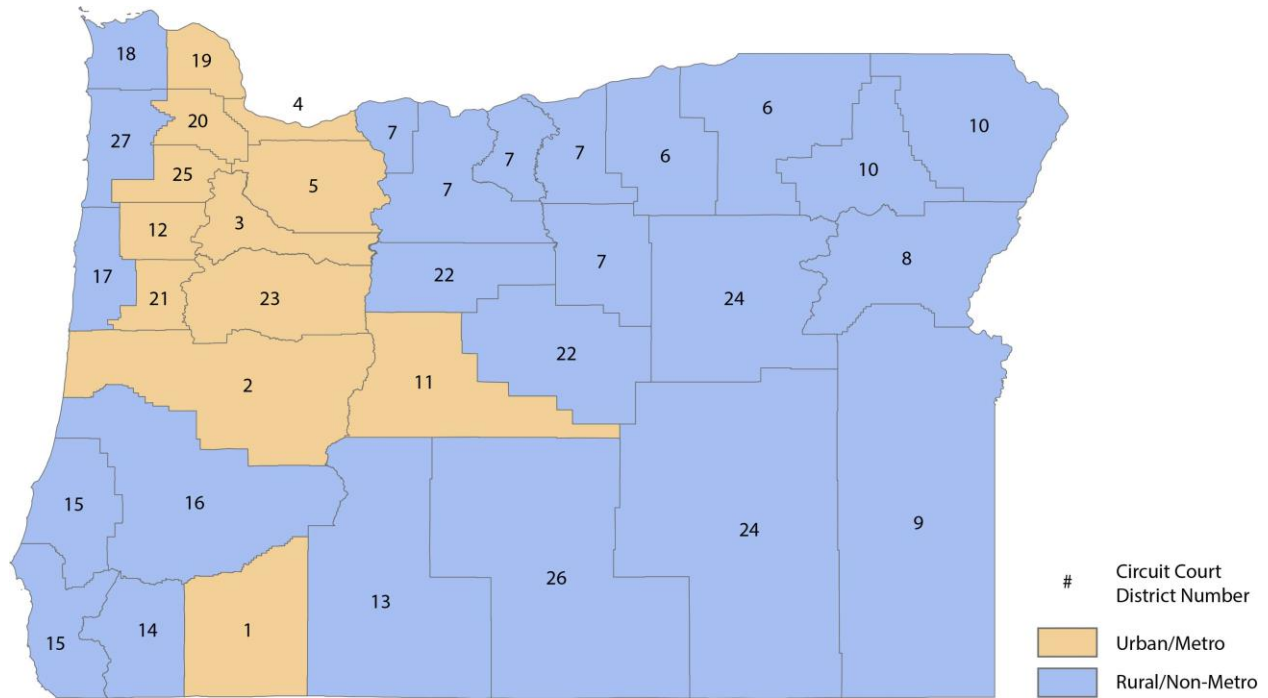


Figure 1. Oregon circuit court districts by census category

Sample

A summary breakdown of the participant sample is provided below. Although the sample is missing four counties,⁴ the data covers all 27 circuit courts in Oregon. Of the interviews, 67 were individual interviews (i.e., only one individual participated) and four were combined interviews (i.e., more than one individual from the jurisdiction participated in the interview). The sample consists of 27 judges, six prosecutors, nine defense attorneys, six probation/supervision staff, 14 pretrial services personnel, nine sheriff/jail commanders, two LPSCC members, and one worker from the Department of Human Services. Thirty-one counties from across Oregon are represented in this sample; 12 are defined as urban/metro and 19 rural/non-metro, according to the definitions of the US Census Bureau. For this study, we define having a “pretrial program” as having at least one person designated to processing, interviewing, and/or supervising the pre-arraignment (and pre-adjudication) population for the county.

In this sample, 16 of the 31 participating counties indicated that they have an established and functioning pretrial program, while 15 indicated that they have no such program. The majority of pretrial programs were found in the urban/metro counties (10), while six rural/non-metro counties had established process/personnel. Only one urban/metro county indicated that they do

⁴ All counties were contacted via multiple contacts from various jurisdictions, and were contacted multiple times.

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not have an established pretrial program.⁵ Three counties (all rural/non-metro) indicated that they were engaged in some form of planning for a pretrial program or implementation prior to the COVID-19 pandemic shutdowns and are hoping to restart the process of establishing them.⁶ Seven counties that have an established pretrial program have attributed its operation and sustenance to the Justice Reinvestment Initiative (JRI) Grants provided by the Oregon Criminal Justice Commission. While most use the JRI funds for supplemental purposes in maintaining capacity in staff and computing power, at least a third of the counties with a pretrial program attribute the reason for having any program to the JRI funds.

Table 1. Counties and circuits represented and study participants^a by region type

	Counties Represented of 36	Circuits Represented of 27	Jail/Sheriff or Probation/DCJ or Pretrial Staff	Judges	Defense Attorneys	Prosecutors
Urban/ Metro	12	12	18	16	5	4
Rural/Non-metro	19	15	11	11	4	2
Total	31	27	29	27	9	6

^a Participation includes interview and/or survey engagement.

Data Analysis and Interpretation

Our thematic analysis was driven by deductive (coding in accordance with theory) and inductive (exploring new codes to create theory/explanations) analytic approaches. The larger part of our analysis was deductive, in that some categories of the data fit into an existing framework (Patton, 2015), specifically informed by previous research and Oregon’s primary and secondary release criteria. Our approach also included an inductive component, in that we chose to allow other categories, patterns, and themes to emerge from participants’ responses (Patton, 2015; Strauss & Corbin, 1998).

All audio interviews were transcribed verbatim, using Express Scribe Pro. Transcriptions were imported into Atlas.ti version 8, which allows for codes to be selected in participants’ responses and then compared across participants and jurisdictions. We first read through a small sample of transcripts multiple times, creating annotations and forming possible codes based on responses. The research team met regularly to discuss and modify codes created until a consensus was reached. Once discrete codes were created, the next step in this thematic analysis was to go through each interview and code all participant responses. After coding the interviews, codes were consolidated and sorted into unique themes. Theme generation/code organization were primarily driven by statutory factors (e.g., factors under Oregon’s ‘primary release criteria’), previous research on pretrial release (e.g., justifications for Phase 1 findings), and key foci of our research project (e.g., the use of risk assessment tools). After we established themes, the codes were re-

⁵ Three rural/non-metro counties that did not participate in the current study did not have a pretrial program (as confirmed by the CJC and presiding circuit judges). One county (rural/non-metro) is unaccounted for and remains unknown if it has a pretrial program.

⁶ These three are included with counties that have limited to no pretrial program in place, and rely on law enforcement to deal with pretrial populations, but are relatively inconsistent and unstructured.

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examined, ensuring that the codes in each theme fit and there are clear distinctions between themes (Braun & Clarke, 2006).

The application of thematic codes of focal concerns was assessed for interrater reliability (IRR) in two rounds using Krippendorff's alpha (Krippendorff, 2019). Krippendorff's alpha (specifically C-alpha binary) provides a coefficient capturing IRR and ranges between 0 (absolute disagreement) and 1 (perfect reliability). IRR was determined to be adequate once the average Krippendorff's alpha reached .70 or higher. In the first round of coding we assessed interrater reliability in 19% of documents for both judges and release authorities (5 of 26 documents for both groups), with three coders in each group. After the first round, the average alpha was assessed to be near .50. As a result, all coders met to discuss the application of focal concern codes, and a second round was conducted on an additional three documents. Following the second round of discussion and coding we reached the .70 threshold. Due to timeline concerns, only codes related to focal concerns were assessed for IRR, and only judges and release authorities were assessed for these codes. Attorneys were examined for certain goals of this research but not all (e.g., bail reform issues and race/ethnic concerns).

Results

The results of the qualitative and survey examinations are combined below and provided in subcategories related to the aims of the current study.

1. Current Pretrial Practices in Oregon

Before discussing the nature of pretrial practices in Oregon, it is important to know the statutory expectations regarding how release decisions are made. According to state law (ORS 135.230 to 135.290), there are two sets of criteria judges use to decide which defendants to release on recognizance, release with conditions, or set security (bail). The criteria are labeled as primary and secondary release criteria, in accordance with their importance according to the statute.

Primary release criteria

- Protection of victim or public
- Nature of current charge
 - o Type and severity
- Prior criminal record
- Prior pretrial releases
- Prior failure to appear
- Any indication defendant might
 - o Violate release conditions
 - o Fail to appear
 - o Commit new crime

Secondary release criteria

- Employment & financial status
- Nature of family relationships
- Stable residence
- Third party willing to assist defendant to appear in court
- Possesses strong ties to the community

Many of the differences between counties related to pretrial practices exist in how the jurisdiction processes defendants prior to the arraignment, whether there is any monitoring of defendants if released conditionally or on bail, and how the primary and secondary release information is relayed to the judge. These differences largely fell into two different camps – those with and without pretrial programs.

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We identified the county as having a “pretrial program” of some type if there was at least one person in the county whose primary purpose was to engage with defendants pretrial under the scope of assisting in release decisions. That interaction could involve gathering information or releasing the defendant prior to arraignment or while awaiting trial. Pretrial program efforts often focus on those who are arrested and booked into jail or simply known as “in-custody” cases, as they take up the majority of jurisdiction resources.⁷ Another common aspect of pretrial programs is the ability to “monitor” defendants while on release in the community. Characteristics of monitoring varied widely from county to county by frequency and types of contacts with defendants. In contrast, jurisdictions without a pretrial program often did not have pre-arraignment processing (aside from booking) of any kind. Based on our surveys and interviews, the availability of pretrial services and monitoring is largely dependent on if there is a pretrial program in place. Table 2 shows a breakdown of pretrial monitoring and delegated release authority by counties with and without a pretrial program. Delegated authority means someone other than the judge has authority to release defendants. While having a program facilitates the counties’ ability to monitor defendants, the lack of a program does not hinder the delegation of release authority. This is likely due to release authority being closely tied to jail capacity issues.

Table 2. Pretrial programs by county type

	Pretrial program		No pretrial program	
	Monitoring	No monitoring	Monitoring	No monitoring
Rural / Non-metro	4	1	0	11
Urban / Metro	9	1	0	2
	Delegated	No Delegation	Delegated	No Delegation
Rural / Non-metro	4	1	6	5
Urban / Metro	9	1	1	1

Another example demonstrating differences between counties with and without a program is shown in Table 3, which shows the responses to a survey question asking counties to rank the given positions by their order of influence on the decision to detain or release a defendant pretrial. Specifically, Table 3 shows the number of times each position was ranked as one of the top three in order of influence. While judges are understandably listed as the most influential, most interesting is the shift of importance votes between those counties with and without a pretrial program. Although differences may be partially attributable to counties without a pretrial program not listing “pretrial staff,” in counties without a pretrial program, the influence of the victim and the defense bar have a slightly larger role than in jurisdictions with a pretrial program.

There are three major structures of pretrial processes in Oregon – (A) No pretrial personnel or monitoring, (B) executive pretrial personnel, and (C) judicial pretrial personnel. Figure 2 depicts the three different types in terms of structure. Type A is the most common across the counties, where there is no specific pretrial staff or monitoring of defendants once released.

⁷ Out-of-custody cases are typically provided a citation from police and told to show up in court for their arraignment. While out-of-custody cases still use resources in terms of monitoring, they often follow a different path to arraignment.

Table 3. Positions of influence in release decision ranked by presence of pretrial program

Position of influence	Number of times decision-maker ranked in “Top 3”		
	Overall	Pretrial program	No Pretrial program
Judge	19	10	9
District attorney	15	8	7
Release authority (jail/probation)	11	7	4
Victim	6	2	4
Pretrial staff	5	5	0
Defense	5	2	3
Police	2	2	0

In Type A jurisdictions the release recommendations and any information available to the judge to make release decisions (i.e., primary release criteria) are typically provided by the district attorney if at all. Any information on the secondary release criteria (e.g., employment and ties to the community) tend to come from the defense counsel or the defendant directly. While this is the most common, there are a number of drawbacks associated with this type. For instance, defendants who are released are largely not monitored and no reminders are typically provided. As both of these practices are often associated with failure to appear rates (FTAs) as high as 38% (Ferri, 2020;

Key Takeaways

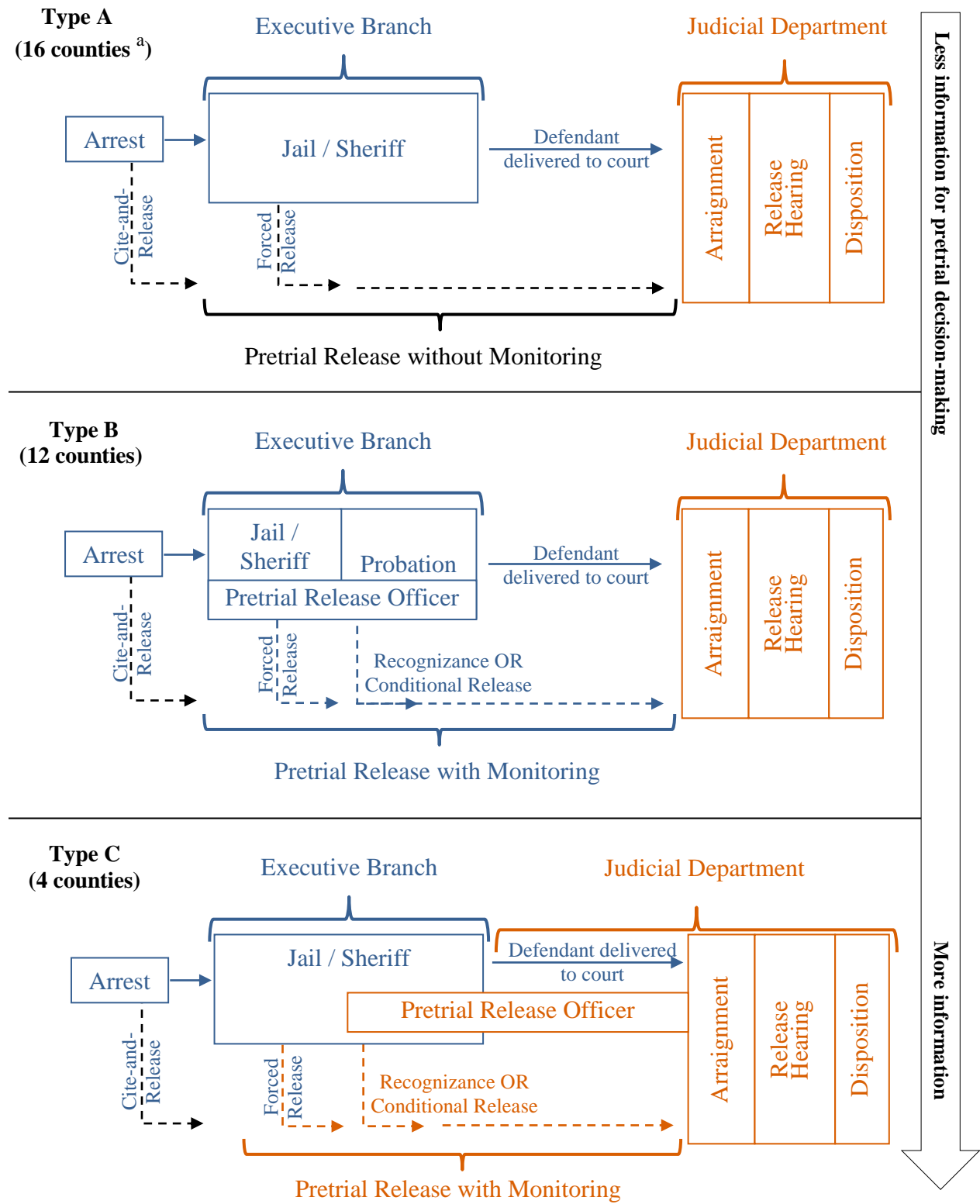
Pretrial Processes

1. Counties vary by structure (three primary types)
2. Information available (especially secondary release criteria) to the courts often depends on the type
3. Active monitoring of pretrial releases is uncommon
4. Resource availability seem to be a major factor in which type the county has
5. Interagency collaboration is critical to establishing a pretrial program

Lowencamp & VanNostrand, 2013), there is a chance that such a type of pretrial process may be associated with inefficiencies (i.e., higher FTA rates) compared to counties with some kind of pretrial monitoring. In all Type A systems, there is some form of conditional release from pretrial detention that is often associated with posting cash bail. Although it is a conditional release, the courts rely on subsequent contact with law enforcement to detect violations of such conditions. With regard to information, relying on the district and defense attorneys for information on the primary and secondary release criteria creates a system in which there is varying types of information provided to the judge depending on who the attorneys are and the nature of the offense. Such practices have been argued to be unfair for defendants, and that standardized information at the time of arraignment or release hearing might provide greater interchangeability across case types and defendants (e.g., Skeem et al., 2020). Instituting a pretrial program or release officer is assumed to alleviate any issues that might arise in Type A systems.

Among those jurisdictions with pretrial programs, the structure typically fell within two types, distinguished by where they are housed (executive versus judicial branch). After examining the various elements of these types, we recognized each as having their own advantages and disadvantages, but jurisdictions with some form of release officer (both Type B and C) typically benefited from a division of labor that would help to identify defendants who could be released prior to the arraignment or release hearing (i.e., have a delegated release authority), have a system to collect a standard set of information related to primary and secondary release criteria, and have some form of monitoring of defendants released on conditions or by bail.

Figure 2. General types of pretrial with associated oversight power and information provided



^a This includes roughly 12 counties that have zero pretrial structure.

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That being said, there are instances in Type B and C situations where there is a release officer, the person either does not monitor the defendants or loosely monitors their behavior. For instance, loosely monitoring defendants might involve requiring those conditionally released to check-in with the officer, and any violations of conditions are brought before the judge rather than being met with an arrest for non-compliance or contempt.

Type B systems are the second most common of pretrial program jurisdictions, and are overseen by the executive branch, with the release officer being a Sheriff's deputy, jail commander, or probation staff. Some advantages to these types include the availability of supervision infrastructure and resources (e.g., electronic monitoring and the jail or probation data systems) that help to make monitoring defendants easier. Having this infrastructure allows for counties to quickly move away from Type A systems and establish some monitoring or support. An arguable disadvantage of Type B systems is that pretrial monitoring (observing unconvicted defendants) more closely aligns with probation (supervising convicted individuals serving a sentence). In fact, in some counties pretrial officers may emphasize their role as a "hybrid", not quite a correctional/sheriff or probation officer, despite being managed by the jail or probation department.

Type C systems are the least common,⁸ but are most likely to yield information on secondary release criteria, with one exception – when a Type B release officer is in the probation unit. With statewide implementation of the Level of Service Case Management Inventory (LS/CMI) for probation supervision and case management, Type B systems situated in probation units tend to emphasize the collection of more dynamic risk factors, which embody the secondary release criteria for pretrial defendants.⁹ Apart from such Type B exceptions, Type C are employed and overseen by the courts (i.e., Oregon Judicial Department [OJD]). Accordingly, Type C release officers emphasize all information needed by judges in making release decisions. In perhaps the most integrated example, one Type C county has a situation where the OJD release officer is stationed in the jail, conducts intake screeners on each defendant being booked (which includes information on primary and secondary release criteria), and is in charge of forced/emergency releases for the jail. A disadvantage to this type is that ensuring that the Type C release officer has access to each area that is necessary requires the most interagency coordination (e.g., creating jail access), developing protocols and systems to contact and manage monitoring caseloads, and creating infrastructure that will help the courts function (e.g., pretrial data system that deliver interview information to the courts). There are some actors we interviewed who noted that they view Type C as more correctly aligned with the pretrial stage of a court case, given the critical role of the judge and need for defendants to show up to court.

Pretrial monitoring

Among the Type B and C jurisdictions that are able to (and opt to) actively monitor pretrial releasees, there are various approaches to monitoring that are employed. This is particularly noticeable in how jurisdictions gauge the monitoring intensity, the systems relied on to track

⁸ Type C systems were, at one time, the most common system across all counties. We were told by several counties who are now Type A systems, that they had an OJD officer at one time (often close to a decade ago), but were forced to cut the position due to budget cuts.

⁹ There are rare instances in which the pretrial release officer is a Sheriff's deputy or jail commander and they also collect information on the secondary release criteria.

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releasees, and the embedded philosophical assumption inherent in each difference. These differences are exemplified in Table 4 below.

In terms of monitoring intensity, approaches tend to be split in scope between the Type B and C structures. Pretrial monitoring tends to be treated more like probation supervision in Type B settings, and often employs a tiered approach in monitoring intensity. Tiered approaches are rather common in community corrections supervision (i.e., probation). Corrections best practices dictates that supervision intensity (as well as rehabilitation intensity) be determined by the person's risk level. In corrections, risk refers to the likelihood to recidivate while in the community, and is expected to be based on an actuarial risk assessment. Understood as a core correctional practice, the principle of risk-need-responsivity specifies that the highest supervision level should be reserved for those highest risk to recidivate (Andrews et al., 1990; Bonta & Andrews, 2016).

Although many Type B jurisdictions lack the capacity to actively monitor the pretrial population after release (i.e., they collect information, make a release recommendation, and set conditions but rely on law enforcement contact beyond phone check-ins), for several Type B settings, the pretrial population is treated in much the same way as probation. In such jurisdictions, an actuarial risk tool is not only used to determine who is eligible for conditional release (targeting those of lowest risk), but also to determine the degree of monitoring the individual will receive. Degrees of monitoring intensity may vary by the number of conditions that are applied, the number of check-ins expected, and the types of technology used to enhance the monitoring. When Type B counties have the capacity to actively monitor, there is an expectation that revocation of pretrial release is possible when a violation occurs. In Type B counties that rely on phone check-ins and law enforcement contact to uphold conditional adherence, no revocation process is possible, but violations are often noted for the judge when the information is available.

Although Type C jurisdictions also use an actuarial risk tool to determine release recommendations, all level options have a variant override process that allows the release authority to determine the best-case scenario in terms of check-ins and conditions based on the primary and secondary release criteria. In other words, those who are specifically designated as release authorities or pretrial officers under the auspices of the court tend to have more discretion overall when making release and monitoring decisions. Another distinguishing factor is the ability and willingness of Type C jurisdictions to revoke defendants' pretrial release upon a violation of their conditions. Type C personnel are encouraged to work directly with the court when a defendant is violating the terms of conditional release before resorting to revocation. An exception to this, of course, is if it involves no-contact orders in situations of violent charges or domestic violence.

It is important to keep in mind that these descriptions of Type B and C approaches depend heavily on the philosophical approach to, and collective management of, the pretrial population. Although Type C jurisdictions seem to err more on the side of release, some Type B counties closely mirror this same approach. When asked about such a philosophy, one example is laid out by this pretrial-specific release authority:

Interviewer: Would you say that you are erring on the side of keeping someone in and you're looking for reasons to keep them in, or are you looking for reasons to release them?

Definitely looking for reasons to release them. It's, I mean because we know that custody isn't the best for people. If someone's low risk, we're making them higher risk by keeping them in custody. And then they're potentially losing those things that are making them low risk. So, we want to try to help people be out. The only time that we ever deny anyone is,

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like I said, if we don't think that they're going to appear in court, or if we believe that they're a danger to the community. RA-27 (20 years in criminal justice, urban/metro)

Table 4. Robust examples of approaches to pretrial monitoring

	Type B (executive branch monitors)	Type C (joint or judiciary monitors)
Recommendation	Standardized form expressing risk assessment, In/out recommendation, supervision, conditions, and recommended voluntary services.	Standardized form expressing risk assessment, In/out recommendation, supervision, conditions, recommended voluntary services, and third-party release options.
Accompanied Narrative	Often none. May include in-court appearances to help explain the recommendation.	- Explanation of factors that point to an increased risk that defendant could re-offend and/or FTA - Mitigating circumstances that support release - In-court appearances to help explain recommendation
Conditions	Standard pretrial conditions per ORS 135.250. Plus, the following check-box options: No alcohol/ intoxicant, no bars, taverns or liquor stores, no contact with victim/co-defendant or minors, random urinalysis, SCRAM/GPS, no driving without a license	Standard pretrial conditions per ORS 135.250 are options but not automatically mandatory, plus, the following check-box options: No alcohol/ intoxicant, no bars, taverns or liquor stores, no contact with victim/co-defendant or minors, random urinalysis, SCRAM/GPS, no driving without a license
Supervision levels and check-ins	Labeled and defined levels of supervision: 1. <i>Standard</i> – check-in by phone weekly 2. <i>Enhanced</i> – at least one scheduled in-person check-in 3. <i>Intensive</i> – scheduled in-person check-in twice monthly	Labeled levels of supervision: 1. <i>Standard</i> 2. <i>Enhanced</i> 3. <i>Intensive</i> Check-in restrictions are determined by the pretrial personnel given the mitigating factors. Collateral contacts used to ensure third-party collaboration of court appearance.
Technology	- AutoMon Involvement Management System (AIMS) - GPS or SCRAM	- AutoMon (AIMS) - Electronic monitoring or house arrest - Automated and personal reminders for court appearances
Assumption	Err on side of community safety and therefore defendants are more likely to remain in custody until arraignment, bail reduction hearing, or release hearing.	Err on the side of release, unless there is a clear reason to detain (e.g., concern of community safety).

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Examples of urban/metro, Type B counties that closely mirror Type C counties include Multnomah and Yamhill. Yamhill is particularly notable as they attempt to collect as much pretrial-relevant information as possible, as well as engage as many pretrial services as available in the county. The Yamhill release recommendation form can be found in the appendix.

In Yamhill, the pretrial operations (i.e., pre-arraignment interviews, information gathering and dissemination of primary and secondary release criteria, and monitoring) are largely orchestrated by the Department of Community Justice, currently led by Director Jessica Beach. Director Beach and her partners in the jail and court have made several efforts to improve the pretrial management process by emphasizing risk-based decisions, systematically collecting secondary release criteria in a reliable way, and partnering with the Department of Human Services to have a staff member available to help assess the pretrial population. In an effort to pool knowledge resources regarding pretrial and help other counties with their move from Type A to Type B or C, Director Beach assembled a Pretrial Justice Network. The Network aims to improve county-based pretrial processes by sharing procedural information, having guest speakers, and encouraging inter-county collaboration. Multiple counties of each type have referenced how Yamhill's efforts were adopted, how helpful Director Beach was in creating their own program, as well as how helpful the Network has been in learning about what other counties are doing (i.e., what works, what the pitfalls are, and how to troubleshoot issues).

A rural/non-metro example of a Type B jurisdiction is Klamath county. Thanks to funding from the state's Justice Reinvestment Initiative, this county uses release officer positions housed within the jail and overseen by the sheriff's office. In conjunction with a division of labor across jail staff, the release officer collects a commitment report (booking and charges), which is completed by booking deputies. The deputies have defendants fill out a pretrial interview form (see appendix) which collects self-reported primary and secondary criteria (e.g., juvenile history, mental health, substance use). Release officers then process the defendant and collect related, digitized information. This involves collecting state-level information on the Public Safety Checklist and eCourt information (e.g., past FTAs), further state and federal information pulling from the Law Enforcement Data System and the National Crime Information Center. Also, because the records management system (which is linked to dispatch) is housed in the same facility, they are able to assess past calls for service on the defendant. Additionally, this system and the jail management system are shared with the Klamath Falls Police Department as part of the partnership. The release officers also check current status on supervision, out of state warrants, sex offense status/compliance with registry, probation/parole violations, any history of similar crimes, and a VPRAI is conducted for out of state criminal history only. All scores are provided in a narrative along with information on secondary criteria information such as family ties and employment, as well as any other supporting reasons that back up the release on recognizance or set security recommendation to the courts. Klamath was able to establish an automated system of court date reminders, which is an approach that has been shown in prior research to reduce the likelihood of failing to appear (Ferri, 2020), although it may have differing effects for rural and urban areas (Bornstein et al., 2013). In terms of supervision/monitoring, it is less involved than other Type B jurisdictions with standardized conditions and check-ins for all defendants (i.e., an expectation that defendants call-in to an automated system once per week).

Perhaps the most robust Type C jurisdiction is Lane county. This county relies on court release officers who are employees of the Oregon Judicial Department. Careful collaboration between the courts and sheriff's office allowed for the jurisdiction to physically house their pretrial staff in the jail and allow for a wider degree of release authority to their pretrial staff. Having an

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office inside the jail allows for the court's release officer to collect all release criteria (primary and secondary). Additionally, thanks to their partnership with the jail/sheriff's office, the court's release officer not only makes pretrial release decisions but also makes jail capacity release decisions. As will be expanded on later in the report, many pretrial decision-makers across the state find jail capacity to be a major factor that often supplant the primary and secondary release criteria. This is often due to the fact that jail/sheriff procedures use a matrix for emergency releases that do not necessarily coincide with the courts/judge's decision-making. With that in mind, having a pretrial release officer involved in the capacity-based decisions allows for the typical emergency release procedure to incorporate court criteria and concerns.

When it comes to which philosophy the pretrial program adopts, it appears that the deciding factor involves the views of collective decisions of the county. Regardless of the model, Type B and C require interagency coordination. It is the collective determination of the jail/sheriff/probation and the judiciary (often with buy-in from the district attorney and defense) that determines the overall philosophy of the pretrial personnel. The necessity and difficulty of stakeholder buy-in was highlighted by these release authorities particularly well:

I'll tell you, we had [the district attorney] at the time [who] was adamantly opposed and he probably made 10% of the meetings. He made a big stink, but at the end of the day he ended up going along with it. But you've got to get stakeholder involvement. And, you know, we had regular meetings. Now we do it quarterly just to check in and see how things are going and what tweaks we need to make. But maybe equally important to the success of that program is the relationships that you make. Because when I went over to the jail, I was told, 'man good luck with the courts because they've always been terrible to deal with.' I made so many in roads there through this program that they're truly partners. RA-2 (22 years in criminal justice, rural/non-metro)

Because the pretrial, as you can imagine, was only one of the many workgroups that were occurring as a result of the recommendations from this larger county wide project. [J]ust kind of imagine all of the potential stakeholders at the same table talking about, kind of in a pretrial planning sense. What would it look like in [our] county [with no pretrial program] from boots on the ground type stuff to the judge's role, to the jail's role, to, you know, just kind of, where would the work load be absorbed? That type of deal. So, then COVID happens, we're in the process of meeting as this larger stakeholder group and then our facilitator, got called away. So, our facilitator is gone. So, then we have to hit the pause button, not only for COVID, but we also have to hit the pause button for our board of commissioners to find a new facilitator. [...] And so, it looks like we're headed for a couple of meetings next month [to another county with a pretrial program] that fits into the judges schedule where the stakeholders are going to kind of firm up some of the things that we had in place with the previous facilitator and so, we're looking at, you know, the paperwork in terms of, you know, risk assessments and the judicial role and ordering special conditions and what's the follow-up and how do we make decisions when somebody violates a condition out in the field. RA-66 (26 years in criminal justice, urban/metro)

In addition to the jurisdiction's structure and philosophy, every pretrial service program (regardless of type) appear to rely heavily on available resources. Like all public agencies, pretrial program development appears sorely under resourced. When budget cuts are needed, pretrial

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programs seem to be among the first to go. This judge couched the concern of philosophical approach to a pretrial program and its utility in the context of resources available.

It's the same big discussion amongst the presiding judges in the state of Oregon right now. Okay? And I know what some of the other judges in some of the other counties think. And we are talking about it. And to a certain extent, it depends on how much the people at the table are willing to be collaborative. And I don't have a problem at all with our corrections department and who they are hiring to go into the jail to do these interviews. And how well they get along with the defense bar and the prosecutors and the court system. Do I have the money to send somebody from the court system, OJD money to go up and do that interview? No. I don't have that, okay? You give me money to do that, I might consider it. But I don't. As long as I don't have that money and I feel comfortable with the collaboration that's occurring between the parties to get that information to the court in the first place and know that nobody's going to have a big fit about, you know, the fact that everybody knows that the judge ultimately is going to make the decision, it's getting that information to the court and let them make that decision. And sometimes the prosecutor or sometimes the defense bar, they just got to go in, do their song and dance, you know? They got, they're catering to a certain extent to the defendant's mom and dad. Sometimes they're catering to the victim's family, etc. knowing full well that a judge, for example, is going to let somebody else out, somebody out because of all the factors that we've been talking about, alright? But to the extent that, you know, [we are] a smaller county and we know who all the players are and we know who to trust and who not to trust. And, you know, I don't have a problem with that. J-1 (39 years in criminal justice, urban/metro)

In a similar vein, this release authority emphasized the need for funding and support in a rural setting.

Interviewer: So, what would you need to implement a pretrial program that you and the judge would like to see?

Funding. I need to have some funding for that. And I know, everybody wants money and it's all about money, but we're a small county and our budget [is earmarked for] sanctioned supervision and services for all folks placed on formal supervision whether it's post-prison or probation. I can't deviate from that. I can't spend any of these monies on that stuff. So, there's uh, the Oregon Pretrial network through the Oregon Community Corrections Director's Association, there's a network. I'm trying to link up to that, trying to figure out how it can get some funding. A lot of those counties have some funding either coming from Department of Corrections because there's some pilot stuff going on, or they have some federal grants. Or some Criminal Justice Commission grants. I wouldn't have to hire a new officer. We have some resources here. My staff could pick it up. I could help pick it up. But we wouldn't have to hire a new PO. I just need resources for, like I said for the [urinary analyses], and for my staff's time. So, it's not I have to hire one FTE. I don't think the court would have enough for 40 to 45 people to put on that [pretrial] program. But I know we could easily fill up to 15, if not 20. I know we could do that. Easily. [The court is] always wanting us to, and we're just limited on what we can do and [the court is]

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not going to waste our time with just someone showing up at the window and signing a form saying I was here and leaving. RA-49 (27.5 years in criminal justice, rural/non-metro)

While on one hand this might be understandable when comparing such programs and personnel to social workers and line police or correctional officers, on the other it is rather paradoxical. Considering the growing body of research that has demonstrated the connection between pretrial detention and increased prison use (Campbell et al., 2020; Dobbie et al., 2018; Oleson et al., 2016; Petersen, 2020; Sacks & Ackerman, 2012), having an established and well-functioning pretrial program would likely save more money in the long run than it requires to operate. This was demonstrated in a recent report by the CJC, in which a cost-benefit analysis was used to examine the impact of reducing pretrial detention in Oregon (Weinerman et al., 2020). In the report, the CJC concluded that imposing a three-day limit on the use of pretrial detention for certain non-person charges¹⁰ would not only release 9,101 defendants who otherwise would not have been released at all and shorten pretrial detention periods for 22,173 defendants, but it would also yield a potential net benefit of \$68 million.

Summary

In summary, the structural differences between Types A, B, and C vary widely. While the most common is a Type A structure in the state, this is largely attributable to budget cuts that resulted in counties losing funding for their pretrial staff/programs. These jurisdictions now largely rely on bail and law enforcement contacts to serve as the pretrial release and monitoring mechanisms. Type B structures adapted to the loss of the OJD personnel by creating a partnership with the executive branch where sheriff's offices, probation and parole, or community justice personnel are responsible for releasing and monitoring pretrial defendants. Type C structures maintained their OJD pretrial personnel, or established a new pretrial staff position under the courts, or a joint venture between the sheriff's office and the courts. Type C structures are rare across the state; however, several counties have recently established a pretrial program, or plan to once pandemic issues subside, under the judicial branch. Most of these pretrial staff positions are funded by the state under the Justice Reinvestment Initiative – a point explicitly mentioned by participants. Where pretrial staff are housed and the funding source are important determinants of the jurisdiction's pretrial program (or lack thereof), and the state should closely monitor these factors, in addition to considering the impact of the county's resources (e.g., relatively resourced counties versus relatively under-resourced counties) and number of pretrial staff.

While we identified advantages and disadvantages with each of these structures, the highly integrated Type B and Type C jurisdictions are the most efficient in terms of collecting information, monitoring pretrial defendants, and supplying more information to the courts for pretrial decision-making. Given that Oregon defendants who remain in pretrial detention longer are more likely to receive a prison sentence (Campbell et. al, 2020), risk-based decisions for an earlier release of defendants, but that does not compromise public safety, is important. Moreover, earlier releases, where possible, will contribute to lower jail populations and less need for emergency releases. As noted, the different structures are often dictated by resources available (i.e., what department oversees a pretrial position); while most stakeholders we interviewed

¹⁰ Charges included a most serious charge of non-person misdemeanors, drug-related, failure to appear, and/or those that are the focus of Justice Reinvestment which includes burglaries (except Burglary I), computer crimes, extortion, forgery, motor vehicle theft, Robbery III, and theft (see Weinerman et al., 2020, p.2).

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indicated that the courts or OJD would be the most impartial and neutral, they recognized the executive branch (jails/sheriff or probation) as possessing practical resources and knowledge of supervision and jail administration that is important in pretrial decisions.

Beyond the structural type and resources available, jurisdictions should carefully consider the philosophy of their pretrial program; that is, is the aim to err on the side of release (i.e., looking for reasons to keep a defendant that may demonstrate the person *is* a danger or flight risk) or on the side of detention (i.e., looking for reasons to release a defendant that may demonstrate the person is *not* a danger or flight risk). These concerns over the driving philosophy of a pretrial program must be established in a collaborative manner, involving all stakeholders (jail/sheriff/release authorities, judges, defense attorneys, and prosecutors).

2. Focal concerns: Factors relevant to judges and release authorities

One of the aims of this study was to identify factors that help explain when defendants are held in detention through the case disposition, how such factors might differ between judges and release authorities, and how the factors might differ across jurisdictions with and without pretrial programs. Release authorities consist of any jail, sheriff, probation, community justice, or pretrial staff who have the ability to release defendants prior to arraignment. This could be in the form of either an emergency release due to jail capacity or in conjunction with a judicial order granting release authority sans jail capacity issues. To identify key factors considered by the court when determining to set bail or release a defendant on recognizance, we applied the focal concerns codes to two interview groups – the judges and release authorities.

There were 16 codes applied to capture several focal concerns. “Focal concerns” is a term coined in judicial decision-making literature to represent the critical criminal case, contextual/jurisdictional, and organizational factors that influence decision-making. A short list is provided in Table 5 below, while a detailed list is available in the Appendix Table B along with code definitions. Four codes capture the primary release criteria as listed by state statute, and three capture the secondary release criteria. We included several other codes that capture other aspects related to the literature on focal concerns and to the primary interests of our study and stakeholders (e.g., jail capacity, risk assessments). As an effort to identify when a particular concern was most important for a decision-maker, we provided a secondary code within each focal concern that flagged any instance in which the interviewee indicated the topic as being “very important”. In all, these focal concerns were found across 2,939 quotes consisting of 249,064 words. Table 5 shows the breakdown of each focal concern by the importance of the factor for each decision-maker (judges or release authority).

Key Takeaways

Factors Relevant to Judges and Release Authorities

1. Judges and release authorities consider primary and secondary release criteria, local jail capacity, and alcohol/drug and mental health concerns.
2. Primary release criteria are most important and include FTA worries, public/victim protection, criminal history, and crime type.
3. Most important secondary release criteria are stable residence/community ties.
4. Judges and release authorities lack secondary release information unless provided by pretrial officers or risk assessment tools.

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The “very important” code was found in 154 quotes across the two decision-making groups, judges (121) and release authorities (33).

As Table 5 shows, in some degree, each of the focal concerns were found to have some importance when it comes to making pretrial decisions on release or setting security, though their degree of importance varied between the decision-makers. For the judges, the top five most important issues involved the primary and secondary release criteria: (1) FTA history, (2) criminal history, (3) public/victim safety, (4) stable residence and community ties, and (5) the crime type of the current charge. Of course, all decision-makers would provide the caveat that their decision would depend on the circumstances of the case. As such, these codes often intersect. One example of this overlap is demonstrated here in that concerns can interact across the top five:

Well, I mean assurance to return stuff is more along the lines of, you know, what are their connections with the community. How long have they been in the community, do they have a job, do they have stable housing, do they have family here, are they someone who just kind of is drifting around, is homeless, they may not, and I don't even care about homeless as much as I care how long you've been here. You know, if you're a homeless person who has lived here for 20 years, that counts for something. If you're a homeless person who arrived last month and your record is mostly from some other state and you know, it looks like you've been moving around and you're probably going to move around as soon as I go, that's a different thing. So, it's more about how long have you been in the community rather than, you know, home ownership or home. But some stability, some connection to the community, their prior FTAs, if they had prior failures to appear in court proceedings. Have they forfeited, you know, security before? Some people have forfeited security lots of times before and they're asking me to release them on lower security and it's like well, you know, that doesn't seem to be a factor for you if it's a low enough number. The other thing that kind of factors into that is if they have a history of violating restraining orders. Then that cuts two ways. One is potentially danger, if we're talking about domestic violence charges. But even if we're not talking about domestic violence, that's somebody who can't follow through on an order from a court. [The defendant] isn't willing to do what it is required, at least that's part of my thinking. It's not necessarily the be all end all, but all those factors are more important on the FTA side.

On the risk to the community side, you know, what's their record look like. How often have they done this kind of crime? What's the nature of the crime? Do they have a prior? Especially if it's a person crime; those are the ones I'm most concerned about. So, you know, what's their record of person crimes, do they have any prior person crimes? What about [the current] person crime? Is this a kind of person crime that was directed toward a specific individual out of a specific situation, or was this just a sort of random act of I'm going to go rob a store and you know, whoever happens to be in the store is. Those are sort of different risks to me to the community. You know, it really depends. But I'm looking at what their history of criminal conduct is, and what kind of conduct they have engaged in. I mean if all you ever do is trespass or, you know, you're taking somebody's money or taking stuff out of the garage, stuff like that, it's not exactly high risk. I mean, it might be high recidivism, but the risk of harm is just money. That's different than somebody that hurt people and has a history of hurting people and maybe has a history of running from the law, and being willing to risk hurting people, or weapons, you know, what their

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history with weapons is. Those kinds of things. J-21 (32 years in criminal justice, urban/metro)

Multiple counties indicated that they felt that they had an FTA problem in their jurisdiction, and while many noted that their jurisdiction was not sure how to address the issue, most were concerned with finding a clear way to improve FTAs while also juggling limited resources. That being said, judges highlighted the defendant’s FTA history as “very important”, which often intersects with other major issues.

I mean, I think the two biggest things, you know, the risk of failing to appear, obviously we want people to show back up to court. It probably is less of a concern to me on some cases than others. It’s probably more of a concern on a much more serious level offense, not on minor ones. I tend to think we’ll catch up to them eventually if it’s just someone who happens to not show up for court a lot but is still in the area. On a bigger case where there’s that true flight risk, they might want to flee because of the nature of the charge and what they’re looking at for prison time, I’m probably more concerned about flight risk in that type of circumstance. J-43 (15 years in criminal justice, urban/metro)

Table 5. Frequency of “very important” focal concerns by their importance to decision-makers

Focal Concerns (FC)	Judges			Release Authorities		
	Quotes within FC	Very Important (coded 121 times)		Quotes within FC	Very Important (coded 33 times)	
		Overlap			Overlap	
		Count	Percent ^a		Count	Percent
Primary release criteria						
-Public/victim protection or safety	142	41	29%	79	6	8%
-Crime type	249	51	20%	166	10	6%
-Criminal history	143	41	29%	92	16	17%
-Failure to Appear (FTA)	263	82	31%	125	22	18%
Secondary release criteria						
-Employment/ financial status	97	14	14%	70	11	16%
-Social supports	56	6	11%	41	3	7%
-Stable residence or community ties	99	21	21%	81	10	12%
Additional concerns						
-Supervision history	90	12	13%	43	3	7%
-Bail and security	212	5	2%	84	2	2%
-Risk assessment	190	12	6%	272	4	1%
-Jail capacity	112	12	11%	124	0	0%
-Pretrial recommendations, supervision, and conditions	336	21	6%	416	29	7%
-Substance abuse/ addiction/ treatment/ resources	131	5	4%	88	0	0%
-Mental health, resources, evaluation, treatment	97	2	2%	104	0	0%

^a The percentages in Table 5 represent the percentage of times a focal concerns code was rated as “very important” out the number of quotes involving each of the focal concerns codes

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Other interviewees indicated that FTA history was further behind other issues, such as the safety of the public/victim, as noted by this judge:

Okay, so as I'm fond of saying, I'm not as concerned about people showing up for court as I am about community safety. I mean that's. People showing up for court is a factor for me, but you know I don't really care that much if you don't show up for court if you're not dangerous. J-5 (25 years in criminal justice, urban/metro)

Still others had difficulty in parsing out the difference in importance when weighing in multiple factors, as with this judge:

But for me personally, I always think, number 1, are they going to come back to court? You know, that's an important piece of it. Community safety is probably more important than that actually, but they're pretty close with each other because they really are to me the same thing. You know, if somebody is going to come to court, they're probably not going to be a community safety risk. If they're not going to come to court, they're going to be a community safety risk. So, it's really those two things. J-17 (31 years in criminal justice, rural/non-metro)

With criminal history, community/victim safety, and crime type (largely general violent [e.g., Measure 11] or domestic violence charges) concerns overshadowing most decisions, perhaps most notable among the top five was the focus on stable residence and community ties. Often this coincided with a domestic violence situation where the judge must determine if a defendant has enough ties to the community to have another place to go during the pretrial period.

Also, their living situation is very important to me. If they are, you know, let's say they committed an offense that requires them to not live with their roommate or their domestic partner or whoever. Or not be in the neighborhood where they committed their crime. If for some reason they need to move somewhere else and they have a stable residence with an apparently responsible human, that makes a big difference to me too. J-5 (25 years in criminal justice, urban/metro)

Recognizing the importance of stability and community ties was apparent in rural/non-metro jurisdictions; in these areas, judges often referenced knowing the defendant or their community/family ties:

I look at ties to the community. I look at family support, you know. Pretrial release looks at all that. They say, you know, this guy has an alternate address, he can, doesn't have to live with the victim. Even though they're married, he can go live with grandma or whatever. And I know so many of our people, I guess. And I know that this guy's grandma probably is going to make him stay home. Or this guy's grandma is always going to lie for him, you know? So, I'm never going to let him go live with that grandma. [...] And plus, I mean, you must realize [this county is rural with very few] people in it. Our criminal population's pretty small, and pretty consistent. So, like I'm sitting on the bench with people that I prosecuted their dads and their grandpas. J-17 (31 years in criminal justice, rural/non-metro)

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As noted above, many judges with pretrial release programs in place (be it rural or urban), have come to rely on and trust the release authorities and their recommendation (if they are asked to provide one).

Yeah, our [pretrial unit] great. We love [it]. [Pretrial] does a really good job of getting over to the jail to talk to people prior to their arraignments. Giving them the assessments that [they] do and reporting recommendations to us. [...] I almost always go with [pretrial's] recommendation unless there is new information for me to do something else. I trust [pretrial] to do the, you know, objective, you know, reliable investigation. [...] I leave it up to [pretrial] how often [they] feel like people need to be supervised, and seen. [They] have tiers based on the assessment that [they] do of people who need to be seen relatively more or less often. I completely trust [their] judgement to figure out, I don't need to micromanage that. J-5 (25 years in criminal justice, urban/metro)

The trust afforded to release authorities, particularly those with a pretrial program, appears to be congruent with what release authorities focus on in making release decisions, as shown in Table 5. Similar to the judges, “very important” factors were: FTAs, criminal history, employment status, and stable housing or community ties. Upon closer inspection, there is a clear difference between those counties where release authorities are coupled with some form of pretrial program (i.e., Type B or C) compared to those that do not have a pretrial program established (Type A). With the establishment of a pretrial program, comes a greater focus on secondary release criteria by the release authority. For instance, in Type A jurisdictions, the primary aim in managing the pretrial population is either in relation to the jail capacity, and/or in relation to what the often-automated information about the defendant related to statutory release criteria.

The charges themselves are probably the largest factor on whether or not they even qualify for the presiding judge's order. And again, it's based on if I recall correctly, A and B misdemeanor, or A and B felonies can't be released. Measure 11 crimes can't be released. Domestic violence crimes won't be released on the PJ order. Stalking and restraining orders won't be released on the PJ order. But beyond that, beyond crimes of violence, I believe it addresses crimes of violence as well. Beyond crimes of violence, pretty much everybody we start applying the primary and secondary criteria for release. RA-62 (28 years in criminal justice, rural/non-metro)

Yeah, so the criminal risk assessment started a couple years before I got here, but overall, you know, we're still looking at because our jail is so small, we're force releasing so many people that they needed to create something a little bit more concrete and evidence-based. And we are looking at past criminal convictions, misdemeanor convictions, employment, prior escape history or FTAs and taking into account their current offense. But our scoring system and how we look at it is not like the Virginia tool or not like the other risk assessment tools out there. We basically categorized certain crimes and gave them a scoring certain score. And once we looked through our whole form here, we created our own score and if they meet a certain threshold, then they're automatically, they're given a court date and just released at the time of booking. Or they're held over until their first court appearance if we have room. We could force release people right at booking as well, depends on where

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they sit on that matrix score, so. But our only component is, we're not doing any tracking outside of the jail. So, once they're released at that court appearance, they're on their own. They need to appear on their own. RA-65 (21 years in criminal justice, urban/metro)

So, we had some discussions with the courts about possible pretrial release authority. The courts were not interested in granting that to jail staff, but in the process of all of that, we have a jail management system that produces what we call a matrix score based off of criminal history, criminal charges, all of that. It really goes hand in hand with the State of Oregon Public Safety [Checklist]. RA-35 (14 years in criminal justice, urban/metro)

Jail capacity

Traditionally, one of the primary functions of local jails is to house those awaiting arraignment or adjudication. As previously noted, on any given day, two-thirds of jailed adults are awaiting trial, nationwide (Tonry, 2019). Considering that jails also house individuals serving their sentence at the local level (often sentences of less than a year) and people who violate the terms of their community supervision (i.e., technical violations), many reach capacity quickly. Approximately 16.5% of jails across the nation (regardless of their size) operate at more than 100% capacity (Zeng, 2020). Consequently, a common practice in counties across the US is emergency-releasing adults in custody at local jails when the jailed population reaches the facility's capacity. Emergency release protocols are often established by those who oversee and operate the jail (e.g., jailer or sheriff). Such protocols typically involve an objective procedure or basic equation (e.g., matrix) that assesses an adult in custody's case or individual characteristics (e.g., charge type/severity, actuarial risk level, and/or criminal history) which then produces a list of individuals (either pre-adjudication defendants or those serving their sentence locally) who are next to be released. Ideally, this list, sometimes referred to as "matrixing" or a "kick-list," aims to reduce any threat to the community while also reducing the jail's population to within its legal capacity.

Although jail capacity is not a statutory criterion that judges or release authorities are expected to consider in making pretrial release decisions, interviewees suggest that it can be a factor for many decision-makers. For counties without a capacity issue (i.e., they rarely reach the jails capacity limit), jail capacity is a non-issue.

Fortunately, no, in [our] county, they have enough beds. We don't have to make decisions based on population. This has been the case for quite a while in [our] county. I can't go back too far personally, but from what I've gleaned, they haven't really ever had the problems that [other counties] have with jail beds. J-37 (urban/metro)

Even when capacity is less of an issue, however, it can still pose problems for certain decisions. For instance, several counties indicated that while jail capacity may not be an issue for the male housing units, it can be for the females.

When we aren't in a pandemic, we don't usually fill our men's pod. And only [14%] of the beds are women's pods, women's beds. So, rarely is the men's one full. We usually always have space in the men's pod, so the jail capacity most of the time for the men doesn't make a difference because we have the beds. For the women, it does make a difference. And so, that's often full. It's full a lot. So, you know, for no other reason that there's no beds, we'll

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make release decisions. My preference would be to get the jail bed as a space to say to someone, 'look I'm going to give you a chance here, but these are the conditions you have to follow and, you know, if you don't follow these conditions, we're going to put you in jail, so, you know, don't disappoint yourself and me.' And give them that chance and maybe a little pep talk, I think that's a good term for it. I'd rather have that happen, you know, release someone with conditions. Explain to them that, you know, they've got to take advantage of conditional release. What I don't want is for me to remand them to custody or set bail whatever it is, and then for jail to release them, right? They're like oh, 'I'm free.' So, you know, I will make decisions, jail beds will affect my decision in what I do. J-48 (17 years in criminal justice, rural/non-metro)

In jurisdictions that struggle with capacity issues, the pretrial release criteria can be hijacked at times due to emergency release protocols.

Well, when we don't have jail space it weighs in more. When we do have jail space it's, you know, it's a luxury to keep people that might otherwise get released because of no jail space. So, I mean, it's an important piece of it, obviously. J-17 (31 years in criminal justice, rural/non-metro)

[Our] county jail normally has for several years now, it's run above capacity, meaning it's having to force release people on a regular basis. So, they are pretty willing to release someone if they can from that facility before they even get to an in-custody court date. J-43 (15 years in criminal justice, urban/metro)

I think it's very commonly, probably almost always is in the back of my mind. And so, yeah, I have to think about that, you know, in terms of what kind of conditions I put on people and think about, oh, well let's see here. We already have, you know, [several] people in jail for murder charges and, you know, this many people in jail for sex abuse charges, you know, because I don't necessarily remember all the numbers, but, you know, I have that in the back of my head, so I think that that's something unfortunately that I have to take into consideration is just understanding that I, you know, I can put low bail on someone just for the sake of putting low bail on someone or I can release them out, hoping that they will show up and comply with release, so. But, you know, typically a lot of these people that I put even low bail on are going to get kicked out due to overcrowding, so. And I tell them that, you know, that's a conversation I basically have with very single defendant on the lower bail situations. I'll say, hey your bail is not very high, you're probably going to get kicked out, here's what you need to do when you get out to get ahold of your attorney. You've got to show up for your court dates, etc. etc. You know, that's like a broken record conversation that I have with defendants in afternoon, in custody arraignments. J-52 (22 years in criminal justice, urban/metro)

In the jurisdictions that struggle with capacity, however, some judges do not consider it to be an issue that they need to be worried about. For example, when asked if the jurisdiction's known jail capacity problems are a factor in decision-making, one judge said this:

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You know, I never gave thought to that at all because I always figured that's up to the sheriff to manage. That's distinct from the decision that I have to make, so I'm going to make my decision and then if the sheriff needs to do something to meet criteria for his jail capacity, then so be it. [They'll] do [their] thing and I do my thing. More recently, I think, well COVID aside, I think that in the last year or so, or two years even or maybe longer, it all runs together. I think there's become a sensitivity in the system partners as a whole about that issue because we've talked about it so much. And it's become such a thing that I think that even my experiences at the DA's office is taken a position to support release in an instance. Maybe six years ago, or eight years ago, they wouldn't have based it on [jail capacity]. And that they would rather have some control over who they're recommending be let out, instead of having the matrix that the sheriff applies be the decision-maker. And so, I think that it has become a factor, but not so much by the judges alone, but as the system. J-31 (32 years in criminal justice, urban/metro)

It is worth noting that while some judges indicated that simply possessing the capacity to hold defendants (e.g., having an updated or expanded jail) helped their jurisdiction reduce FTAs, many other judges, particularly those from counties with common forced releases indicated that they recognized there was a need for other solutions to address this issue. Multiple judges indicated that they wish their jurisdiction had the capacity to have automated reminders to help defendants show up to their court date. Some judges indicated that having a degree of monitoring, coupled with automated reminders would help FTA rates, however, none could definitively say how much reminders or monitoring have helped for those with the resources, or would help in jurisdictions who looking for such resources.

Substance use and mental health

Two other focal concerns we asked judges to provide their thoughts about were on issues of substance abuse and mental health. Specifically, we asked how a defendant's substance abuse or mental health might impact release decisions. Almost all judges indicated that the majority of their docket involves defendants who are presenting with substance abuse issues of some type, if not co-occurring with mental health issues, and that they wish they could do more to help curb problems with dependency. Beyond this, responses seem to depend on (1) the judge's perception of their role and the role of pretrial processes and (2) the availability of resources (e.g., supervision and treatment resources). For instance, when asked if the level of resources for substance abuse or mental health in the jurisdiction ever weigh into decisions about pretrial detention, this judge provided context and comparison between adjacent counties.

For mental health in particular, there are excellent resources in [this] county. Less resources in [the adjacent] county, although we're trying to improve that. So, I can get an evaluation done while someone is in custody, for example with mental health [issues], that's kind of a big hot topic right now, right? So, one, they need to be able to aid and assist. But we can get an evaluation for their risk assessment in terms of their mental health, and get them engaged in treatment. We have a [specialty] center in [this] county, so we have some resources available in that can assist them. [In the adjacent] county, there are less, but we are working on increasing that. And it could be that, incarceration may not be the appropriate placement for them if they do have mental health issues. So, I mean, you

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have to take that into consideration as well. Substance abuse, is a bit tougher for me. If they want to get into inpatient treatment, which they all do, but you can't get in there until you've already shown you can do outpatient treatment, before you can get the referral in that inpatient. That's changed significantly. It used to be, we could furlough someone directly from the jail to inpatient, but we can't do that anymore. Now we try to refer them to outpatient and see what they do on that. If they have the funds and they can get into a bed on their own, great. But we try. Substance abuse is harder. J-8 (28 years in criminal justice, rural/non-metro)

Judges who view the pretrial process and their role in it as being to purely determine whether or not to set security based only on information before them tend to either not ask about this information or simply focus on the primary and secondary release criteria available. They largely do not think the fear of defendants using substances should be a criterion in deciding to release or hold someone. Instead, they rely on conditions of no intoxicants or drugs in hopes that the defendants comply. However, these judges, rural or urban, often do not have specific resources such as pretrial-specific staff and pretrial monitoring. Judges who sometimes consider the degree of chemical dependency or substance abuse patterns of the defendant will have resources to use occasionally to help stabilize the individual. One example is the use of implementing intense pretrial monitoring, for those counties with such capacities in pretrial staff, and possibly using Secure Continuous Remote Alcohol Monitoring (SCRAM) bracelets, which detect alcohol consumption.

I can tell you not to have contact with somebody [who is a victim]. I can tell you to not drink alcohol, because you're charged with a crime and you were three sheets to the wind when it occurred. So, it's not a big jump for me to think that somehow alcohol may have been involved in that. Okay? And generally, you know, that's as far as it goes, but if it involved alcohol in a vehicle, then I don't have a problem with making sure that they don't get behind the wheel of a vehicle if they've been drinking. So, but generally, yeah, we'll wait until somebody's is convicted. You know, I, the majority of folks, we know it's a good idea for them to be out pending resolution of their cases. I mean, the result of those, the resolution of those cases is going to go better for them probably if they're out and I want them to be successful. And if I can say, well, I'm going to let you out but you're going to have to wear the bracelet, wear the SCRAM bracelet until this is resolved one way or another. J-1 (39 years in criminal justice, urban/metro)

Regardless of the way judges feel they ought to address defendants who present with substance abuse issues, most indicate that the issue bothers them. Much of the concern stems from the lack of available treatment resources in the jurisdiction (especially for those without healthcare that would cover treatment outside of a court mandate), and how this lack of resources translates into a pattern of drug use and offending. Even when treatment is available, judges appear downtrodden on the prevalence of chemical dependency, especially in rural/non-metro areas.

You know, when people are addicted and, a lot of people that I know, they've been through treatment 10 times. And so, I go, 'well, treatment does that work?' You know? Can I put them in? Release them to a treatment bed? No, they'll walk away from a treatment bed because they want to do methamphetamine. And so, how am I or the defense attorney, or

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the DA, or anybody in our community going to stop that? The answer is not there. And so, what I do, is I set the bail that's mandated and they stay in custody. Because that's what keeps my community safe, and it probably actually keeps them safe too. You know? They're not out [overdosing] and they're not out getting another crime. I mean, it makes me sad. Like I said, a lot of these people I've known since they were juveniles. You know, 8 or 9 years old. Some of my people. It makes me really sad. Or they've been on my dependency docket, you know, because they had crappy parents that got them put in foster care. And that's how they grew up. And so, how can we expect any different behavior? And also, we know that it's not good to take kids away from their parents. It is heartbreaking. I mean, I'm the first one to admit, and people know this. I get teary eyed up on the bench when I'm talking to people about their life choices, and what I want for them, and this is the only life they have. You know? All that stuff. And I've actually said to more than one person, 'you know, if you don't stop this, you're going to be dead.' And within six months they were dead. And so, you know, if I keep them in custody for six months and they stay alive for six months, is that better or worse? J-17 (31 years in criminal justice, rural/non-metro)

Summary

The interviews with judges and pretrial release authorities show that their decisions for release or bail/detention are influenced by a variety of criteria and considerations. A holistic review is often applied based on case, defendant, and jurisdictional circumstances. These focal concerns involved primary and secondary release criteria, local jail capacity, and alcohol/drug and mental health concerns. There were however five focal concerns more consistently rated as very important compared to others. Four out of these five focal concerns represent the *primary release criteria* codified in Oregon statute and include: FTA history, criminal history, public/victim safety, and crime type of the current charge. The importance of primary release criteria to decision-making is consistent with the broader literature on the topic. In a sample of 171 legal actors, DeMichele et al. (2018) found that the pending charge was rated by 100% of judges as *extremely* or *very important* in the decision to detain. Prior failure to appear was listed by 81% of the sample as *extremely* or *very important* in the decision to detain (DeMichele et al., 2018). Only criminal history and pending charges was more influential than failure to appear, and 73% of the sample responded that “weapon involvement” was *extremely* or *very important* in the decision to detain. Primary release criteria also *represent the type of information most readily available* to judges and release authorities regardless of the presence of a pretrial program and rural or urban county. The manner in which primary release criteria information is obtained varies widely between rural/non-pretrial county judges. Most note a dependence on prosecutors to review primary release criteria in court and pretrial counties where the information is encapsulated in a comprehensive report and may even include a probable cause affidavit.

One *secondary release criterion*, stable residence or community ties, was comparable to these primary release criteria in decision-making importance. Concerns over stable residence and community ties was often associated with FTA and/or community safety concerns. Overall, information on secondary release criteria was infrequently available to the court and release authorities in non-pretrial program jurisdictions. However, such counties enthusiastically expressed a desire to have and use information on secondary release criteria. Most of the pretrial program jurisdictions had protocols to capture many of the secondary release criteria in statute. Some non-pretrial program counties were able to obtain secondary release criteria factors when

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offered by defense attorneys, when there was adequate time to probe counsel or defendants, or when they had pre-existing knowledge about frequent local defendants.

Outside of primary and secondary release criteria, other factors were deemed important to release decision-making. Some counties in Oregon have jails that are frequently at capacity; thus, emergency releases including releases of pretrial defendants that cannot post bail are common. A number of judges (but not all) in counties with jail capacity issues note that it is a factor that weighs on the back of their mind as they contemplate release and bail decisions, but not a deciding factor. Judges in such counties often make mental notes of cases that are likely to be “matrixed” out if detained or unable to post bail. As a precaution, sometimes these judges would add release criteria to detention and bail cases specifying certain defendant requirements (e.g., contacting attorney or no intoxicants) if an emergency release were to occur. We also got a sense that judicial tolerance for releasing defendants is higher in counties frequently at capacity; not that they necessarily always favored release, but it may be such counties are in fact taking greater chances on higher risk defendants out of necessity because of space concerns.

Across the board judges expressed difficulties in decision-making and a lack of options in cases where defendants show signs of drug/alcohol dependency and/or mental health problems. The greatest concern is the lack of resources (e.g. evaluation, inpatient treatment) available for such defendants in general, which can be particularly acute at the pretrial stage. Considering defendants at pretrial are not convicted, judges often spoke of walking a thin line between offering or enforcing upon defendant’s assistance/monitoring for any dependencies and mental health needs. Drug/alcohol dependency and/or mental health issues tended to influence evaluations of primary release criteria like the likelihood of an FTA and community/victim public safety, but also the wellbeing of the defendant whether in or out of custody. Unfortunately, a direct release into inpatient treatment is rarely available to judges, and the approach to such situations tends to vary by jurisdiction and judge. While some judges spoke of jail as a being safer option for some defendants on pretrial who could get sober or stabilized increasing their chances for better case outcomes (especially when there is no monitoring available), others indicated that jail should not be used for detoxing or keeping people safe from themselves. Regardless of the interpretation of what pretrial detention ought to accomplish on this front, often the most influential factors can be availability of services and appropriate connections (e.g., having an in-jail representative from the Department of Human Services).

3. Possible reasons for the pretrial detention-prison sentence relationship

One of the priorities for the qualitative data collection was to gather insight about what may explain the findings of the previous Oregon study, which found an association between pretrial detention and sentencing outcomes (Campbell et al., 2020). Within our interview sample, we collected at least one interview from each of the nine counties represented in the Phase I study. Specifically, interviewees were told the following:

A recent study examining pretrial detention in Oregon found that, after controlling for many the critical factors (e.g., criminal history, most recent charge type, and the severity of that crime), being held in pretrial detention through one’s disposition was related to a higher likelihood of receiving prison. Most notably, low-risk defendants, when detained through their disposition, have almost the same chances of receiving an incarceration sentence as a high-risk defendant who was released at some point. From your perspective,

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why do you think pretrial detention would be associated with a greater likelihood of receiving a prison sentence?

Judges were the key target for this question, and because it was a rather intriguing question and likely required some degree of thought, we would typically send them the question days in advance of the interview. Due to the controls in the study, dangerousness of the defendant and severity of the charge were removed as factors, so the design of the initial report and findings essentially isolated the reason for being detained as not being able to afford bail. As a result, this question provided a particularly difficult and often perplexing thought experiment as it required judges to think about aspects of pretrial detention which also might translate into a sentence of confinement over probation.

Key Takeaways

Pretrial to Prison Relationship

1. When afforded pretrial release, the defendant's opportunity to prove success on supervision may be a key factor in a probation disposition.
2. The psychological weight of jail pushes defendants to accept guilty pleas that include prison time the longer someone stays in jail pretrial detention.
3. The fact that a defendant is in pretrial detention at time of disposition may be meaningful in how judges view the dangerousness of a defendant.
4. Cases deemed "prison presumptive" according to the sentencing guidelines appear to weigh heavily on some judges in making dispositional decisions.

Three themes helped to shed light on this topic – opportunity afforded to the defendant, the impact of jail on decision-making, and the imposition of the sentencing grid. The most common response spoke to the opportunity afforded to individuals on pretrial release. That is, if someone is released prior to disposition sentencing, then that individual had the opportunity to demonstrate an ability to remain re-arrest free, and thus show that s/he could possibly be successful on probation. Three examples of these responses are provided here:

Well, because when you have somebody presenting in front of you for a sentence for whatever kind of crime, assuming that they're the same, alright? The person that's out is working. The person that's out is maybe getting treatment. The person that's out is, you know, mowing grandma's lawn and those folks and the folks that they work with and the folks that they're getting treatment with are going to come and stand up for you. Or write a letter, or something like that. And if you're sitting on your butt in jail, then you don't have those people writing those letters and you don't have any track record that you can say, hey, I've been out for 6 months or I've been out for 9 months or whatever it is. And I've done well and so, you know. That's more likely, you know. So, I can, given that equal for in or out and everything else being equal, I have no problem with telling somebody, okay I'm going to give you a break today. You

know. Kiss the ground your lawyers walking on, even though the district attorney may agree to it, you know, but the bottom line is this is what we're going to do, but don't be afraid that I can undo it if you are not successful and you don't keep it up while you're on probation. Because we could pull that rug out from under you if I need to, but I don't want to, you're doing well, so keep at it. So, yeah, that's why I think its folks that are coming up for sentencing are more successful. J-1 (39 years in criminal justice, urban/metro)

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I guess one theory might be that people who are released pre-sentencing have an opportunity to correct issues which may have brought them before the criminal justice system. So, if you have somebody who's on pretrial release for several months, they've completed an inpatient treatment program, they've become employed, that kind of thing. You know, it could have some impact. I guess there is some potential that they could fix some of the problems if they're out, that they would not be able to fix if they're in. J-24 (27 years in criminal justice, urban/metro)

The other piece that's a part of it, and this ... I remember a case that I did years ago. This person had done a series of, I want to say it was a drunk drive, this person whatever it was they had, they were looking at prison. The case was elongated in the pretrial process. This guy was out for a long time. Magnitude I want to say it was like six to eight months. But in that period of time, he had done a tremendous amount to get himself cleaned up. Right? He got into treatment, and he got a job, and he got stability, right? He had done a bunch. And so, the state was really, really pushing for a relatively short prison term. And I remember my thought process at the time was, that doesn't make any sense. Right? Because the reason you were going to the prison was to get him, sort of, out of the community and incapacitated so he's not committing crimes. But he's already demonstrated during this pretrial period that he can do this, why would I not put him on depart and put him on probation? At this point I've got nothing to lose, right? If he blows up, I can still turn around and sentence him to prison. And so, I think aside from just the emotional piece of it, I think you do have those cases where defendants have the opportunity to sort of prove themselves when they're on release that is much harder to do if you're simply in custody. I think that may have part of it to do with it as well. J-36 (8 years on the bench, urban/metro)

In some ways this opportunity also provides greater leeway for defense attorneys to identify more mitigating factors such as if the person seeks additional services during the pretrial period. One judge highlighted this aspect:

Defense attorneys can do a lot more mitigation when out of custody. For example, in a treatment facility. If someone is proactive about assistance with what they are dealing with, people like that. Means a lot of judges and prosecutors. J-15 (13 years in criminal justice, urban/metro)

However, the same judge highlighted one concerning aspect in domestic violence cases related to opportunity. Specifically, that as one is allowed to remain in the community and might have contact with the victim, justice officials cannot detect any tampering/intimidation that might occur. The same tampering, when done over the phone while the defendant is held in jail, would be caught on phone monitoring.

They catch people constantly on jail calls tampering with victims. When they do that when they're in they get caught, stronger case. When out, lose so many victims because they fold or go back to abuser. Type of cases would be interesting, especially with intimate victims. J-15 (13 years in criminal justice, urban/metro)

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Another theme addressed how stays in jail have an impact on the decision-making of judges and defendants. For the judges, there might be a psychological connection to people who are released simply remaining released, as one judge alluded to:

I think, this may not be a great answer but ... I will venture a guess. First it doesn't surprise me that statistically that's the case. I think as human beings, ... its' harder for judges to take somebody who is out of custody and put them into custody than have somebody who's already in custody simply go to a different place. That would be my guess. It's just an, it's an emotional thing for a judge ... I mean that's one possibility. J-36 (unknown years in criminal justice, urban/metro)

Others indicated that jail stays have an effect on defendants, and leave them more likely to accept guilty pleas that include prison time:

I think a lot of it is the offender simply giving up. They don't see any way to get out of detention or out of custody and so I think for them, I see too often they just accept a plea offer that has a prison sentence. They just think, I could just get through this, I'll get out, finally there's light at the end of the tunnel, and then I'll be back out on the street. I think a lot of it is that, to be honest with you. I don't think the state's case is any stronger somewhere else, I don't think that the defense is any weaker anywhere else, I honestly think it's just someone who is held in detention just kind of gives up. J-8 (28 years in criminal justice, rural/non-metro)

I've heard that if you're going to do 6 months, you're much better off having it be a sentence that you're serving in prison than in jail. So, I don't know if that's part of it or not. And I know if I have somebody that's in prison that still has to deal with the case back here, man, they do not want to come back here and deal with it. J-45 (10 years in criminal justice, rural/non-metro)

Finally, one judge indicated that he felt hamstrung by the presumptive nature of the sentencing guidelines:

Judges don't have sentencing discretion. I mean, to a certain extent we do, but bottom line is the legislature and the CJC has come up with grid block system and we go to the grid blocks. So, you know, if, whatever you are on the grid block, you know. The lovely document [holds up paper], you know, whatever it might be you're going 'okay, well, let's see, I have discretion in, oh, 8 G, H, and I is optional probation.' So, if you assess it that way and you look at all of the yellow which is presumptive jail or prison, and everything green, blue and red is presumptive probation, there's only 3 blocks of orange that are judicial discretion. So, I don't know how you could assess that and say everybody who's in pretrial custody goes to prison. No. If they do, they already have a grid block that's in the yellow. More than likely. Conviction and then they're there. So, it's not the judge or somebody doing it. Quite frankly, it's the system that's doing it, you know. And same with measure 11, that kind of stuff. Which, you know, quite frankly is probably wrong. Grid blocks work fine. Enhancement facts work fine. You probably don't need mandatory minimums. You know, the application of them are quite unfair if you're a first time offender and hit somebody

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over the top of the head with a beer bottle. You're going to go to prison for 70 months. There's no option out in that. You did a serious offense, you broke skin, stiches and everything like that, and you were drunk one night. First time you ever did it, 70 months. So. J-54 (33 years in criminal justice, rural/non-metro)

Summary

These examples provide substantial context to the quantitative assessment provided in the prior study (Campbell et al., 2020). It appears that the factors most likely explaining the relationship between pretrial detention and receiving a prison versus probation sentence at disposition is opportunity afforded to the defendant, the impact of jail on decision-making (in terms of plea deals and with judicial perceptions), and the perceived expectation among judges to align with the sentencing grid. In terms of opportunity, judges indicated that if someone is released prior to disposition sentencing then that individual has the opportunity to demonstrate an ability to remain re-arrest free, and thus show that s/he could possibly be successful on probation. While affording opportunity may not work well in all cases (e.g., domestic violence), it appears opportunity provides greater leeway for defense attorneys to identify more mitigating factors (e.g., seeking treatment services) in most cases. Beyond opportunity, judges noted that jail, particularly length of stay, has an effect on defendants. Similar to that found in other studies (Toman et al., 2018), the longer someone stays in jail pretrial, the more likely they are to accept guilty pleas that include prison time. Similarly, the fact that someone remains in jail, even if it is due to their inability to pay bail, weighs on the minds of judges as well. All else equal, judges may view a defendant who is detained at disposition as someone was, at some point along the way, deemed to be dangerous, and so prison sentences (especially for those on the cusp of probation versus prison) may be more likely as a disposition end. Additionally, the presumptive nature of the sentencing guidelines may also weigh on judges' minds as the "prison presumptive" category has become more of an expectation that judges may feel is unavoidable. Future reforms to address issues should be considered to address each of these areas directly (e.g., restructuring guidelines) and indirectly (e.g., providing more nuanced training to clarify interpretation), but not before examining possible avenues of reform through stakeholder input (i.e., judicial, prosecutorial, and defense perspectives).

4. How certain pretrial practices and tools influence the process

Using risk assessment tools is one approach that may help provide standardized information to judges and streamline procedures for pretrial release. Risk tools are used in Oregon, but sporadically across the counties and largely in two capacities that typically work in tandem – decisions to release individuals by emergency release protocols when a jail is at capacity or by delegated release authorities who release low-risk defendants prior to arraignment. A few counties use risk tools to capture risk information specifically for the courtroom workgroup or only judges for the purpose to aid decision-making at arraignment. Of the 31 participating counties, only 15 indicated that they use a risk assessment in some way, and typically to provide a structured and systematic emergency release protocol. Only four counties stated that they knew of, and could

provide evidence for, a study that validated the tool with their pretrial population.¹¹ Those counties with validation studies rely on the Virginia Pretrial Risk Assessment (VPRAI) or an in-house tool validated by a local university. Five other counties also rely on the VPRAI, but have not had it validated for their population. With few exceptions, those nine counties with a pretrial risk tool such as the VPRAI, are the only counties that provide a standard form of primary and secondary criteria to the courts or to use in pretrial release protocol. In such cases a standard report is provided to the judge, district attorney, and defense, that sometimes accompanies a recommendation of release and security (bail).

Perhaps one of the more fascinating aspects related to risk tools and release involves how they are used in the jail compared to the judge's emphasis on the risk tool and score. While several judges indicated they do not place much emphasis on the risk tools or specific score, they do tend to place a lot of trust in the person with delegated authority or release officer who makes recommendations based on the risk tool. For instance, one judge suggested that the trust in a validated tool might only goes as far as the trust in the pretrial personnel/release authority:

Interviewer: *Do you personally consider the results of the risk assessment in your decisions?*

You know, on close cases I'll look at them. I believe, given that they are validated tools that they are useful. But I don't, again because I trust [the release officer] to do [their] job, I don't spend a lot of my energy. I definitely don't second-guess them. I also don't think that they're, you know, infallible. I just look at them as what we've all decided to use. And there was a lot of discussion about this at the [judicial] conference years ago, because they're what we've decided to use, I just sort of accept that it's relevant information. But my inquiries are more about, you know, the factual circumstances surrounding the defendant's environment or proposed environment, you know? I'm not going to second-guess the outcome of the validated tool. J-5 (25 years in criminal justice, urban/metro)

Key Takeaways

The Role of Risk Assessment

1. 15 of 31 counties report using some risk assessment
2. Although risk assessment is viewed favorably and important for pre-arraignment releases by authorized personnel, risk scores rarely weigh heavily into judicial decision-making.
3. There is greater interest in a "pretrial package" associated with risk assessment like having a pretrial officer who can obtain secondary release criteria information and provide monitoring and supervision upon release.
4. Training on risk assessment is minimal at best and represents a deficiency the State should help address.

¹¹ Most of those who use a risk tool are relying on the Public Safety Checklist (PSC), which is a static tool created to predict risk of reoffending within three years of beginning community supervision. Oregon corrections personnel use the PSC to identify the appropriate classification placement and levels of supervision. The PSC has never been validated for pretrial use. Counties with other tools rely on the Virginia Pretrial Risk Assessment (VPRAI), the Level of Service Inventory–Revised–Screening Version (LSI-R-SV), or a tool created by the county in partnership with a local university.

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Release authorities, such as jail commanders, focus their attention and release decisions (e.g., forced/emergency releases due to capacity) almost exclusively on the use of pretrial risk tool alone, or in conjunction with a matrix including the charge type.

The importance of risk when considering pretrial release is highlighted by the survey. Respondents were asked to rank a list of factors in order of importance for determining pretrial release decisions. Table 6 displays the number of times a factor was ranked in the top three in terms of importance in the release decision. Here we see a rather wide discrepancy in the degree of emphasis placed in criminal history in counties without a pretrial program, while those with a pretrial program shift this focus to the defendant's risk level. This is likely due to the reliance of pretrial risk tools by delegated release authorities in the counties with a pretrial program. Similarly, in counties with a pretrial program, there is a greater emphasis placed on failure to appear history. This is likely related to the county's ability to monitor defendants, whereas counties without a pretrial program must emphasize safety to the community which might be determined by the defendant's criminal history.

Many judges who receive risk scores, or are interested in having a risk assessment, express little value in the score itself for their own decision-making. However, judges consistently supported having others (i.e., pretrial personnel) gather risk assessment information and use scores in release recommendations, but are reluctant to use a score by itself to direct their own decisions. Their skepticism comes from concerns over the imperceptible meaning of a numerical score, the risk-score's often minimalist take on criminal defendants and nuances of cases, and a loss of discretion.

Table 6. Primary factors used in determining release ranked by presence of pretrial program

Factor	Number of times factor ranked in "Top 3"		
	Overall	Pretrial program	No Pretrial program
Criminal history	10	4	6
Pretrial risk level	9	6	3
Abscond history	8	3	5
FTA history	7	6	1
Victim statement	7	4	3
Police report	6	4	2
Out-of-state Criminal history	4	2	2
PC affidavit	3	0	3
Protect order history	3	1	2
Supervision history	1	1	0

Judges and some pretrial staff noted the dynamic nature of some risk elements that may be glossed over by a risk score. For example, defendants with lengthy, but very old criminal histories can have higher risk scores compared to defendant's with more current offending sprees, potentially misrepresenting other stability factors.

I look at them, but the, I would say it's one of the least important things that I look at. So, I'll glance at it and if it's a real high or a real low, I take note. A lot of people fall in the middle. So, the facts surrounding the current arrest combined with the criminal history, the FTA history, and then whatever, those are much more powerful to me than those scores.
J-29 (12 years in criminal justice, urban/metro)

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Because you can have high risk people that haven't had any history in years and years and years, but their score is in the 4 or 500's. And they've got a job now, they've got a family, they own a home, and to me, that, which is primary and secondary release criteria, outweighs the risk score. But you can have someone that has old history, especially old sex offense history that is going to give them a through the roof score. So, that's when we're weighing primary and secondary release criteria more heavily than the risk score. Anybody with a lot of recidivism crimes, you know a lot of thefts, crimes like that, they're going to have a high score. And those are typically not real high risk for violence to the community, risk of re-offense yes, but sometimes we have to weigh that and make that the person we release instead of someone that has more violent risk to them. RA-19 (32 years in criminal justice, urban/metro)

I'd like to see a uniform risk assessment, but I'd also like to still see some individual argument or statement or presentation made about that particular person. So, I don't want to just look at a number, and have a number presented to me and they score a 9/10 on risk assessment without having any other dynamic at all. I don't want to make a decision just based on the number, if that makes sense. I prefer more about a person. J-8 (28 years in criminal justice, rural/non-metro)

I don't know that the risk assessment replaces and has all this category [case and defendant information]. I'd rather see the factors that go into that rather than just seeing a score of such and such. [...] Where you come out with a bottom line number, but you don't necessarily see all of the factors that go into that. All of the criteria that goes into that. I'd rather see the criteria. Some short version of the criteria. J-13 (39 years in criminal justice, rural/non-metro)

I don't even look at it. [...] I look at the facts and the person in front of me. You know, sometimes it could be somebody who's releasable and they're just a total jerk to me. You know, I'm not going to let that person out of custody because I don't believe if you treat the court that way in a video arraignment, that you're going to have any respect for any release decision that I make. [...] You know, even though they say you should get out. So, I try to, you know, I look, I obviously respect what they do and I look at what their recommendations are, but I don't look at that high, medium, low thing. I look at each fact separately. I don't even think about it to tell you the truth. When you asked me that, that was when I first realized I don't ever look at that. I look at all of their information and make a decision based upon the information, not where they say they fall high, low or medium. I never look at that, I just look at the information. J-17 (31 years in criminal justice, rural/non-metro)

In counties that do not provide risk assessment information to the court, there is strong judicial interest in using a risk tool, but it's more about the "package" that risk assessments would likely bring with it – pretrial personnel, secondary release criteria information, and potential release supervision – rather than risk scores.

It would really help to have a release officer. And that is someone to actually go and interview offenders at the jail and get information from them as a release officer of the

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court and report that information to the court. And part of that could be inclusive of a risk assessment as well. I'd love to have, I mean if we're talking unlimited funds, then I'd like to have a pretrial release officer, or several. I'd like to have UAs that were appropriate. And I'd like to have, you know, someone following up. I mean that would just be ideal for me. It would be fantastic. J-8 (28 years in criminal justice, rural/non-metro)

Well, I think it would be good if you look at the release assistance officer statute and you basically say, yeah, you've got an employee. You know, my debate in my own head is whether or not they ought to be a court employee or whether or not they ought to be a corrections employee. And I'm leaning toward a court employee sitting over at the jail doing those risk assessments. Because then they work for you, and they're doing their assessment without thinking about what the jail's needs are. And the jail's still going to do their matrix anyway. [...] Went through that risk assessment, called homes, verified addresses, verified employment, did all those things. And yes, then you have, you know, you can see probably really accurate numbers, you know, when you do it. So, bottom line is, yes and I think it should be a court employee. And yes, the, it would probably be valuable for judges to have. My only concern would be judges who are absolutely lazy and don't look past it to a certain extent and just rely totally on the number. What's the difference between a 68 and a 65? Well, you're a 65 and that person is 68, and so, you're getting out and that person with a 68 is staying in. It's a little more fluid than that, but if you don't over weight it, I think it would be pretty valuable at that point in time. If it became a well you just follow it objectively, then you just follow the same path that they've been doing for years, which is eliminate judicial discretion. J-54 (33 years in criminal justice, rural/non-metro)

Summary

There was universal support throughout our interviews for having risk assessment information available for the court and release authorities to assist in release decision-making. A common mantra is that more information is better. However, behind this support is a desire for a pretrial program package containing release officers with access to the jail, information gathering with the defendant on secondary release criteria, and community monitoring/supervision of releasees. In fact, a risk assessment score, particularly for judges, is not central to their decision-making. It is the additional information about the defendant's circumstances and mechanisms of compliance with release conditions and court appearances that are most desired in counties without pretrial programs and valued in the counties that have pretrial. This finding for Oregon is a little different from a survey by DeMichele et al. (2018) who reported close to 80% of judges reported that a risk tool *always* or *often* informs their release decision, but only 41-42% of prosecutors and defense attorney responded similarly.

Skepticism of risk assessment by courtroom personnel has been noted by other researchers. Viljoen et al. (2019) note the impact of the risk assessment on decisions depended on judicial "buy in" to the tools. Generally, interviews with judges demonstrate understanding that risk assessment tools can assist in decision-making, however, judges want more information to demonstrate accuracy and improvement in outcomes over time (Chanenson & Hyatt, 2016; DeMichele et al., 2018; Metz et al., 2019).

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There was also agreement that risk assessment training would be beneficial. Even among the counties applying risk assessment tools, judges, release authorities, and pretrial staff reported minimal training (or none) in risk assessments. Many users of the risk assessment information do not have a strong grasp on how scores are comprised, how they can supplement decision-making, what they shouldn't be used for, and whether or not they've been validated. This finding is not uncommon. Studies by Monahan et al. (2019) and Metz et al. (2019) also find judges reported receiving little to no training on how to use risk assessments. This is an important deficiency that can be easily addressed in the state to ensure proper application of risk tools and information, and it may improve perceptions of utility.

5. Unpacking bail / security practices

Oregon is one of few states that prohibits commercial bonds businesses by law (§ 135.255, .260, .265) and court decisions (e.g., *State v Epps*, 1978). If not released on recognizance then commonly released on 10% deposit of bail. Some minimum bonds have been set by law, such as \$50,000 for mandatory minimum offenses, \$250,000 for noncriminal violation of pretrial release conditions, and \$500,000 for offenses related to methamphetamine manufacturing and sales. For the most part, counties indicated to us that they use a standard “bail schedule” or “security release schedule” to set bail or security. Most bail schedules are set by each county but often look very similar in terms of their amounts. This is likely due to the sharing of practices and policies across jurisdictions at various state conferences and gatherings, and the fact that they often use some form of schedule that is based on the statutory guidelines.

Table 7. Example bail schedule

Charge class	Security / Bail
Class A Felony	\$50,000
Class B Felony	\$20,000
Class C Felony	\$10,000
Class C Felony DUII	\$50,000
Class C Felony or Class A Misdemeanor Domestic violence	\$25,000
Class A Misdemeanor – DUII with three prior DUII convictions	\$50,000
Restraining order violations	\$25,000

Although there are many similarities across bail schedules, they are not identical. Any variation is likely due to the fact that most schedules are created by a judge (typically a presiding judge) at one time, and then used as a common rule for years. For instance, one judge indicated that the schedule in place was set by a presiding judge several years ago:

If I'm the presiding judge, and so weekly I get a couple of stacks of warrants this big. This tall, right? Of cases that have gone through grand jury. And I set bail on those based on the type of crime, period. Alright? And sometimes how many there are. But and we have a presiding judge order that's been along for a long time [...] that basically sets the bail on those amounts. And it's purely on the classification of the crime. So, if it's coming to me from grand jury, I'm putting \$10,000 for a C, \$20,000 for a B, and \$40,000 for an A. Unless it's a Ballot Measure 11 offense. Okay? And then, but frankly, I don't pay much attention to those when I go through the pretrial release thing, because now I'm looking at other

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stuff. And I think that's the way most of the judges are doing it as well. J-1 (39 years in criminal justice, urban/metro)

Another judge was the creator the bail schedule used in their jurisdiction, and meant for it to be a general guideline for the jail's process of releases, but has been adhered to by most if not all of the judges in the circuit:

I put [the bail schedule] together and it just basically is really meant for direction to the sheriff's office and the local police, mostly the sheriff's office since the jail handles that, so that they have their marching orders, their guidelines as to how to set bail on particular offenses. Otherwise, you know, there's no guidance and they don't really have authority to set bail. So, I've got a bail schedule set up that way. Judges aren't, don't have to follow that. Of course, they can do whatever they want to do, some judges do. The pro tem judges or senior judges that come through typically, actually follow that. I don't know why, but they do. It's just a process at that point in time. It also recognizes the sheriff control. I think that particular [presiding judge] order also recognizes the sheriff controls [their] facility. He can do what he wants to with his facility. J-54 (33 years in criminal justice, rural/non-metro)

Key Takeaways

Bail/Security Practices

1. Most counties use a "standard bail schedule"; largely similar across counties in the state.
2. Judges are open to transitioning from financial-based release to risk-based release.
3. Cash bail is perceived as a tool by defense attorneys; sometimes the only option for release for some defendants.
4. Prosecutors questioned "replacement" to cash bail, and what will ensure "skin in the game".

There were six exceptions to the uniformity in schedules and use. From the survey data, five counties indicated that they do not use a bail schedule of any kind (four rural without a pretrial program, and one urban with a pretrial program), and one county that indicated bail was rarely set except in cases with a mandatory bail set by statute. In the county where bail is rarely set, the judge we spoke to indicated that they have largely tried minimize the use of cash bail unless it is mandatory by statute:

Interviewer: It sounds like you're not really using cash bail security on the majority of cases.

Absolutely true. I've never done that. You know, even on DUIs lots of times they cite them and the officer would release them or set bail at, you know, \$5,500. But they're in the jail under the release criteria, they immediately get released, so yeah there's no bail required. So, ... Let's say it was assault in the second degree charge. And, you know, it may differ depending on what kind of weapon is alleged and so forth. But generally, bail initially would be set. Here it's usually at the lower amount. I tend to set it on the case, not on the number of charges, unless there's multiple

victims, so even if they have multiple offenses usually it's going to be... I mean I want to be careful. ... But I think it's an honest and a fair statement to say normally the default is to set it at the \$50,000, 5000 cash and then maybe move up from there. If they are not able to post the \$5,000, and I'm sometimes surprised about who can actually post that because

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... that would be set by the jail and it would be before they appear in front of me. And then once they appear in front of me, again depending on the case, I might possibly raise that if I thought there was a real danger of flight based upon what I'm looking and that they would not present themselves in the future or really probably more of a community safety issue even more than that, quite frankly. I could raise it. But then at that point, if they can't post the 5000, they're probably qualifying for a court-appointed attorney. The attorneys practicing in front of me, we're a fairly small legal community. There's no question they know what to do. They'll file their motion for a reduction of bail and they do bring in information showing what their financial circumstances and I will consider that. And usually reduce the bail. Maybe not as much. And sometimes they're asking me to reduce saying, my client can't post any bail. I think the statute requires me to require bail. I don't think on a measure 11 I've ever gone below \$5,500, but that was a case where I did not think there were community safety issues and that he or she would appear. But I think that statute requires me to require some bail, so I've never gone to 0, but I get pretty low, I think. I've never had a circumstance where somebody can't post \$500, so. J-53 (unknown years in criminal justice, rural/non-metro)

In addition to these current practices around bail, we also asked many judges what their thoughts were on bail reform, and the possible transition away from a cash bail system toward a risk-based system of release. Some counties have had discussions internally about moving away from cash bail, and those who have had such discussions appear to be in support of risk-based release decisions as opposed to financial-based. However, some judges and defense attorneys indicate that sometimes cash bail is the only way for a defendant to get out of pretrial detention. In the cases in which the defendant is higher risk or has a lengthier criminal history, then the individual is unlikely to be released prior to trial without cash bail as an option. Some district attorneys indicated that while they would potentially be open to discussing some alternatives to cash bail, they believe that the defendant needs to “have some skin in the game” in order to ensure that they will return for their court appearances.

Speaking to the idea that cash bail is one option, sometimes the only option for a defendant to secure release, one public defense attorney noted:

Bail whether it's high or low, kind of a nonissue for most of our indigent clients. Like they're not, most of them are never going to be able to post bail, so I know the abolition of cash bail is kind of a sexy thing right now, but, ...I encourage you to think carefully about what it would be replaced with because for all the reasons that, you know, our, that indigent defendants of color don't have the things that judges like for pretrial release and tend to have the things that judges don't like for pretrial release, if you eliminate cash bail and replace it with something that focuses more on all that same stuff, you know, let's verify that you have this job, let's get your employer on the phone, like that's going to be just as harmful as the current system, if not more so. Because if there's no option to bail out, that's one less tool we have to get our clients out of jail if the judge decided at first appearance that this person belongs in custody. And I'll do you one better, if we're going to eliminate cash bail for some sort of even more intense recognizance process or, you know, applying more tools, asking more questions, verifying more information, my guess is they're going to be asking more questions of, of in custody defendants. And the questions they ask already tend to illicit incriminating responses that the state will or the court will later use against

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our client. [...] If we're going to gathering more information there will be more opportunity for weaponization, and if you eliminate cash bail as a means of getting out, that's one less tool that we have to get people out of jail. D-32 (10 years in criminal justice, urban/metro)

Race/ethnicity concerns

One of the greatest concerns surrounding financial-based release is that cash bail is discriminatory towards defendants from low socio-economic backgrounds and people of color (Stevenson & Mayson, 2017). Although, we did not consistently ask participants about racial/ethnic disparities and release decisions, the issues of race and bias in release decisions, financial-based versus risk-based release, were common themes that came up naturally in many interviews across the state.

When broadly asked about release decisions, defense attorneys highlighted concerns regarding the variables that weigh into risk scores, and how those factors disproportionately hurt defendants of color:

The default is not supposed to be like conditions or bail. Like the default should be, like basically, presumption is you get out without and we trust that you'll come back to court. That's not how it plays out, but that is the way that the statute is set up. Is that you're supposed to be, the presumption should be that you're released to just come back to court and no supervision at all. So, I think the fact gets lost in it, and when we're talking about risk assessments, like I'm nervous that now everybody has this tool and everybody wants to play with this tool, that then gets applied to everyone and doesn't get applied to everyone equally or fairly because the way, if we look at the primary and secondary release criteria and statute, you know, it's inherently going to disadvantage people that are poor and black and brown. D-34 (unknown number of years in criminal justice, urban/metro)

What bothers me about these is the you know, the PSC and the Virginia Pretrial Risk Assessment [VPRAI], is that you know, I mean a lot of these are very, are quite biased racially and socioeconomically, especially age of first arrest and prior jail commitments. And so, I'll often try to dissuade the judge from relying too much on those risk score analyses since, I mean I think that it's no secret, you know, that black communities are overpoliced and therefore, and also individuals are more likely to get a juvenile conviction as a person of color rather than as a white person. And so, they're automatically skewed toward a racial bias, and so I will always try to dissuade the judge unless they have a risk score of like 1. Then it's very important. But otherwise, I'll try to dissuade the court from paying too much attention to those risk scores, and instead focus in on danger to the community." D-6 (unknown number of years in criminal justice system, urban/metro)

One judge, when asked about their experiences, both in the defense function and on the bench, commented that they recognize bias with the system, and try to overcorrect:

[...] If I've learned anything over these years, it's that people are individuals and that one person's situation is not the other person's, is not the other person's, is not the other person's. [...] I actively try when I have somebody who doesn't speak English or somebody who is a brown person in front of me, I actively try to make sure that we are giving them

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kind of the extra benefit of the doubt. And erring on the side of releasing because I number one believe that that person has probably already been subjected to a lot of bias and I don't want to retraumatize them. And number two, I want them to feel that I am being fair with them. So, I actually go out of my way to counteract any perception that they might have of being screwed by the system because of their race or, you know, immigration status. That's a practice of mine. J-5 (25 years in criminal justice, urban/metro)

Perceptions of gender bias in release decisions and sentencing appear more mixed, and are likely influenced by role within the adversarial system (e.g., judge vs. defense), and context and location (e.g., crime type, risk assessment used in jurisdiction, and jail capacity). When asked about the importance of risk assessments, and having that information available in making decisions, one judge highlighted potential bias for women (amongst concern for people of color):

I think we're also always evolving [risk assessments] and, you know, I think that a lot of them, they are not one-size fits all decisions, and I appreciate it's just a piece that's trying to help us better assess a particular person's situation. But even the little bit that I understand about a lot of those instruments, they have problems and there are instruments that are really designed for men that are used with women. And there are innate biases that are built into these instruments, not to mention sort of the institutional race and socioeconomic injustices that have affected huge numbers of our citizens and so sometimes those reports are drive on data that's not fair to begin with. J-29 (12 years of experience in criminal justice system, urban/metro)

Similarly, one defense attorney commented about the impact of gender biases and the intersection of race and gender on release decisions and sentencing outcomes:

White women are much more likely to get a good deal than Native American or Hispanic women. And a much lower sentence. And definitely all women will get a better deal than men. D-10 (29 years in criminal justice, rural/non-metro)

In contrast, a judge from the same county commented:

It's interesting because I find that female offenders end up doing longer sentences than male offenders for the same crime. [...] But I think that female offenders are often given either release agreements or if they're held in detention, they don't ever ask to get out again. So, they have a tendency to accept sentences more readily and prison sentences and not get out of detention. Domestic violence offenses, they have a tendency to do longer sentences than male offenders for the same crime. J-8 (28 years in criminal justice, rural/non-metro)

Multiple judges commented that the likelihood of women being held pretrial (particularly for minor offenses) was lower than males simply due to a lack of jail bed space. For example:

I do think that [women] probably are more likely to be forced released on minor charges or [be released on recognizance] on minor charges just due to the bed availability. I will say that some of that probably does happen and it probably does happen before it gets to

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me on some of those. Not the very serious ones, but maybe they're staying on this very serious one so it probably has an impact on whether or not someone is actually kept in on the low-level offenses for sure. J-43 (15 years in the criminal justice system, urban/metro)

Taken as a whole, these points made in relation to differences in how men and women are treated suggest that there may be a concerning informal practice by some jurisdictions, judges, or release authorities. Women are more likely to be the primary care givers in the family (American Psychological Association, n.d.), this actuality and gender-based stereotypes, may contribute to differential outcomes for men and women. Counties should consider examining their practices in releasing and setting security in relation to gender. Similarly, this may shed light on any gender differences in plea bargaining acceptance rate and timing, as women may be more likely to plead guilty, and earlier, if their familial obligations and responsibilities are impacted by their detention (especially if the plea is for time-served, as is common with low-level misdemeanors).

Summary

In Oregon, if an individual is not released on his/her own recognizance, then the court can impose a cash bail amount to secure release (which the defendant pays a 10% deposit to the court). Although some form of cash bail is required in most states, reducing reliance on monetary bail is one of the most centric items of pretrial reform (shifting from “resource-based” to “risk-based” release; Stevenson & Mayson, 2017). By all estimates, moving away from cash bail, could have great effects on size of the pretrial population housed in jails; for example, nine out of 10 felony defendants detained pretrial in large urban counties in the US., did not post bail, despite having a bail amount set (Reaves, 2013; Stevenson & Mayson, 2017). Furthermore, extant research has documented the socioeconomic factors and racial disparities in pretrial population. Black defendants account for 43% of the pretrial population, despite accounting for only 13% of U.S. population (James, 2004). These racial disparities are often intertwined with socioeconomic status; for example, fewer black defendants post bail compared to non-Black defendants when the bail amount is similar (Stevenson, 2016). Overall, defendants of color have a higher likelihood of detention, and despite receiving similar bail amounts as white defendants, have more difficulty paying bail and securing release.

Other states across the country are taking steps to eliminate cash bail (e.g., in January 2021, Illinois legislature passed a bill to eliminate cash bail in the state by 2023), and others are grappling with challenges and pushback to earlier legislation proposing such measures (e.g., in 2020, Proposition 25 was defeated in California, repealing SB10, thus maintaining cash bail). A theme that came up in interviews was the belief that cash bail might be phased out by the state in the future. Legal actors were open to the idea of transitioning from financial-based release to risk-based release, but expressed concerns about what cash bail will be replaced with (e.g., strict ROR), and questions about capacity issues (i.e., who will administer the evaluation and prepare the report). Some even expressed that *they are making risk-based release decisions*, by conducting evaluations, using risk tools, and offering recommendations, even if that evaluation then dictates a monetary bail amount for the defendant (i.e., it is not one versus the other). Research suggests public defenders are most cognizant of the issues associated with race/ethnicity in pretrial, and worry risk assessments will contribute to disparities (DeMichele et al., 2018). Our data suggest that although there is a willingness to transition to risk-based release, based on an awareness of racial and socioeconomic disparities in cash bail, some of these concerns surrounding risk

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assessments resonate within our sample of legal actors as well. These conversations of whether risk assessments will exacerbate or reduce racial and economic disparities in pretrial release are complex, and will require more empirical study.

6. Common practices of adapting to COVID-19

Counties are employing a number of practices to adjust to the ongoing pandemic. All counties moved quickly after the stay-at-home order made on March 23, 2020 by Governor Kate Brown. The most common responses include reduced jail population size in order to help stop the spread of the virus while also ensuring that the community and victims remain safe. Jail commanders aimed to reduce their population by between 40% and 60% depending on the size and initial capacity. Most jail commanders relied on their force-release matrix to determine who was released. Those who remain in custody, or are considered for pretrial detention (i.e., setting security) are those that have a statutory minimum or charges for violent crimes. While this helps to address capacity issues, it has impacted how judges think about release criteria.

What I will tell you right now, so I haven't worried particularly about jail capacity in the past. And I will say, they have their forced release policies, they have their basic guidance in terms of who's recognizable, who's not. When you see the general order, I think that will make stuff a little bit clearer in terms of kind of what are some of those basic background things that happen before anything gets to me. As soon as kind of COVID happened, the shutdown happened and everything kind of started going crazy, the jail, as I mentioned earlier, cut their population dramatically. Every day I do actually get an update of what is the jail population at and any COVID related concerns. So, they have a whole set up in terms of how they process people and how they identify who might have COVID, how they then quarantine or separate people out in terms of medical observation unit, so there's a whole protocol that they've been using. Okay so, what I would say is that it has become far more relevant to me just because of the COVID concerns and I do think that that has changed part of how I look at release because I do think that maintaining the safe jail space for anyone who's staying in matters dramatically. It is a huge concern, but I also want to make sure that I'm doing what I can to ensure that that's happening and if someone does have health concerns or otherwise, that we're getting them out if at all possible. And so, so I do always want to kind of know what is the current status of the jail in terms of the safety issues and the health concern standpoint. And whether or not I think it's getting a little full. It's not a huge part of my thought process, but it is still part of my thought process more that it was, I guess pre-pandemic. J-43 (15 years in criminal justice, urban/metro)

Key Takeaways

Adapting to COVID-19

1. Jail capacity big factor; reduce jail populations through cite and release and forced releases.
2. Mixed effects on FTA; lack of repercussions for FTA has negative effect, but virtual proceedings may curb some accessibility issues, with possible positive effect.
3. Pretrial program may have assisted counties in meeting challenges of COVID-19.

Examining the Effect of Pretrial Detention in Oregon

You know, because, like I said, especially now during COVID. It's really, you know, I really have to think about it. As like, you know, we get a list from our sheriff saying here's all the people we've released for COVID and like their charges. Here's the people we have that we're holding in jail right now. And it really is, measure 11's, people with fugitive complaints, so out of state warrants, lots of probation or parole violation or being held on a parole hold, multiple cases with failures to appear, I mean, that's the pretrial type people. I mean, yeah, you have people that are convicted and are doing a sentence, but a lot of those people are going out to our work center or transition center when they're sentenced or they're going up to prison depending on what kind of sentence they get. So, it's really the worst of the worst that are in the jail right now. J-52 (22 years in criminal justice, urban/metro)

Additionally, many jurisdictions worked with municipal law enforcement agencies to increase cite-and-release practices. While this helped to minimize the spread of the virus, it has led to backlog in many if not most counties. For the period between March and June, out-of-custody cases and cite-and-release defendants received court dates that were several months later, giving priority to those who were in custody. In many jurisdictions this was reported as leading to a higher failure to appear rate than experienced prior to the pandemic.

The people that are kind of our regulars, they know they're not going to jail whether they come to court or not. They know that. They're not going to jail right now. So, they're going to get cited to come back to court. And if they come back to court, I'm going to recall the warrant because I'm not going to send them to jail at that point. But that's all COVID, you know, that's for the last few months. J-45 (10 years in criminal justice, rural/non-metro)

On the other hand, many courts have aimed to change out-of-custody arraignments to allow for a virtual or call-in option which reportedly many defendants use. This provides more opportunity for courts to continue as they usually would, and in some counties, there has been a reliance on call-in arraignments. As the call-in arraignments seem to be anecdotally associated with minimizing the FTAs due to COVID, it is possible that this is one practice that might remain if operations return to pre-pandemic protocols.

We have been and I think it does help. We certainly have more opportunity for people to appear by telephone or by Webex, and I think that that does reduce barriers to appearing in court. If the person can appear electronically, then for those who have challenges related to transportation, for instance, they're more likely to appear. J-46 (unknown number of years in criminal justice, rural/non-metro)

But we're doing all our arraignments and so forth remotely. And I'm actually fairly surprised at the number of defendants that are either phoning in or Webexing in for their court appearances. I think that, and this may be something that we look at implementing just to make it more convenient for people rather than have to, you know, stop what they're doing to come to down to court at 10:30, you know, during the day and spend probably 45 minutes to 2 hours doing that, if we can do things, hold appearances more remotely, we might get a better appearance rate. So, that's something that we hadn't considered before, because we had never experimented with it. But I think that when we resume our

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discussions about pretrial release, that that's something that we at least talk about. J-57 (33 years in criminal justice, urban/metro)

A theme that came up when asked about how COVID-19 has affected the pretrial process was the importance of relationships across agencies involved, and that using a matrix/risk tool, or having an established pretrial program assisted in making release decisions.

And so, when COVID hit, again, not wanting to just release people to reduce, you know, the jail population on my own because of concern about disease. I said hey judge, what do you think about, because this going to be a long-term problem, giving us additional release authority. And they cranked out a general order, you know, that morning, sent it out to the workgroup. I said, I'd like to see a little more, actually. Give us a little more authority. And they tweaked it and everyone was okay with it, including the DA. And then they signed it, and then basically we're holding above C felonies and all the mandatory arrests for arraignment. And but, still, those people get a shot for release. It's just that all these other people we're not going to house in the back and take additional risk introducing COVID. So, again, just all those relationships I don't think any other time I could just call up the presiding judge and say hey, give me authority to release everyone on your authority. RA-2 (22 years in criminal justice, rural/non-metro)

I don't know what I would have done in our jail if we didn't have pretrial during COVID. Because we had [number] jail beds and all of the sudden when COVID hit, social distance. First time I had ever heard the word social distancing, first time I had ever heard we need to release everybody in jail, we need to start downsizing the jails, this pandemic is going to kill people and it's going to start with the jails and that's where it's going to go. So, the first thing I did was I looked at my sentenced population of people, how many sentenced people do I have in here that I can move to another program and send them home. And then I went right to [pretrial service officer] and I said, how many people do we have in jail that you can do release agreements on and you can help me downsize the jail population. RA-20 (30 years in criminal justice, urban/metro)

Summary

Across the state, Oregon's counties have swiftly modified procedures (where necessary) to limit the spread of COVID-19 within jails, courthouses, and other justice buildings. Oregon's justice system's primary response to the COVID-19 pandemic has been to: cite and release rather than book, reduce existing jail populations (both pretrial and sentenced), reduce the use of pretrial detention, and utilize virtual hearings and arraignments to avoid congregating at the courts.

These responses align with a survey of 197 respondents from 40 states and District of Columbia (collected last spring, April-June), that found that 65.17% of jurisdictions reported increasing the use of cite and release and 84.57% reduced custodial arrests, 67.98% increased the use of ROR for non-violent cases, and 81.46% increased releases from jail for the pretrial population (National Association for Pretrial Services, 2020). In Oregon, county's response to the pandemic is largely influenced by the existing number of jail beds, which complicates capacity issues during the pandemic. The issue of increased failures to appear, tied to reluctance to hold individuals, was a theme introduced by some counties.

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In Oregon, some counties who had not previously relied on virtual conferences began to use them for some proceedings (e.g., arraignment); again, this aligns with other jurisdictions across the U.S. where 90.45% increased the use of video conference for court proceedings (National Association for Pretrial Services, 2020). Although virtual proceedings pose some constitutionality issues (e.g., confrontation, access to effective assistance of counsel) and equal access issues for some defendants (e.g., those requiring translators, indigent defendants' access to technology), it is possible that in some contexts, there are benefits to virtual proceedings (such as saving time and resources for participants and broader access for the public; Turner, 2020).

Counties with existing pretrial systems reported difficulties completing the in-take interviews and risks assessments (consistent with other jurisdictions, National Association for Pretrial Services, 2020); although it is important to note that the interviews conducted for this study occurred towards the beginning of the pandemic. However, counties with an existing pretrial program may have been better able to meet some of the challenges of COVID-19 than similarly-situated counties without; for example, one county's pretrial staff reported relying on more phone check-ins for lower risk defendants and GPS monitoring for higher risk defendants to deal with the increase in out-of-custody pretrial defendants. Similarly, having strong relationships with other community partners was highlighted as helpful in enacting policies and practices to protect defendants, and those who work within the criminal justice system.

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Appendix

Table A. Study participants (interview and/or survey)

County	Circuit	Jail/Sheriff or Probation/DCJ or Pretrial-Specific Staff	Judges	Defense Attorneys	Prosecutors
Baker	8	X			
Benton	21	X	X		
Clackamas	5	X	X		
Clatsop	18	X			
Columbia	19	X	X		X
Coos	15		X		
Crook	22		X	X	X
Curry	15		X		
Deschutes	11	X			X
Douglas	16		X	X	
Gilliam	7				
Grant	24		X		
Harney	24		X		
Hood River	7				X
Jackson	1	X	X		
Jefferson	22		X	X	
Josephine	14		X		
Klamath	13	X	X		
Lake	26	X			
Lane	2		X		
Lincoln	17	X			
Linn	23		X		
Malheur	9		X		
Marion	3	X		X	
Morrow	6		X		
Multnomah	4	X	X	X	X
Polk	12	X	X		
Sherman	7				
Tillamook	27	X			
Umatilla	6	X			
Union	10	X			
Wallowa	10				
Wasco	7		X	X	
Washington	20		X	X	
Wheeler	7				
Yamhill	25	X	X		
Total	26	29	27	9	5

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Table B. Focal concern codes

Code		Definition (referencing any of the listed in relation to pretrial decisions)
Primary release criteria	Public/victim protection or safety	<ul style="list-style-type: none"> • Making pretrial decisions based on public or victim safety or protection • Concerns of re-victimization and violations while released to community • Nature of offense and defendant (e.g., weapons, injuries, dangerousness)
	Crime type	<ul style="list-style-type: none"> • Crime/charge type as factor in decision to release or set security • Mentions specific statutes (e.g., Measure 57 or Measure 11) • Mentions specific crimes (e.g., domestic violence) • General crime types (e.g., violent, property, or drug)
	Criminal history	<ul style="list-style-type: none"> • Criminal history or prior criminal record/arrests
	Failure to Appear (FTA)	<ul style="list-style-type: none"> • Prior failures on pretrial supervision or prior FTAs
Secondary release criteria	Employment/ financial status	<ul style="list-style-type: none"> • Reference to the defendant's employment or financial status • Defendant's ability to pay for bail • Job stability and prospects for jobs/education • References to family/friends paying for bail and financial support
	Social supports	<ul style="list-style-type: none"> • Defendant having family members, significant others, friends to support, monitor, or help ensure defendant shows up • Includes reference to third party release
	Stable residence (e.g., houseless) or lack of community ties	<ul style="list-style-type: none"> • Defendant's housing or lack thereof (e.g., houselessness) as being a factor • History of ties to community, knowing the person and can find them • Concerns about absconding and not living in the county
Responsibility / liability	<ul style="list-style-type: none"> • Reference to feeling responsible or liable for releasing individuals on pretrial release. Example: "It's on me if they commit a new crime." • May talk about prior experiences 	
Supervision history	<ul style="list-style-type: none"> • Concern over defendants currently (or formerly) on probation supervision, • Includes past probation violations or revocations 	
Bail and security	<ul style="list-style-type: none"> • Mentioning of how bail/security is set • Thoughts on bail reform 	
Risk assessment	<ul style="list-style-type: none"> • Mention of use (or little use), or interest in a risk assessment tool • Overriding risk scores • Not to include jail capacity/matrix decisions that might also use a risk tool 	
Jail capacity	<ul style="list-style-type: none"> • How jail capacity does or does not factor into the decision to set security • Mentions of "matrix releases" for emergency purposes when at capacity 	
Pretrial recommendations, supervision, and release conditions	<ul style="list-style-type: none"> • Mentions recommendations of pre-trial assessors • Trust in judgements of pre-trial staff • Importance of having the defendant under some level of monitoring • Mentions GPS or SCRAM monitoring, phone or text check-in/ reminders • Includes mention of setting release conditions 	
Substance abuse/ chemical dependency/ treatment/ resources	<ul style="list-style-type: none"> • Defendant has some issues related to drug abuse • Mentions drug courts, evaluations, or treatment availability • Not related to mentions of drug crimes 	
Mental health, resources, evaluation, treatment	<ul style="list-style-type: none"> • Defendant having some issues related to mental health • Mention mental health courts, evaluation, or treatment availability. 	
Very important	<ul style="list-style-type: none"> • Flag used in conjunction with anything the decision-maker focuses on most or identifies as a "big factor" or "very important" 	

Yamhill County Pretrial Release Recommendation

DATE:	2/2/2021		
NAME:			
DOB:		SID NO.:	

<input type="checkbox"/> Public Safety Checklist (PSC) <input type="checkbox"/> Virginia Pretrial Risk Assessment Instrument (VPRAI)				
SCORE	PSC	VPRAI	Risk Level	MATRIX GRID BOX
	0-25	0-2	LOW	
	26-42	3-4	MED	
	43-100	5-9	HIGH	

Measure 11/ Security Required
 If security is posted, follow the below recommendations:

RECOMMEND PRETRIAL RELEASE:
 Level of Supervision:
 Standard: _____
 Enhanced: PSO check-in *(Until Pretrial deems no longer necessary)*

Report: ----- **By:** ----- **On:** ----- **Time:** -----

Intensive PSO check-in 2x monthly):
(Until Pretrial deems no longer necessary)
 Standard pretrial conditions per ORS 135.250 and:
 No alcohol.
 No bars, tavern, or liquor stores.
 No contact with co-defendant/victim: _____
 No entry to a location occupied by the victim (i.e. property/business)
 Random urinalysis.
 GPS/SCRAM before leaving the jail.

Supplemental Information:
 Employed. Student. Yamhill County Resident.
 Primary Care Giver. Has housing.
 Engaged in Treatment. Turned self in on charge/warrant.
 Defendant currently enrolled EADC WRC CCS.
 Third Party Responsible Person available: _____
 Oregon resident _____ Lifetime
 Family Ties to Oregon. _____

NO SET OF CONDITIONS CAN REASONABLY ASSURE COURT APPEARANCE AND COMMUNITY SAFETY.
Supplemental Information:
 Defendant has a self-reported juvenile criminal record. _____
 History of Failure to Appear arrests. _____

 Defendant is a multi-state offender. _____
 Defendant is currently on supervision. _____
 Other: _____

Residence and other information verified.

Additional Notes: Reasons for Recommendation, for or against:

CURRENT CASES/CHARGES	
Case #	Charge(s)

SPECIAL FACTORS:
 Override Recommendation _____
 Other: _____

RELEASE CONSIDERATIONS

Releasable offenses under ORS 135.240: All defendants are presumed to be releasable pending trial or hearing except when the defendant is charged with murder, aggravated murder or treason.

Defendants charged with M11 offenses under ORS 137.700 and 137.707 shall require a security amount not less than \$50,000.

**Defendants charged with a violent felony, release shall be denied when the court finds:
 Except when the defendant is charged by indictment, that there is probably cause to believe that the defendant committed the crime; and
 By clear and convincing evidence, that there is a danger of physical or sexual victimization of the victim or members of the public by the defendant while on release.**

Voluntary Services that May Benefit Defendant:
 Alcohol Treatment; Drug Treatment;
 Early Treatment Ct Referral: EADC, WRC, CCS.
 Mental Health Services
 Defendant may need mental health assistance.
 DV Intervention Services;
 OHP sign-up assistance;
 Housing resource assistance;
 Clean and Sober Housing;
 Phone, Text or other Reminder System;
 Parenting Classes;
 Other: [Click here to enter text.](#)

Pretrial Services Officer: Sami Harrington

ADDITIONAL STANDARD CONDITIONS FOR SPECIFIC OFFENSES

Domestic Violence: (Unless specifically waived by the court after victim input)	No contact with victim, directly or indirectly; No entry onto premises, business or other location occupied by the victim; No possession or access to firearms or other deadly weapons; If alcohol implicated in the crime alleged, no consumption of alcohol and no taverns, bars or liquor stores.
DUII	No consumption of alcohol; No entry into taverns, bars or liquor stores; No driving without license and, if DMV required, ignition interlock device (IID).
Any crime against person	No contact with victim, directly or indirectly.
Any sex offense (if relevant to allegations)	No unsupervised contact with minors; No entering into areas where minors commonly are present – schools, parks, churches, playgrounds, fast-food restaurants, or similar places.

LEVELS OF SUPERVISION

Standard	No active supervision. PSO enforces conditions imposed per statute 135.250 and next court appearance. PSO will respond to community or police complaints regarding misconduct.
Enhanced	Required to check in with PSO ≥ once per month + other conditions related to crimes.
Intensive	Required to check in w/PSO ≥ 2 times per month and submit to random UAs, Curfews, SCRAM, GPS &/or other conditions imposed by the Court.

Pretrial Treatment Intervention

Persons with drug, alcohol, mental health or other issues that may affect appearance and/or public safety or who are voluntarily motivated to engage in treatment options or other help pretrial.	Defendants expressing interest will be informed of existing resources for drug, alcohol and/or mental health treatment or programs for domestic violence intervention. Defendant should consult with their attorney. Defendants with housing issues may be provided with resources for housing.
--	---

Pretrial Release Factors

Maximize Release, Maximize Court Appearance, Maximize Public Safety

Primary Factors	Reasonable protection of the victim or public, the nature of the current charge and any facts tending to indicate the defendant is likely to appear.
Secondary Factors	Employment status and history, nature and present residences and any other facts tending to indicate the defendant has strong ties to the community.
Third Party Release	Release may be facilitated by responsible person(s) who agree to assist the defendant in attending court at the proper time and/or otherwise promote stability pretrial.

Klamath County PreTrial Release Interview

Name:	Citizenship:	
-------	--------------	--

DOB:	Gender: M F	Race
Age:	Other Names:	Hispanic? Y N

DL Status: VALID SUSPENDED NONE REVOKED	
---	--

Marital Status	Married	Single	Divorced	Separated	Other
# of kids under the age of 18 years:	kids over the age of 18 years:		# of Dependants		

Years of Education:	Diploma? Yes No	GED? Yes No
College:	Degree? Yes No	
Trade School:	Vocation:	Complete? Yes No

Have you ever served in the Military Y N	
Military Branch:	Entry Date:
Discharge Date:	Type of Discharge:

Physical Residence:	City	Zip
Mailing Address:	City	Zip
Do you have a working phone? Y N	Cell	Home:
Alt Contact:	Email Address:	

Time at Address Years, Months:	Buying	Rent	Own	Other
Living With?	Relationship?			

Is anyone in your household on Bench Probation, Formal Probation, or Post Prison Supervision?	Y	N
--	----------	----------

Time in Oregon Years, Months:	Lifetime(circle)	Years	Months
-------------------------------	------------------	-------	--------

Name(s) of the alleged Victim:

What relationship is the alleged Victim to you?

If the Court required you live somewhere else during the pendency of this charge(s), who/ where would that be:
--

Name:	Address:	Phone:
-------	----------	--------

Is anyone in the home on Bench Probation, Formal Probation, or Post Prison Supervision?	Y	N
--	----------	----------

Relatives to Verify This Information

Name	City	Relationship	Phone
1			
2			
3			

May we contact your emergency contact listed in the jail system to verify this information?	Y	N
--	----------	----------

Relatives w/in 1 hour of Klamath Falls to assist in transportation to/from Court?	Y	N
---	---	---

Do you have relatives that live in Oregon? If so, list them

Name:	City:	
Name:	City:	
Name:	City:	

Klamath County PreTrial Release Interview

Are you Employed? Yes No	If yes, FT PT	Do you help with expenses? Yes No	
If not, how long unemployed?		Reason for Unemployment? Student SSI SSD Other:	

May we Contact Your Employer? Y N			
Employer:	Where	Monthly Take Home Pay	How long?
Current:			

Do you have a history of drug abuse or dependence the past 3 years (does not include alcohol)? Y N	
Do you have a Prior Mental Health Diagnosis? Y N	Do you have a history of undiagnosed Mental Health concerns? Y N
Are you currently engaged in treatment? Y N	If yes, where?
Enrolled in services with Klamath County Mental Health and/or Developmental Disabilities? Y N	
If yes, please explain:	

Have you ever been arrested in any state other than Oregon? Yes No	
Are you involved in Drug Court, BIC Court, Veterans Court? or None (circle as appropriate)	
Are you on a Pretrial Release Agreement? Y N	If yes, where?

Have you ever failed to appear in any traffic or criminal court? Yes No	
If yes, please explain:	
Do you currently have a DHS / Child Welfare case pending? Y N	
Are there any pending charges against you right now, here or in any other court? Yes No	
If yes, please explain:	
Are you now on bench, parole, probation or post prison supervision? Yes No	
If yes, Parole or Probation Officer's Name:	
Parole or Probation in County, State:	

Juvenile History

Charge	Where	Date	Disposition
1			
2			
3			

Services

Do you currently have Health Insurance? Y N	Are You Interested in Oregon Health Plan? Y N
Do You Need Assistance With Other Services or Social Programing? Y N If So, What Type?	
Do You Need Assistance With Housing? Y N	

I, the undersigned named defendant, hereby authorize Klamath County Sheriff's Office Pretrial Services Staff to release any of the above information for the purpose of confirming its accuracy. I also authorize this information to be released to the Court and Mental Health Department as needed to assist with jail release decisions and monitoring during the pretrial supervision period.

Date _____

Defendant's Signature _____



OREGON JUDICIAL DEPARTMENT
LANE COUNTY CIRCUIT COURT
2ND JUDICIAL DISTRICT

PRETRIAL SERVICES

101 West 5th Avenue

Eugene, OR 97401

(541) 682-4201 [📞]

(541) 682-2134 [fax]

LAN.pretrialservices@ojd.state.or.us

Pretrial Release & Monitoring Program

Lane County Pretrial Services – Operational Procedures Overview

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As an Office of the Lane County Circuit Court, Pretrial Services’ mission is to provide pretrial justice and enhance community safety using evidence-based release practices, monitoring compliance, building partnerships, and promoting the fair, impartial, and just treatment of pretrial defendants.

This document was created to serve as a resource for new employees of the Lane County Circuit Court’s Pretrial Services Unit. Current practices may change as a result of a change in policy. All materials must be used in conjunction with hands on training and supplemented with internal policies and procedures. Do not copy, cite, distribute, reproduce, or use for auditing purposes without express written permission of the Lane County Circuit Court.

Revised by: *Brian Snaza & Tiffany Gibson*. (January 2021)

INTRODUCTION AND PURPOSE

SECTION 1

1.0 Purpose

The objective of the Pretrial Release and Monitoring Program is to:

- Provide services to the Lane County Circuit Court by interviewing every person detained pursuant to law and charged with an offense [[ORS 135.235 \(2\)](#)].
- Prepare a written financial statement of the defendant for whom counsel is requested. Evaluate and make a determination of the defendant's financial eligibility for court-appointed counsel [[ORS 135.050](#)] based on guidelines and criteria set by the Chief Justice.
- Verify release criteria information. Evaluate the release criteria and make a recommendation for the form of release or the release decision [[ORS 135.235 \(3\)](#)].
- Make the release decision—a determination, using primary and secondary release criteria, which establishes the form of the release most likely to ensure the safety of the public and the victim, the defendant's court appearance and that the defendant does not engage in domestic violence while on release [[ORS 135.230 \(10\)](#)].
- Provide a means for the court to accept security release deposits and release defendants after the normal business hours of the court [Refer [ORS 135.270 \(2\)](#)].
- Provide assistance and create effective partnerships with other agencies in resolving criminal justice issues and collaborating to enhance court operations.
- Serve as an additional source of information or referral for defendants, alleged victims, and the public.

1.1 History

The 1973 Oregon Bail Reform movement led to the initiation of pretrial release programs statewide by legislative mandate on January 1, 1974. The Pretrial Release Statute eliminated authority for bail bonds in Oregon and set up criteria for pretrial release. Lane County's program commenced in early 1975 with the circuit court's hire of the first pretrial release officer.

The program used the statutory criteria to determine eligibility for release (based on short interview and history review) by one release officer given delegated release authority with the support of one office staff. From 1975-1979, the program grew to five release officers, which provided 16/7 shift coverage for interviews and releases. Two additional release officers were hired in 1997 for release monitoring when the Local Public Safety Coordinating Council (LPSCC) prioritized monitoring programs to ensure compliance with release and appearance in court.

From 1998-2000, LPSCC authorized the criminal justice system project where mapping identified separate processes in pretrial release and jail capacity (matrix) as a critical area for improvement. In 2002, the Lane County Circuit Court, the Lane County Sheriff's Office, and Lane County Parole and Probation formed a partnership for the Defendant & Offender Management Center (DOMC) project. The DOMC initiative focused on the assessment, placement, and management of defendants and offenders with regards to the risk of reoffending, enhancing public safety by reducing the risk of community harm, and increasing the rate of court appearance for every defendant released pretrial. This collaboration for population management led to the development of custom in-house software and initiated the use of a validated risk assessment tool based on the Virginia model, which eliminated the jail matrix system of release and provides for the active management of defendants/offenders to this day.

The State of Oregon assumed the responsibility of all court functions (previously under county funding), thereby transferring pretrial services to the Oregon Judicial Department (OJD) making it a state office effective January 1983. Design of the Lane County Pretrial Services Office was jointly undertaken by the Lane County Circuit and District Court Judges, the District Attorney's office, the Lane County Department of Records and Elections, the Lane County Sheriff's Office (LCSO), and the Sheriff's division of Lane County Adult Corrections (LCAC). The Pretrial Services unit is located in the LCAC facility where both court and jail functions are conducted.

1.2 Personnel

The Pretrial Services Supervisor¹ and Release Assistance Officers (RAO) are appointed by the court and constitute the staff² authorized to determine pretrial release and eligibility for court-appointed counsel.

A Presiding Judge Order (PJO) operationalizes the matter of the [Establishment of a Pretrial Release Program](#) in the 2nd Judicial District, Lane County Circuit Court. The Presiding Judge delegates this authority to the Pretrial Services Supervisor, under the directives of the Trial Court Administrator (TCA) pursuant to [ORS 1.171](#).

The Pretrial Services Supervisor is responsible to the TCA administratively and directly answerable to the Presiding Judge in all matters concerning pretrial release. The Pretrial Services Supervisor determines the level of release authority granted to individual officers pursuant to guidelines established by the Administrator and approved by the Presiding Judge.

Release Assistance Officers, as defined by statute [ORS 135.235](#), are appointed by and directly responsible to the Pretrial Services Supervisor. Release Assistance Officers have delegated release authority to make the release decision.

1 With the introduction of the state personnel classification system, the position formerly known as Custody Referee was reclassified as Pretrial Services Supervisor.

2 Pretrial Services is currently staffed with 7 Pretrial Release Assistance Officers (including a court-certified Spanish translator) and 3 LCAC Release Assistance Deputies. March 29, 2020.

Release Assistance Deputies are corrections deputies (employed by the Lane County Sheriff's Office) who are appointed by the Pretrial Services Supervisor and have delegated release authority to make the release decision. Deputy release officers are responsible to the release assistance officer by statute.

Judicial Services Specialists (JSS) constitute the remainder of the pretrial unit and are considered support staff to the pretrial program.

1.3 **Philosophy**

The Pretrial Services Office philosophy on pretrial release incorporates [ORS Chapter 135 Arraignment and Pretrial Provisions](#) culminating in the idea that when a person is accused of an offense, that person is innocent until proven guilty and therefore should have the freedom to prepare a defense. The presumption of innocence competes with the interest of society at times in bringing the accused to court for a timely appearance and disposition. The release criteria and forms of release create methods for release assistance officers to use in balancing the interest of society and providing due process to those accused of crimes pending adjudication of charges.

Pursuant to [ORS 135.245](#), Release Assistance Officers consider the release criteria in making the pretrial release decision to release a defendant or to set security. The release assistance officer shall impose the least onerous condition reasonably likely to ensure the safety of the public and the victim and the person's later appearance. If the release assistance officer cannot show that a recognizance release is unwarranted from the information obtained through the release criteria, the accused shall be released on personal recognizance. In cases where it is determined that release on personal recognizance is unwarranted, the release assistance officer shall impose either conditional release or security release.

The forms of release are created to give the release assistance officer a broad range of options in fashioning a release for a particular defendant. The range of choices is aimed at individualizing the release decision. Each accused has unique circumstances and the release assistance officer should consider each case on an individual basis in order to assure the appearance of the accused and ensure the safety of the community.

OPERATIONAL INFORMATION SECTION 2

2.0 Hours

The Pretrial Services Office is open to the public 15 hours a day with the exception of Saturdays, Sundays, and holidays, which may have shorter hours. Hours of operation:³

	PTS Staff	Window	Phone
Monday – Friday	0700 – 2230	0700 – 1730	0700 – 1700
Saturday	0700 – 2230	0800 – 1200	0800 – 1200
Sunday & Holidays	0700 – 2230	Closed	backline (x3785) only

2.1 Security Deposits

Release Assistance Officers adhere to [ORS 135.270](#) in the taking of security. Pretrial Services offers extended availability to accept security: Monday through Friday between the hours of 1600 - 2100⁴ and Saturday/Sunday/holidays between 0800 - 2100, unless otherwise specified.

Accepted forms of payment include cash, cashier’s check (payee line: “Lane County Circuit Court”), and credit card (Visa/Master/Discover). Payment for out of county circuit court cases is cash only. Defendants with a credit card or funds on their inmate account may post security for release. Payers must fill out a [Notice to Person Posting Money for Release of a Defendant](#) form, provide valid identification, and complete payment in person.

Release Assistance Officers follow internal procedures regarding **Receipting & Cash Handling**.

- ✓ Each transaction is receipted.
- ✓ Security posted by cash must be verified and marked using a counterfeit detector pen.
- ✓ Deposits including cash and/or cashier’s check require a completed deposit slip, sealed in a deposit bag addressed to the main branch of US Bank, tracked in the ledger, and securely contained in the designated locked safe until Loomis armored security pickup.
- ✓ Cash payments over \$10,000 require the completion of an [IRS Form 8300](#) by the release assistance officer who conducted the transaction.
- ✓ Cashier tills must be reconciled prior to the end of daily shift.

2.2 Office Access

Pretrial Services staff must comply with the jail’s security policies and procedures at all times, including entering, working in, or leaving the Lane County Adult Corrections facility. This also includes policies affecting employee behavior outside the workplace.

Visitors are not allowed in the office unless there is prior authorization from the Pretrial Services Supervisor and the LCAC Shift Supervisor.

³ A graveyard shift was implemented to offer 24/7 coverage while maintaining social distancing guidelines in response to COVID-19. March 29, 2020 – August 1, 2020.

⁴ Set to allow for time to execute the release agreement so the defendant is not released from custody after 2200 per current LCSO policy. May 13, 2015.

2.3 Programs & Applications

Pretrial Services staff gain user access and follow internal procedures regarding Programs.

- [Office of the State Court Administrator \(OSCA\) SharePoint Intranet](#)
- [Department of Administrative Services \(DAS\)](#) for OJD employees:
 - [ePayroll](#) – timesheets and pay stubs
 - [Workday](#) – absence requests, personnel account management, etc.
- Odyssey – Oregon’s Statewide Circuit Court Case Manager software
 - [Oregon eCourt Case Information \(OECI\)](#) – view court case registers and judgments
- [Eugene Municipal Court](#) – Traffic & Criminal Case Records
- [Springfield Municipal Court](#) – Traffic & Criminal Case Records
- [Law Enforcement Data Systems \(LEDS\)](#)
 - An Oregon database (maintained by the Department of State Police) created for law enforcement records such as warrants, protection orders, criminal histories, department of motor vehicle records, and other investigative files (e.g., NCIC – National Crime Information Center).
 - Pretrial Services staff are required to obtain certification for running inquiries and operating telecommunications terminals.
 - The Pretrial Services Supervisor is the agency LEDS Representative for the Lane County Circuit Court (criminal justice agency mnemonic: EGC9 & OR020025J).
- [Risk Assessment Program \(RAP\)](#)
 - Shared application between Pretrial Services and the Defendant and Offender Management Center (DOMC), a collaborative inter-agency project involving the Lane County Circuit Court, Sheriff’s Office, and Parole and Probation.
 - Serves as the main database for inmate record management: review booking charges, track convictions, conduct interviews, run risk assessments, generate release agreements, maintain silos, and oversee capacity.
 - Risk Assessment Tool (RAT) – Validated computerized method for assessing risk levels (failure to appear, recidivism, and danger to the public) of defendants/offenders.
- Jail Management System (JMS) – LCAC inmate/custody management system
- Booking & Availability Management Tools (BAT) – LCAC booking tracker for housing
- [Attenti EM Manager](#)
 - Monitor defendants participating in electronic monitoring (GPS coordinates tracking, devices’ battery status, and alcohol monitor results) in conjunction with the Lane County Sheriff’s Office deputies at the Residential Reentry Center (RRC).
- [CE Pretrial](#)
 - Pretrial Services contracted [AutoMon](#)’s data management system to provide an automated court reminder service for defendants on pretrial release since 2018.
- [Converge](#) (formerly *Virtual Merchant*; [Account ID: 511469])
 - Perform credit card transactions and invoicing for person posting security.

For additional resources, see [Section 9](#).

2.4 Intake

Release Assistance Officers interview defendants, verify information, make release determinations, and execute release agreements. [See [Section 5](#)]

2.5 Release Conditions

Release Assistance Officers are responsible for setting conditions of release, including but not limited to imposing regulations on the activities and associations of the defendant. The conditions of release are set and the release agreement executed prior to a defendant's release from custody. [See [Section 6](#)]

2.6 Release Monitoring

Pretrial Services staff monitor defendants released from custody for compliance with conditions of their release. Staff ascertains that release conditions are followed, which promotes, encourages, and assists in defendant compliance. [See [Section 7](#)]

2.7 Changes in Release Conditions

Release Assistance Officers may increase or decrease the amount of contact required by each defendant based on the defendant's compliance history with their release conditions. Release agreements are amended to reflect modifications of conditions.

2.8 Service of Warrants

Under no circumstances should Release Assistance Officers attempt to detain or take a defendant into custody. Pretrial Services staff do not have the authority to detain or arrest.

If a warrant is outstanding and there is a need to arrest, a release assistance officer is to contact a law enforcement agency to serve the warrant. Any action requiring assistance by an outside agency must be appropriately documented in the case file.

2.9 Client Case Files

All information relevant to a defendant must be kept in the client case file. For any information obtained on a defendant, a relevant entry must be recorded in RAP as a case log note with a copy placed in the case file.

Files may be removed from the Pretrial Services office for the purposes of court and may only be handled by designated court staff.

Pretrial Services files contain confidential information and are not to be copied or distributed in any way without the direct knowledge and consent of the Pretrial Services Supervisor.

CONFIDENTIALITY SECTION 3

- 3.0 All employees are required to read, understand, and strictly adhere to policies and procedures. **Failure to follow policies and procedures may result in disciplinary action, up to and including termination.** OJD Personnel Rules: Rule 7 – Performance Standards
- 3.1 All new employees of Pretrial Services are trained regarding confidential case types and the security and privacy of criminal justice information. This includes confidentiality for other agency information (e.g., program data, probable cause affidavits, police reports). Also, refer to [ORS 192.345](#) Public records conditionally exempt from disclosure (3) Investigatory information compiled for criminal law purposes.
- 3.2 Employees shall not access or manage client case files which may involve a conflict of interest—a conflict, or the appearance of conflict, (or the potential for either) between an employee’s personal or financial interests or other obligations and an employee’s obligation to act in the best interest of OJD and without improper bias and as provided in the Oregon Judicial Department’s Personnel Rules 7.01. Any employee who may have a potential conflict of interest shall promptly notify the Pretrial Services Supervisor.
- 3.3 Under no circumstances should internal policies and procedures be disclosed. To preserve the confidentiality of supplemental materials, only Pretrial Services staff are authorized to access internal procedures. If an attorney, the media, or law enforcement agency makes an inquiry, allow the Pretrial Services Supervisor to handle the request.

Pretrial Services staff follow internal procedures regarding the following:

- Alternate Address.
- Capacity Based Releases.
- Change of Address.
- Electronic Supervision Program.
- Facility Evacuation.
- Failure to Appear Follow-ups.
- Hearings.
- Monitoring Conditions of Release.
- Police Reports.
- Programs.
- Receipting and Cash Handling.
- Revocation of Release.
- Sherman Center Warrants.
- Third Party Release.
- Travel Permits.

Public Information

- defendant's name, case number, current active charges, release options
- total security amount for release
- court dates
- attorney of record

Confidential

- any information obtained through interviews with defendants: address, contacts, financial statement (see [ORS 151.495](#)), risk scores
- alleged victim information
- defendant’s warrant status
- staffing schedules and availability

PRETRIAL SERVICES CLIENT BASE SECTION 4

4.0 The following types of cases bring clients to the Pretrial Release and Monitoring Program:

- **New Charges:** Defendants who have new criminal or certain civil charges filed in the Lane County Circuit Court. Defendants are either arrested with probable cause, arrested on a warrant, or referred by a judge of the Lane County Circuit Court.
 - ❖ Probable cause means that there is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it [[ORS 131.005 \(11\)](#)].
 - ❖ Offense means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state [[ORS 161.505](#)].
 - ❖ Crime means an offense for which a sentence of imprisonment is authorized and is either a felony or a misdemeanor [[ORS 161.515](#)].
 - ❖ Warrant of arrest means a process of a court, directing a peace officer to arrest a defendant and to bring the defendant before the court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against the defendant has been commenced [[ORS 131.005 \(10\)](#)].
 - ❖ Accusatory instrument means a grand jury indictment, an information or complaint [[ORS 131.005 \(1\)](#)].
- **Indictment Warrants:** Defendants indicted by the grand jury [[ORS Chapter 132](#)].
- **FTA or FTC Warrants:** Defendants who have failed to appear for court [[ORS 153.064](#)] and/or failed to comply with conditions of release on existing felony or misdemeanor case(s), as well as some civil cases.
- **Probation Violation Warrants:** Defendants who have allegedly violated a condition of probation [[ORS 137.540](#)]. Probation Officers may issue a detainer [[ORS 135.775](#)] to hold the offender in custody until they are brought before the Court.

4.1 Release Assistance Officers interview to assess risk and make a determination regarding release:

- Lane County Circuit Court defendants.
- Lane County Youth Services Detention (located at the Juvenile Justice Center building on the John Serbu Campus) defendants whose case jurisdiction lies with the Lane County Circuit Court.

4.2 Release Assistance Officers interview to assess risk and release due to capacity management:

- Lane County Parole and Probation offenders.
- Oregon Youth Authority offenders. (if up for CBR, advise MacLaren Youth Correctional Facility 503-981-9531)
- Out of County⁵ defendants and offenders, unless hold dropped by agency or transported.

4.3 Release Assistance Officers do not interview inmates of:

- Eugene Municipal Court (Eugene Municipal Court implement their own codes P1-P8.)
- Springfield Municipal Court (Springfield Municipal Jail holds their own inmates.)
- Local Municipal Courts (Transporting agency is provided 36 hours' pick-up TTY notice by Jail Records.)
- Federal Court (LCAC serves as a temporary drop off and pickup hub for the U.S. Marshals.)

⁵ As per current LCSO policy, defendants with out of county misdemeanors, non-violent felonies, and probation/parole violations no longer meet LCAC's lodging criteria as a result of COVID-19. August 3, 2020.

INTAKE AND PROCESSES

SECTION 5

5.0 Pretrial Services intake and release defendants from custody upon determinations of release by a release assistance officer or judge.

5.1 Intake

- **Prepare Case File:**
 - **Face Sheet** (printed from RAP; contains: Name, DOB, Inmate ID#, SID#, FBI#, SSN#, lodged charges)
 - **Lodging Instruments** (received from Jail Records)
(Booking form, Detainer, Probable Cause Affidavit)
 - **LEDS Computerized Criminal History (CCH) & Oregon DMV status.** (printed from LEDS)
 - **Court Documents** (printed from Odyssey)
(Information, Indictment, Order to Show Cause, Order Revoking Release Agreement, Judges' Orders)
 - **Pretrial Documents** (printed from RAP or records on file from a previous lodging)
(Affidavit of Indigence, No Contact Order, Interview Summary, Risk Assessment Summary, Hearing, Release Agreement, Confidential Addendum)
 - **Case Notes** (any correspondence with or regarding the defendant; e.g., Email, Log Note, Kite)

- **Obtain Police Report:**
 - [ORS 137.700](#) Offenses requiring imposition of mandatory minimum sentences
 - All Measure 11 offenses,⁶ with the exception of Murder.
 - [ORS Chapter 163](#) Offenses Against Persons
 - All violent misdemeanors & felonies.
 - All sexual offenses.
 - All assault related offenses.
 - All domestic violence related offenses.
 - [ORS 163.750](#) Violating a court's stalking protective order.
 - [ORS 33.015-.55](#), [ORS 131.005](#) Contempt of Court (Punitive, complaint)
 - All violating or failing to comply with restraining order.
 - All violating or failing to comply with pretrial no contact order.
 - All violating or failing to comply with pretrial release agreement (prohibited contact).
 - Any other offense (e.g., [ORS 164.225](#) Burglary 1) where a release assistance officer must determine whether a defendant is being charged with a sex crime or a crime constituting domestic violence.

Release Assistance Officers follow internal procedures regarding Police Reports.

⁶ In 1994, Oregon passed Ballot Measure 11 which created mandatory minimum prison sentences for certain violent or sexual offenses, with certain exceptions. [Refer to [ORS 137.700](#), [ORS 137.707](#), & [ORS 137.712](#)]

- The **Risk Assessment Program (RAP)** is the case management system of Pretrial Services. Information is gathered and updated in RAP prior to the interview.
 - Review Lodging Instruments.
 - Verify lodged charges match between Booking Form, PC Affidavit, and RAP/JMS.
 - Review PC Affidavit and verify the charge court.
 - Review Accusatory Instrument in Odyssey when lodged on a filed case.
 - Identify whether defendant was arrested, self-surrendered, or transported (court/trip).
 - Update information (e.g., defendant’s address and phone number, emergency contacts, and alleged victim information) from the Booking Form as provided by the arresting officer.
 - Review any past or present pretrial release performance information available.
 - Review assessments and case log notes of previous lodgings.
 - Review former compliance on pretrial release.
 - Place Administrative Hold when applicable (e.g., revoked for violations of release agreement by failing to comply with conditions of release, prohibited contact).
 - Place Override when applicable (e.g., judge’s request, hold for court).
 - Review Exemption if applicable (e.g., defendants/offenders excluded from forced release).
 - Computer Checks
 - Verify lodged charges match between Odyssey and RAP/JMS.
 - Update Criminal History by verifying the following components of each conviction: Case Jurisdiction, Court Case Number, Oregon Statute or equivalent, Charge Type and Severity Level, Conviction Date, Parole/Probation Conditions, Exclusions, and Case Status Modifiers (FTA, DV, Probation Revoked, Probation Violation, Show Cause, or Treatment Court).
 - Odyssey is checked for convictions and other active cases are recorded in the file.
 - Eugene & Springfield Municipal Court records are checked for convictions.
 - LEDS is checked for convictions, warrants, status on parole or probation, and status with the Oregon DMV.
 - Silo Selection [See Section 5.8 [Silo Management](#)]

5.2 The Interview Process

Release Assistance Officers conduct a universal screening process at the earliest possible time after arrest to collect information, determine eligibility for court appointed counsel, and make a determination of release. The interview is administered using the Risk Assessment Program’s Risk Assessment Tool.

The **Risk Assessment Tool (RAT)** contains an impartial set of questions (based off the VPRAI) to measure defendant/offender projected risks of dangerousness, recidivism, and failure to appear. Release Assistance Officers input the defendant’s responses, which allows the system to generate a point total that provides a numerical basis in establishing low/medium/high levels of risk and recommended conditions of release. The Capacity Based Release score is used as a uniform method of determining who to release due to overcrowding [See Section 5.8 [CBR](#)]. As the score is merely an indicator of predicted risk, the release decision is developed in accordance with constitutional provisions, state statutes, and pretrial practices. Release Assistance Officers make individualized decisions regarding release [See Section 5.3 [Release Determination](#)].

- **The Interview**

- Create an interview list.
 - The “Interviews Due” list is generated in RAP.
 - Four booths are available to conduct confidential interviews and releases.
 - Arrange a list for the LCAC booking deputies to coordinate movement of defendants.
- Verify the identity of every defendant (e.g., request name, compare booking photo, confirm DOB).
 - Document whether the defendant requests a foreign language interpreter and/or special accommodations, such as assistive communication devices.
- Explain the purpose of the interview.
 - Inform defendant of their right to the aid of counsel; provide [Advice of Rights](#).
 - Advise defendant of the lodged charges, but deter the defendant from discussing information about the charges. Do not provide legal advice.
 - Advise defendant that the interview is voluntary and assists in determining eligibility for court-appointed counsel and an appropriate pretrial release decision for the defendant. Any information provided by the defendant will not be used to adjudicate guilt, however penalties may be imposed for providing false information and may be used in prosecution for perjury under [ORS 135.737](#).
 - If a person refuses to provide a true name or refuses the interview, reattempt at a later time or after their initial appearance [refer [ORS 135.245 \(6\)](#)]. Release may not be denied solely because the defendant has refused the interview.
- Swear in the defendant prior to assessment: *“Do you swear that the information you are about to provide to be true and complete to the best of your knowledge?”*
- Update demographics (residence, number, character references, and military status).
 - Defendant’s address becomes a restricted residence if shared with an alleged victim.
 - Defendant’s number may be noted as active, message, prepaid, seized, or Wi-Fi only.
- Start New Assessment – Criminal History, Community, Personal History questions.

- **Court-Appointed Counsel**

- ❖ [ORS 151.485](#) Financial eligibility; determination; financial statement; determination of appointed counsel.
 - (1) For purposes of determining the financial eligibility for appointed counsel of persons with a constitutional or statutory right to counsel in matters before the state courts and whose counsel is authorized to be paid by the public defense services executive director under ORS 151.219, a person is financially eligible for appointed counsel if the person is determined to be financially unable to retain adequate counsel without substantial hardship in providing basic economic necessities to the person or the person’s dependent family under standards established by the Public Defense Services Commission under ORS 151.216.
 - (2) A determination of financial eligibility shall be made upon the basis of information contained in a detailed financial statement submitted by the person for whom counsel is requested or appointed or, in an appropriate case, by the person’s parent, guardian or custodian. The financial statement shall be in the form prescribed by the Public Defense Services Commission. The form shall contain a full disclosure of all assets, liabilities, current income, dependents and other information as required by [ORS 135.050](#) and, in addition, any information required by the commission and state courts as necessary to determine eligibility.

The Public Defender Services of Lane County, Inc. (PDSLCL, non-profit law firm) and Lane County Defense Consortium (LCDC, an association of private attorneys) provides legal representation to clients once appointed by the Lane County Circuit Court.

Release Assistance Officers inform defendants of their right to an attorney to represent them and if they cannot afford an attorney, one may be appointed for them if they qualify.

- If the defendant retains their own counsel or representation, note declined in the case file.
- If the defendant requests aid of counsel [[ORS 135.050 \(2\)\(b\)](#)], complete the financial affidavit.

The [Affidavit of Eligibility and Request for Court-Appointed Counsel](#) is generated in RAP. Release Assistance Officers reference a manual in following statewide guidelines and procedures for evaluating the applicant's eligibility.

- Defendants must be interviewed for eligibility if 60 days have elapsed since the completion of the previous financial statement. An attorney appointment remains valid with case activity within the last six months.
- The **Income Guideline** amounts reference the Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) guidelines. The amount of money deemed necessary to pay minimal living expenses is set at 130% for gross monthly income or 100% for net monthly income of the federal poverty line. When true living expenses are less than the income guideline amount, use the amount of true living expenses instead of the income guideline.
- The [Statewide Privately-Hired Attorney Fee Schedule](#) amounts represent the average or presumed amount that an individual facing criminal, extradition, probation violation, or contempt proceedings would need to pay in order to hire counsel. A judge has the discretion to make a determination that the attorney fee amount is too high or too low because of factors specific to the case. Compare the Fee Schedule (using the amount applicable to the most serious charge against the defendant) to the total amount of the defendant's available resources (monthly net household income + liquid assets – monthly expenses).
When the total amount of available resources is:
 - Greater than the fee schedule amount, recommend denial of counsel.
 - Less than the fee schedule, recommend appointment or continuation of counsel.
- Release Assistance Officers make a recommendation of "Allow" or "Deny" of court-appointed counsel through the worksheet determining eligibility, which enables the Court to complete a Request for Court-Appointed Counsel.
 - Original scanned into Odyssey; Copy on file.
- Defendants who do not appear eligible for court-appointed counsel are provided with the Oregon State Bar's [Modest Means Program Application](#). The Modest Means Program (MMP) is a reduced fee program, where attorneys accept referrals through the MMP and charge reduced rates to make legal services accessible to lower and moderate income people who are ineligible for legal aid but unable to afford private attorney fees.
- A judge or the Pretrial Services Supervisor may evaluate and overturn a recommendation upon findings of substantial and compelling reasons why the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family despite the fact that defendant does not meet the financial eligibility standards established by the commission [[ORS 135.050 \(2\)\(d\)\(B\)](#)].

- **No Contact Order** (NCO)

The No Contact Order is an order prohibiting contact with alleged⁷ victim of sex crime or crime constituting domestic violence [[ORS 135.247](#)].

- ❖ Victim means the person or persons who have suffered financial, social, psychological or physical harm as a result of a crime [[ORS 131.007](#)].
- ❖ Abuse means (a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury; (b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury; or (c) Committing sexual abuse in any degree [[ORS 135.230 \(1\)](#)].
- ❖ Domestic violence means abuse between family or household members [[ORS 135.230 \(3\)](#)].
- ❖ Family or household members means any of the following: (a) Spouses; (b) Former spouses; (c) Adult persons related by blood or marriage; (d) Persons cohabiting with each other; (e) Persons who have cohabited with each other or who have been involved in a sexually intimate relationship; (f) Unmarried parents of a minor child [[ORS 135.230 \(4\)](#)].
- ❖ Sex crime as defined in [ORS 163A.005](#).

Release Assistance Officers shall issue an order that the defendant be prohibited from contacting or attempting to contact the alleged victim, either directly or through a third party, while the defendant is in custody. The release assistance officer shall provide the defendant with a written copy of the order [[ORS 135.247 \(1\)](#)].

- The NCO is generated in RAP (contains the defendant and alleged victim(s) names, DOB, and relationship).
 - Record the date and time of service.
 - List the PC charges which apply to the NCO if filed, in lieu of a case number.
- Advise defendant of:
 - What constitutes prohibited contact with the alleged victim(s) of the alleged crime(s).
 - The possibility of additional charges, under [ORS 33.015 \(2\)\(b\)](#) Contempt of Court, for disobeying a court order.
 - When an NCO is in effect.⁸ The order shall remain valid until the defendant is sentenced for the crime, the charge dismissed or the defendant is acquitted of the crime [[ORS 135.247 \(3\)\(b\)](#)].
- The alleged victim may petition the NCO, which allows the court to make a finding that is in the best interests of the parties and the community.
- Original scanned into Odyssey; Copies on file and provided to the defendant & Jail Records.
 - Jail Records enters the NCO into JMS and LEDS to notify all law enforcement agencies of the existence and terms of the order.
 - Jail Staff monitors facility call logs and visitation records for compliance.

⁷ PTS differentiates between “alleged victim” when charged with an offense and “victim” upon a finding of conviction.

⁸ While the NCO is in effect, PTS is unable to authorize civil standbys—the provision for a peace officer accompanying a party to remove personal effects is pertinent only to the Restraining Order under [ORS 107.718 \(1\)\(d\)](#) & [107.719](#).

- **Interview Summary**
 - The summary sheet is generated in RAP upon completion of the interview.
 - This summary contains the defendant’s current contact information, names of those involved, list of currently lodged cases, and the defendant’s conviction history.
 - Original on file; Copies provided to the DA & PDS.
- **Risk Assessment Summary (RAS)**
 - The RAS is generated in RAP by the release assistance officer verifying the release criteria information (e.g., review of defendant’s interview, current charges, PC affidavit and/or police report, and conviction history) and setting security and release conditions.
 - This summary contains a breakdown of risk level scores, along with the security amounts set per charge, and identifies the reason for any deviation from security schedule.
 - The risk assessment worksheet is a guide intended to facilitate the evaluation of the release criteria process and document the release assistance officer’s recommendation for the form of release.
 - Original scanned into Odyssey; Copy on file.

5.3 Release Determination

The role of Pretrial Services is to assess risk and make a release determination—not a determination of guilt. Release Assistance Officers shall remain neutral and conduct an objective review when considering the release criteria and factors related to the defendant’s case. The release decision shall minimize both the risk of nonappearance and risk to public safety.

Application of [ORS 135.230](#) & [ORS 135.240 Releasable offenses](#) in the Pretrial Services Office:

- ❖ ORS 135.230 (10) Release decision means a determination, using primary and secondary release criteria, which establishes the form of the release most likely to ensure the safety of the public and the alleged victim, the defendant’s court appearance, and that the defendant does not engage in domestic violence while on release.
- ❖ ORS 135.230 (7) Primary release criteria includes the following:
 - (a) The reasonable protection of the victim or public.
 - (b) The nature of the current charge.
 - (c) The defendant’s prior criminal record, if any, and, if the defendant previously has been released pending trial, whether the defendant appeared as required.
 - (d) Any facts indicating the possibility of violations of the law if the defendant is released without regulations.
 - (e) Any other facts tending to indicate that the defendant is likely to appear.
- ❖ ORS 135.230 (11) Secondary release criteria includes the following:
 - (a) The defendant’s employment status and history and financial condition.
 - (b) The nature and extent of the family relationships of the defendant.
 - (c) The past and present residences of the defendant.
 - (d) Names of persons who agree to assist the defendant in attending court at the proper time.
 - (e) Any facts tending to indicate that the defendant has strong ties to the community.

Based on the release criteria, Release Assistance Officers verify information and assess the risks of every defendant prior to release from custody. An evaluation of the release criteria and a recommendation for the form of release are completed on a case by case basis. The release decision reflects the particular circumstances of the individual's case.

- Review the risk assessment and evaluate the recommendations.
 - Assess risk of flight or threat to the safety of community or any person (e.g., history of sex abuse or domestic violence, relationship of defendant and alleged victim, or whether defendant is on probation with the same alleged victim).
 - Assess the circumstances of the charge, look for potential aggravating or mitigating factors (e.g., first time or repeat offender, defendant's role in the offense), and review past conduct (e.g., compliance on pretrial release, existence of violations of court orders).
 - Establish whether the use of substances, weapons, or threats are factors of the case.
 - Identify defendants who may require specialized services (e.g., developmental disabilities, mental health, or substance abuse/treatment history).
- Verification of information may be obtained from the following sources:
 - Contacts: Character References and Community Ties.
 - Property Assessors ([Lane County Property Information Portal](#)) & mapping systems.
 - Alleged Victims.
 - District Attorney's Office & Victim Services.
 - Defense Attorneys.
 - Law Enforcement Agencies.
 - Jail Records and Staff Sergeants.
 - Parole & Probation Officers.
 - Behavioral/Mental Health Specialists.
 - Treatment Facility Providers.
 - Veterans Services.

Release Assistance Officers determine through investigation if release would be appropriate. The duties of the release assistance officer include setting security amounts, verifying and evaluating release criteria, determining conditions of release, recommending the form of release, and making the release decision.

- **[Lane County Circuit Court Uniform Security Release Schedule](#)**

A Presiding Judge Order established the adoption of the uniform security release schedule for persons charged in the Lane County Circuit Court with crimes on July 1, 1998. The schedule shall be used by the Pretrial Services office and by the court to assist in the determination of an appropriate release amount. In any individual case, a judge, or the Pretrial Services Supervisor, may impose a security amount higher or lower than the ranges set for if circumstances so justify it. Judges, and the Pretrial Services Supervisor, also may review the security amounts on warrants issued for the arrest of defendants. The setting of security in cases involving Murder or Aggravated Murder shall be set only by judges of the Lane County Circuit Court.

- Security amounts may be negotiated and reduced below the security schedule (only by the Pretrial Services Supervisor or a lead worker) in cases where a release on recognizance is clearly unwarranted and where conditional or supervised release alone would be too risky without security.
- Defense attorneys may request a lead or supervisor review for security reduction when a defendant cannot meet the scheduled security release but is able to post a reduced amount and is willing to voluntarily comply with conditional or supervised release. This type of combination release allows higher-risk defendants (who would otherwise be held pending trial) an opportunity to be released without paying the full security amount for release, while conditions or supervision further ensure the defendant's appearance in court.
- **ORS 135.245 Release Decision**
 - ❖ (1) Except as provided in ORS 135.240, a person in custody has the right to immediate security release or to be taken before a [magistrate](#) without undue delay. If the person is not released under ORS 135.270, or otherwise released before arraignment, the magistrate shall advise the person of the right of the person to a security release as provided in ORS 135.265.
 - ❖ (3) If the magistrate, having given priority to the primary release criteria, decides to release a defendant or to set security, the magistrate shall impose the least onerous conditions reasonably likely to ensure the safety of the public and the alleged victim and the person's later appearance and, if the person is charged with an offense involving domestic violence, ensure that the person does not engage in domestic violence while on release. A person in custody, otherwise having a right to release, shall be release upon the personal recognizance unless: (a) Release criteria show to the satisfaction of the magistrate that such a release is unwarranted. (b) Subsection (6) of this section applies to the person.
 - ❖ (4) Upon a finding that release of the person on personal recognizance is unwarranted, the magistrate shall impose either conditional release or security release.
 - ❖ (6) If a person refuses to provide a true name under the circumstances described in ORS 135.060 and 135.065, the magistrate may not release the person on personal recognizance or on conditional release. The magistrate may release the person on security release under ORS 135.265 except that the magistrate shall require the person to deposit the full security amount set by the magistrate.
- **Decision to Release**
 - Information regarding releases is entered directly in RAP. Complete a Release Agreement [See [Section 6](#)] applying the least restrictive conditions of release that will reasonably assure community safety and ensure the likelihood of court appearance.
 - Reconfirm defendant's identity and verify their name is spelt correctly prior to advising the defendant of their next court date and their conditions of release.
 - Instruct defendant to acknowledge their understanding of the release conditions by initialing on the bottom of each page and providing their signature and contact number on the last page of the release agreement.
 - Affirm defendant's understanding of expectations while on pretrial release:
"Do you swear to abide by the terms and conditions of the release agreement?"
 - Provide defendant with a copy of the release agreement.
 - Provide the Release Order to Jail Records.
 - Original scanned into Odyssey; Copies on file and provided to the DA & PDS.

- Decision to Detain
 - If the release criteria is not satisfied or if a person in custody does not request a security release, then the defendant will be held for arraignment.
 - Security shall be set if there are delays in the release decision process (pending verification of release criteria or court appearance) to ensure a person in custody's right to immediate security release.
 - Advise defendant of the set security amount, any other holds, conditions to be met for release, and the in custody arraignment process.
 - All defendants with releasable offenses are reviewed for release after arraignment.

5.4 **In Custody Arraignment**⁹

- ❖ [ORS 135.010](#) Time and place. When the accusatory instrument has been filed, and if the defendant has been arrested, the defendant shall be arraigned thereon before the court. If the defendant is in custody, the arraignment shall be held during the first 36 hours of custody, excluding holidays, Saturdays and Sundays.
- ❖ [ORS 135.020](#) Scope of proceedings. The arraignment consists of reading the accusatory instrument to the defendant, causing delivery to the defendant of a copy thereof and indorsements thereon, including the list of witnesses indorsed on it or appended thereto if the accusatory instrument is an indictment, asking the defendant how the defendant pleads to the charge.
- ❖ [ORS 135.040](#) Right to counsel. The defendant shall be informed by the court that it is the right of the defendant to have counsel before being arraigned and shall be asked if the defendant desires the aid of counsel.
- ❖ [ORS 135.045](#) Court appointment of counsel. The defendant shall be informed by the court that it is the right of the defendant to have counsel before being arraigned and shall be asked if the defendant desires the aid of counsel.
- ❖ [ORS 135.060](#) Informing defendant as to use of name in accusatory instrument; effect of acknowledging true name at arraignment. (1) When the defendant is arraigned, the defendant shall be informed that: (a) If the name by which the defendant is charged in the accusatory instrument is not the true name of the defendant the defendant must then declare the true name. (b) If the defendant does not declare the true name as required, the defendant is ineligible for any form of release other than a security release.

The Pretrial Services Supervisor and Release Assistance Officers coordinate with the Judge and their Judicial Assistant (JA) prior to arraignment. Pretrial Services' presence in the courtroom allows for Release Assistance Officers to provide insight on financial statements, verify existing attorney appointments, and set court dates of the defendant's related cases together. Release Assistance Officers are expected to be familiar with every case on the docket.

Preliminary Docket Preparation

- Notify the Court in advance to request certain outstanding cases appear on the docket.
 - Verify with the PTS Supervisor prior to requesting a case be lodged without revocation or warrant.
- Verify interpreter requests and confirm whether Pretrial Services requires the assistance of the interpreter following the court proceeding.
- Review the Accusatory Instruments and compare with the Docket and Odyssey.
 - For Fugitive cases, notify the JA if the defendant is lodged on any local charges or pending holds, as the extradition process is affected by the deadline issued for pickup.

⁹ In custody proceedings at the jail courtroom are now held with small groups utilizing video conferencing technology to minimize the number of people in the courtroom and allow for social distancing as a result of COVID-19. Release Assistance Officers monitor the proceeding over the FTR (ForTheRecord) Player. March 23, 2020.

- Check for existing attorney appointments and for a valid financial statement on file.
 - If the financial affidavit is valid, circle the court-appointment and remove Refer.
 - If the defendant does not appear to qualify for court-appointed counsel, review the reason for denial with the Pretrial Services Supervisor and notify the JA. Verify whether a modest means application was provided to the defendant and circle Denied.
 - If the defendant has not yet completed an interview and/or financial, notify the JA with the specific reason (Unable/Refused/Retained), indicate the appointment is applicable “if qualified,” and circle Refer.
 - If the defendant has an attorney on an existing case, verify that the attorney appears as named. Reappointment may be applicable pending case activity.
 - If the defendant has a court-appointed attorney on a pending case and remains qualified for a court-appointed attorney, verify that the same appointment is made for the new case.
 - Regarding co-defendants,¹⁰ LCDC can handle multiple appointments, however PDS will face a conflict with more than one appointment.
 - Regarding Violation cases, the court does not appoint an attorney and the defendant will not be lodged.
- Contact privately retained attorneys regarding their client’s court proceeding.
- Advise the court regarding any behavioral, mental health, or developmental disabilities; including defendants pending fitness in an existing matter or with an OSH case history.
- Advise the court of defendants who have allegedly violated conditions of release, such as committing a new crime while out on pretrial release, by requesting an order to revoke the defendant’s release agreement and remand the defendant to the custody of LCAC.
- The In Custody Dockets and No File Lists are kept on file in PTS; Copies provided to:
 - Jail Reception receives the preliminary copy by email.
 - Jail Records receives a hard copy of both the preliminary and finalized dockets.
 - LCDC receives a scan of the finalized docket to their email.

Release Assistance Officers shall make a release decision regarding the defendant within 48 hours after the arraignment [[ORS 135.245 \(2\)](#)]. Every step in obtaining and verifying release criteria information must be either reviewed or repeated, given the newly filed information about the nature and circumstances of the charged offense.

In Custody Arraignment Docket

- Review the court proceeding, including case events in Odyssey or the FTR Player.
 - If the defendant refuses to provide their true name at arraignment, the only release option is to post the full amount of security [[ORS 135.245 \(6\)](#)]. If up for CBR, place an override for supervisor review.
- Review the Accusatory Instrument in detail; inform the PTS Supervisor of any discrepancy.
 - Verify the charge name, descriptor, severity, and ORS of each Count.
 - Identify named alleged victims, witnessing minors, and codefendants.
 - If the accusatory instrument entirely removes a named alleged victim in which an NCO was issued, request an Order Vacating No Contact Order as the information presented in the Information/Indictment does not require a No Contact Order.
 - Identify whether the State alleges the foregoing crime constitutes domestic violence.
 - Identify whether the State alleges an offense is subject to Ballot Measure 11 sentencing minimums; inform the PTS Supervisor of any discrepancy.
 - Follow up in obtaining the police report:
 - If listed, the Agency & Report number appears near the end of the accusatory instrument.
 - If not listed, refer to Odyssey: Charges tab → Case Filing → Arrest/Filing tab.

¹⁰ Identify cases that share the same agency’s report number or review pc affidavits which name multiple defendants, as the accusatory instrument may not necessarily list co-defendants.

- Review additional information gathered by defense counsel or prosecution:
 - 416 Program¹¹ Eligibility Offer.
 - Allegations of Aggravating Circumstances [[ORS 137.090](#)].
 - Diversion; Diversion means referral of a defendant in a criminal case to a supervised performance program prior to adjudication [ORS 135.881 \(2\)](#).
 - Mediation [[ORS 135.951-.959](#) Mediating Criminal Offenses].
 - Active sentencing departure factors of a conviction (e.g., downward departure¹²).
- Review the charging documents, PC Affidavits, and Police Reports.
- Obtain community contacts from callers inquiring about the defendant.
- Verify contacts as provided by the defendant (e.g., confirm community ties, inquire about possible living arrangements available for the defendant if released or third party supervisory options).
- Contact alleged victim (when applicable) to:
 - Obtain and verify information (e.g., name, DOB, current residence/school/work, and number).
 - Contact Victim Services if an alleged victim’s information cannot be confirmed.
 - Refer to available resources that offer support. (e.g., if the alleged victim is afraid for their safety, offer the following services: call 911 if in immediate danger, contact a law enforcement agency or their nonemergency line to report alleged victim contact, trained advocates at Victim Services help in navigating the criminal justice system, VINE telephone service monitors offenders in custody and those registered receive reliable notification for custody status changes, and other crisis hotlines)
- In RAP:
 - Add Event: Track next court proceeding date and time.
 - Verify Case Manager, Charges (updated by Jail Records), Contacts, and Silo Selection.
 - Verify NCO status (e.g., verify alleged victim’s name/DOB/relationship, verify filed charge is either a sex crime or crime constituting domestic violence, and verify if NCO served or requires amend).
 - Update RAT (e.g., relationship, residence, weapons used, or physical/verbal threats made).
 - Set Security: As per security schedule, amount set per charge and corresponding risk level per updated RAT.
 - Generate RAS: Notify a lead or supervisor for further review of the ESP requirement or a security deviation.
 - Create Log Note regarding options for release –or– Prepare Release Agreement.
 - Generate Release List.
- Notification of Release Decision:
 - Advise defendant regarding the conditions to be met for release and any security amounts through a [Notification of Release Options](#) form.
 - Meet defendant in the booth to obtain more information or review options for release.

5.5 Follow-up Checks

Release Assistance Officers conduct status checks of defendants both in and out of custody. Those detained are routinely reviewed for any changes in eligibility for release and those released are monitored for compliance. Correspondence with defendants in custody is accomplished daily through kites, a written jail request.

¹¹ In 2011, [Senate Bill 416](#) passed an amendment to [ORS 137.717](#) which authorizes the court to impose probation with intensive supervision under certain circumstances when a court sentences a person convicted of certain property crimes.

¹² The Oregon Criminal Justice Commission established the SB 416 downward departure program to award supplemental grant funds to counties for prison diversion programs as part of the Justice Reinvestment Program. This program is designed to quickly identify eligible offenders and move them into services and intensive supervision, in an effort to reduce prison intake and allow for improved outcomes for offenders.

Pretrial Services staff follow internal procedures regarding **Alternate Address & Third Party Release**.

Pretrial Services staff accept [Alternate Address Application](#) and/or [Third Party Supervisor Permission](#) forms from applicants who provide valid identification and attest that the information provided to be true and accurate. Applicants may submit the form in person for Pretrial Services to witness their signature or have the form notarized and returned by email or fax. Release Assistance Officers conduct a background check, verify the applicant's qualifications, and determine whether conditions of release are satisfied.

Pretrial Services staff accept the [Sworn Statement](#) of parties who provide valid identification and swear the information provided to be true and accurate.

- ❖ Sworn statement means any statement that attests to the truth of what is stated and that is knowingly given under any form of oath or affirmation or by declaration under penalty of perjury [[ORS 162.055 \(4\)](#)].

Release Assistance Officers may review sworn statements to determine whether:

- A defendant be permitted to return to a residence. (When an alleged victim states they have willingly moved out from a shared residence and will not return for the entire duration of the defendant's case, inquire whether the alleged victim's new location shall be kept confidential from the defendant.)
- A defendant has become noncompliant with conditions of release. Release Assistance Officers must conduct a thorough investigation of the allegations to verify the information. Alleged victims are additionally advised to seek assistance from law enforcement and file a police report regarding the alleged victim contact.

Pretrial Services staff accept treatment facility documentation (on official letterhead) stating placement has been reserved for the specific defendant upon release. Release Assistance Officers must speak with a verifiable contact from the facility to review the information (e.g. confirm the availability of bed space and length of defendant's stay, inquire about the facility's terms and conditions such as phone privileges or UA's, coordinate release if transport provided). Defendants may additionally sign a [Release of Information](#) which authorizes the facility to notify Pretrial Services in the event the defendant has become noncompliant with their conditions of release.

5.6 Court Dates

The [Appearance Dates of Persons Released from Custody](#) prior to arraignment are currently¹³ set as follows, where out of custody arraignment is held at 0900 and the date set as scheduled:

Release Day:	Appearance Day set:	
Monday	Following 3 rd Monday	✓ If the charge constitutes domestic violence or is a violation of a court order, then the arraignment is quick set for the upcoming Friday (or if the release day is Thursday, then two Fridays out). Fax the release agreement to notify the DA.
Tuesday	Following 3 rd Tuesday	
Wednesday	Following 3 rd Wednesday	✓ When a detainer held for court is set over (in allowing the State 48 hours to file a motion to show cause) and is subject to CBR, the appearance day is the date following the deadline given at arraignment. Email and fax the release agreement to notify the Court (Crim2) & the DA.
Thursday	Following 3 rd Thursday	
Friday	Following 3 rd Thursday	
Saturday	Following 4 th Monday	
Sunday	Following 4 th Tuesday	

¹³ On April 1, 2020, Presiding Judge Debra K. Vogt signed Order 2020-03 (see [SLRs](#) for current orders) pursuant to the Chief Justice Order 20-006 regarding the matter of the restriction of court operations in response to COVID-19. As part of the management plan, out of custody arraignments proceed in 3 groups of 9 scheduled 30 minutes apart beginning at 0830—the 0830 time slot is reserved for citation appearances and 0900 for release agreement appearances, as of November 1, 2020.

5.7 Hearings

A pretrial hearing may bring the following items to be heard before the court:

- Motion to Reduce Security
- Motion to Release
- Motion to Modify Release Agreement
- Waiver of No Contact Order

Release Assistance Officers follow internal procedures regarding **Hearings**.

Release Assistance Officers submit a written report containing, but not limited to, an evaluation of the release criteria and a recommendation for the form of release [[ORS 135.235 \(3\)\(a\)](#)]. Included is a summary of alleged events detailing the relationship history of those involved, along with a review of the defendant's conviction history, violations of parole or probation, and prior compliance with judicial orders and conditions of release. A copy of the defendant's Computerized Criminal History, Police Report, and Risk Assessment Summary (containing risk levels of failure to appear/recidivism/dangerousness & capacity based release scores) is attached for reference.

This account allows the judge to make an informed decision that take into consideration the individual risks of each case. The Chief Criminal Judge and their Judicial Assistant are in communication with the Pretrial Services Supervisor and Office to work with potential sources of support in exploring viable options for the defendant's pretrial release. Once a formal order is signed, the release options are modified accordingly or the release agreement is amended to reflect the findings.

5.8 Lane County Adult Corrections Partnership

The Pretrial Services Unit exists for the purpose of determining pretrial release options for defendants as well as performing collaborative functions for the jail.

- **Booking Area Tracker (BAT)**

The BAT records the status of defendants held in the booking area¹⁴ and whether they have been processed by the booking deputies, received a medical/mental health screening, or interviewed by Pretrial Services. Release Assistance Officers update BAT entries with 'House' or 'Release' for facility housing purposes.

- **Classification**

LCAC Release Assistance Deputies receive objective classification training and currently perform initial classification assignments for facility housing purposes. The function of classification is to evaluate specific criteria, determine appropriate levels of custody, and develop housing plans for inmate management. Scheduled reviews of inmate classification, inmate requests for reconsideration, and evaluation of eligibility for programs and services are completed by the DOMC Deputies.

14 LCAC reduced the number of defendants initially held in the booking area to allow for a more manageable environment in maintaining social distancing guidelines as a result of COVID-19. October 1, 2020.

- **Capacity Based Releases**

Lane County Adult Corrections operates under a federal court-ordered population cap and has an action plan to resolve maximum facility population [[ORS 169.042](#)] emergencies.

As per The United States District Court for the District of Oregon's Eighth Amended Judgment of Civil Action No. 86-6033-E dated December 22, 2000, the number of inmates incarcerated in the facility shall not exceed 93% of the available bed space for more than one day in which the Courts of the State of Oregon are in session. This federal consent decree establishes that of the 411 funded beds, only 382 bed spaces are currently¹⁵ available to house inmates. When the jail has exceeded the capacity limit, the Sheriff shall notify the Lane County Circuit Court in giving Release Assistance Officers the opportunity to reduce the inmate population within 24 hours of notice [[ORS 169.046](#)].

Forced release is a jail function; however, the system in determining the priority of release is dependent upon the combination of pre-established weights (capacity based release points generated from the Risk Assessment Tool) and other objectively determinable factors (e.g., status of the inmate as pre-trial, convicted and awaiting sentencing, or sentenced; requests from judges or governmental agencies). The order of priority may be altered on an individual basis by taking into account an individual's physical or mental state, as it affects dangerousness to self/others or the ability of the inmate to care for themselves. Release Assistance Officers shall exercise their discretion and judgement effectively.

Release Assistance Officers follow internal procedures regarding **Capacity Based Releases**.

- Monitor facility capacity and provide daily documentation of when the facility count meets the federally mandated population requirement.
- Observe the Eugene Municipal Court's (EGM) system of "P" codes (P1-P8, as set and reviewed by judges of the court) and provide daily documentation of silo status to the court, jail administration, and other involved parties. LCAC contractually allocates 15 beds to inmates with EGM charges only. Capacity based releases are not determined through risk scores, but in the order starting from P8 to P1 when the silo itself exceeds the limit.

- **Silo Management**

Silos subject to forced release

- ❖ Eugene Municipal Court
- ❖ Local Municipal Courts (Coburg, Cottage Grove, Florence, Junction City, & Oakridge)
- ❖ General
 - Defendants with misdemeanor [[ORS 161.545](#)] charges only.
 - Defendants with non-violent felony [[ORS 161.525](#)] charges only.
 - Defendants with detainers awaiting sanction or court.
 - Defendants with a filed Order to Show Cause on a probation violation matter.
 - Offenders held for OYA awaiting transport.
 - Parole or Probation Offenders awaiting sanction.

¹⁵ LCAC introduced a new population cap of 260 to allow for a more manageable environment in maintaining social distancing guidelines as a result of COVID-19. May 22, 2020.

Silos NOT subject to forced release

- ❖ Violent Felony
 - Defendants with violent felony charges; Violent felony means a felony offense in which there was an actual or threatened serious physical injury to the alleged victim [[ORS 135.240 \(6\)](#)].
 - Defendants with a combination offenses that include a violent felony charge.
- ❖ 416 Program
 - Defendants offered 416 Program eligibility may choose to accept or decline participation in the program pre-trial; the court proceeding is set 21 days out from initial arraignment to allow time for this decision.
 - Defendants serving a downward dispositional departure sentence from a presumptive sentence of prison time to allow participation in the 416 program.
 - Defendants participating in the 416 program as a condition of probation serving a structured sanction or pending court proceeding initiated to revoke probation.
- ❖ Treatment Court
 - Defendants participating in specialty courts that are judge ordered held in a bed space until the next available treatment court date. Specialty court means drug court programs, veterans' court, or mental health courts [[ORS 137.680 \(1\)](#)].
 - Defendants/Offenders completing a treatment court sanction.
- ❖ Other (Excluded)
 - Federal Inmates awaiting transport.
 - Fitness pending cases,¹⁶ including judge ordered transport to OSH.
 - Fugitives from other states [[ORS 133.747](#)].
 - Interstate Compact offenders awaiting transport.
 - Offenders sentenced to the Department of Corrections awaiting transport.
 - Transitional Leave Violators returning to DOC awaiting transport.
- ❖ Sentenced Offenders
 - Offenders sentenced to county jail time, eligible for alternatives, and awaiting review by the DOMC for program placement.
 - Offenders sentenced to jail time & serving the remainder in custody.
- ❖ Measure 73
 - Defendants convicted of a felony driving under the influence of intoxicants are sentenced to a mandatory minimum term of incarceration of 90 days without reduction for any reason [[ORS 813.011 \(3\)](#)].
- ❖ Murder
 - Defendants charged with murder, aggravated murder, or treason shall be denied release when the proof is evident or the presumption strong that the person is guilty [[ORS 135.240 \(2\)\(a\)](#)].

¹⁶ Defendants found unfit to proceed are exempt from capacity based release as the criminal proceedings against them are suspended. Pretrial Services does not have authority over such cases, unless judge ordered to have the defendant sign for conditions of release for community restoration.

- **Medical/Psychiatric Meetings**

The Pretrial Services Supervisor or a release assistance officer attends LCAC's weekly med/psych meetings regarding defendants' case status as the PTS representative.

5.9 **Emergency Procedures**

- Pretrial Services staff follow internal procedures regarding **Facility Evacuation**.
- Release Assistance Officers may complete [Interview Questions](#) on paper for initial assessment when internet or program/system outages occur.
- Release Assistance Officers access the **manual ledger** for receipting in the taking of security when Odyssey is unavailable. Voided manual receipts must be returned to Accounting.
- Pretrial Services Office **Staffing During Court Closures**

The Presiding Judge and Trial Court Administrator delegated authority to the Pretrial Services Supervisor to staff Pretrial Services on a limited basis during an official court closure by calling in staff and/or asking staff to remain on site.

The Pretrial Services Supervisor maintains a list of staff (skeleton crew volunteers during all but the most extreme emergency or weather events) who self-identify as regularly available to report to work. No employee who identifies a threat to their safety or that of a family member residing in the employee's household may be required to stay on site or report to work.

THE RELEASE AGREEMENT SECTION 6

6.0 [ORS 135.255](#) **Release agreement.** (1) The defendant shall not be released from custody unless the defendant files with the clerk of the court in which the magistrate is presiding a release agreement duly executed by the defendant containing the conditions ordered by the releasing magistrate or deposits security in the amount specified by the magistrate in accordance with [ORS 135.230](#) to [135.290](#). (2) A failure to appear as required by the release agreement shall be punishable as provided in [ORS 162.195](#) or [162.205](#).

- ❖ Release means temporary or partial freedom of a defendant from lawful custody before judgment of conviction or after judgment of conviction if defendant has appealed [[ORS 135.230 \(8\)](#)].
- ❖ Release agreement means a sworn writing by the defendant stating the terms of release and, if applicable, the amount of security [[ORS 135.230 \(9\)](#)].

[ORS 135.280](#) **Arrest warrant; forfeiture.** (1) Upon failure of a person to comply with any condition of a release agreement, the court having jurisdiction may, in addition to any other action provided by law, issue a warrant for the arrest of the person at liberty upon a personal recognizance, conditional or security release. (3) If the defendant does not comply with the conditions of the release agreement, the court having jurisdiction shall enter an order declaring the entire security amount to be forfeited. [...continued]

[ORS 135.285](#) **Modification of release decision.** If circumstances concerning the defendant's release change, the court, on its own motion or upon request by the district attorney or defendant, may modify the release agreement.

6.1 **General conditions** of release [[ORS 135.250](#)] appear on all release agreements.

- Appear personally or remotely in court as directed. [[ORS 135.250 \(1\)\(a\)](#)]
- Obey all orders and requirements of the court. [[ORS 135.250 \(1\)\(b\)](#)]
- Not leave the state without the court's permission. [[ORS 135.250 \(1\)\(c\)](#)]
- *(Comply with such other conditions as the court may impose.)* [[ORS 135.250 \(1\)\(d\)](#)]
 - Maintain a mailing and/or residential address, as well as a contact telephone number, and immediately given written notice in person of any changes.
 - Keep in contact with the attorney of record in this matter, which includes any changes in my mailing or residential address or telephone number.
 - Obey all laws and notify this court within 5 days if arrested or charged with any new crime.
 - Not use or associate with persons using or dealing in illegal drugs.
 - Properly wear a face covering for any proceeding held in a courtroom unless or until specifically directed to remove the face covering by the judge presiding over the proceeding.

6.2 **Custom conditions** of release are added to release agreements and require defendants to refrain from certain actions and to perform other actions on a limited basis.

- Reside at an alternate address pending final disposition of this case.
- Remain in residence between *list hours of curfew*.
- Remain under the supervision of a third party supervisor who has guaranteed my appearance under the terms and conditions of this release.
- Not to have any offensive contact with the alleged victim(s). [[ORS 135.230 \(1\)](#)]
- Prohibited from having any contact with the alleged victim(s).¹⁷ [[ORS 135.250 \(2\)\(a\)](#)]
- Prohibited from having any contact with the witnessing minor(s).

¹⁷ A confidential addendum may be issued to protect alleged victim(s) and their location(s) from being disclosed.

- No contact with any person under the age of eighteen.
- No contact with the co-defendant(s) in this matter, except under the supervision of legal counsel.
- Allowed contact with my minor children at the direction and under the supervision of DHS.
- No access to any computer or devices (including smart phones, IPADS, etc.) that can access the internet, with the sole exception of attending court proceedings.
- Do not possess or purchase any weapons.
- Do not possess or consume any alcohol or marijuana.
- Not use any intoxicant eight hours prior to the operation of a motor vehicle.
- Not to operate any motor vehicle unless properly licensed and insured.
- Not be on or about the premises located at list location.
- At any time, Pretrial Services may require participation in the ESP Program.
- Submit a urinalysis¹⁸ at the Residential Reentry Center by a date specific.
- Provide additional character references within 24 hours of release.
- Provide my address and/or phone number to Pretrial Services by a date specific.
- Provide proof of sex offender registration by a date specific.
- Contact my attorney or Parole/Probation Officer by a date specific.
- Abide by all directives from my Parole/Probation Officer.
- Abide by the terms and conditions of a protective order/housing program.
- Report in person to the Pretrial Services office upon release from custody/directly after arraignment.

6.3 **Supervision conditions** are added to release agreements and require defendants to carry out certain actions on a regular basis.

- Report to Pretrial Services by calling (541) 359-4446 every list specific days to check in.
- Report in person to the Pretrial Services office every list specific days to check in.
- Provide proof of staying at the Eugene Mission on a daily basis by presenting a signed bed card upon checking in with the Pretrial Services office.
- Participate in the Electronic Supervision Program and report to Pretrial Services following weekly scheduled appointments with the ESP deputies.

6.4 Release Assistance Officers execute one of the following types of release:

Release on Recognizance (ROR). Personal recognizance means the release of a defendant upon the promise of the defendant to appear in court at all appropriate times [[ORS 135.230 \(6\)](#)]. This release type contains only the general conditions of release.

Conditional Release. Conditional release means a nonsecurity release which imposes regulations on the activities and associations of the defendant [[ORS 135.230 \(2\)](#)]. This release type contains the general conditions of release and additional custom conditions designed to ensure the safety of the public and the alleged victim, the defendant's court appearance, and that the defendant does not engage in domestic violence while on release. Conditions imposed include reasonable regulations on the activities, movements, associations and residences of the defendant [[ORS 135.260 \(1\)\(b\)](#)].

18 Defendants may be instructed to report directly upon release to submit a urinalysis, which serves as a baseline measure.

Supervised Release. Supervised release is a conditional release that imposes supervisory conditions deemed necessary for the protection of the alleged victim and the community [[ORS 135.240 \(5\)\(b\)](#)] and/or for any other reasonable restriction designed to assure the defendant's appearance [[ORS 135.260 \(1\)\(d\)](#)].

Third Party Release. Third party release is a conditional release where a qualified person or organization assumes responsibility for supervising the defendant and assisting the defendant in appearing in court. The third party supervisor shall notify Pretrial Services immediately in the event that the defendant breaches the conditional release, including leaving the residence/state or intends to fail to appear for court [[ORS 135.260 \(1\)\(a\)](#)]. A supervisor of a defendant on conditional release who knowingly aids the defendant in breach of the conditional release or who knowingly fails to report the defendant's breach is punishable by contempt [[ORS 135.290\(1\)](#)]. A defendant may be punished by contempt if the defendant knowingly: (a) Breaches any of the regulations in the release agreement imposed pursuant to ORS 135.260; or (b) Violates an order entered under ORS 135.247 [[ORS 135.290 \(2\)](#)].

Security Release. Security release means a release conditioned on a promise to appear in court at all appropriate times which is secured by security deposit [[ORS 135.230 \(12\)](#)]. Release Assistance Officers shall set a security amount that will reasonably assure the defendant's appearance and take the deposit, a sum of money equal to 10 percent of the security amount [[ORS 135.265](#)].

Capacity Based Release. Forced release means temporary freedom of an adult in custody from lawful custody before judgment of conviction due to a county jail population emergency [[ORS 169.005 \(2\)](#)]. Defendants are subject to a forced release agreement and additional conditions of release may be imposed in combination with this release type [[ORS 169.046 \(4\)](#)].

Schedule to Appear. Lane County Parole and Probation offenders are subject to this type of forced release with the condition to report to the PNP office on the next available business date.

Hold Dropped By Agency. When an outside agency decides to drop the hold on their circuit court case, a teletype request from the agency is received through LEDS. Release Assistance Officers verify the requested information and executes a release agreement instructing the defendant to appear as directed. Original RA is mailed per corresponding agency's directives; Copy on file.

Judge Ordered Release. Formal orders of the court detailing conditions of release as set by judges following a hearing. This release type also includes orders to release defendants participating in treatment programs through drug/mental health/veterans' court.

370 Program Conditions of Release. Pursuant to [ORS 161.370](#), if the court determines that the defendant lacks fitness to proceed, the criminal proceeding against the defendant shall be suspended. The court shall determine an appropriate action in the case and enter an order¹⁹ for the defendant to be conditionally released for community restoration as recommended by the community mental health program director or designee, which may involve participation in a local housing program or secure residential treatment facility.

¹⁹ If the formal order contains a provision for Pretrial Services' involvement, defendants are monitored for program compliance with their 370 Program Conditions of Release (not RA) as fitness is pending. The Behavioral Program Coordinator is notified of non-compliance status and any instance when a defendant pending fitness is taken into custody.

Additional Release Procedures for [ORS 133.747](#) Fugitive from other states

- **Fugitive SRA.** Defendants with a Fugitive case may be eligible to post security for release prior to arraignment. [Refer [ORS 133.809](#) Release.]
 - Review the Fugitive PC, the hold in JMS, and verify with a Jail Records Specialist.
 - Fugitives with a pre-signed waiver have waived extradition and do not require any court involvement. [Refer [ORS 133.843](#) Written waiver of extradition proceedings.]
 - Set Security:
 - Verify the original fugitive charge(s) to set the appropriate security amount for the entire fugitive case at either \$100,000 or the M11 equivalent.
 - Notify the PTS Supervisor regarding possible deviations (e.g., security set per charge).
 - Set Custom Conditions of Release:
 - Defendants must agree to the condition to self-surrender at the Lane County Adult Corrections for the purposes of completing the extradition process. [Refer [ORS 133.813](#) Proceedings in absence of arrest under executive warrant within specified time.]
 - Defendants willing to return to the demanding state to resolve their case are provided with the State Exception condition.
 - Set Appearance Date:
 - If the defendant has not yet been arraigned, schedule for out of custody arraignment.
 - If there is a filed case, the issued court date and time remains but the appearance location is modified to appear personally at the Lane County Adult Corrections.
- **Fugitive Hold Drop.** When the demanding state provides written confirmation that they no longer wish to extradite, the fugitive hold may be dropped.

Defendants with a fugitive hold drop:

- On a PC case (prior to arraignment) will be processed for release by Jail Records.
- On a filed case will be released by Jail Records if the DA files a dismissal.
- On a filed case will be released by Pretrial Services (between 1800 – 2200) to allow time for the DA to formally address the matter.
 - Set only standard conditions of release on the release agreement.
 - The issued court date and time remains.
 - The appearance location is modified to appear at the Lane County Adult Corrections.
 - Advise defendant to contact attorney or check with Pretrial Services regarding dismissal.

- 6.5 Release agreements must include all pending court dates—avoid using “appear as directed.” If the defendant has been released on a release agreement without a court date and does not appear, a warrant may not be issued for the defendant’s arrest despite nonappearance. Supervision conditions may be imposed on the release agreement in lieu of a court date.

Defendants are directed to:

“Appear personally in court at the Lane County Circuit Courthouse in Eugene on <insert court date/time> and all other dates. The Lane County Circuit Courthouse address is 125 E 8th Ave, Eugene, OR 97401, Tel: (541) 682-4020. The court appearance may be a remote appearance and you must contact your attorney for details.”

- 6.6 Defendants who fail to comply with any condition of release may be ordered by the court to be taken back into custody [See [Section 8](#) Revocation of Release]. Pretrial Services may request an order to set aside a revocation given new information or circumstances.

Pursuant to [ORS 135.240\(4\)\(a\)](#), when the defendant is charged with a violent felony, release shall be denied if the court finds: (B) By clear and convincing evidence, that there is a danger of physical injury or sexual victimization to the alleged victim or members of the public by the defendant while on release.

- (f) When a defendant who has been released violates a condition of release and the violation:
- (A) Constitutes a new criminal offense, the court shall cause the defendant to be taken back into custody and shall order the defendant held pending trial without release.
 - (B) Does not constitute a new criminal offense, the court may order the defendant to be taken back into custody, may order the defendant held pending trial and may set a security amount of not less than \$250,000.

Pretrial Services does not have the authority to continue monitoring a defendant whose release agreement was revoked, unless the release agreement is reinstated. Only a judge may reinstate a revoked release agreement following hearing, where the defense or state typically initiates the request. The judge may order the release agreement be reinstated, set aside or vacate the security forfeiture upon good cause shown, recall the warrant, and direct the defendant to report to Pretrial Services for an amended release agreement.

- 6.7 Release Assistance Officers are unable to authorize the release of a Lane County Circuit Court defendant while they are in the custody of an outside agency. An exception may be made to authorize release in consideration of the Lane County Adult Correction's facility capacity, contingent upon the Release Assistance Officer's familiarity with the defendant's case.

If a defendant must be released, Release Assistance Officers are unable to authorize release but may provide a court appearance date, time, and location through LEDS. Defendants issued an out of county release agreement may be referred by a judge to Pretrial Services following their initial court appearance for placement on a Lane County Circuit Court release agreement.

- 6.8 Release Assistance Officers are authorized to amend active release agreements of defendants on pretrial release at the Pretrial Services window.
- 6.9 Pretrial Services staff follow internal procedures regarding **Sherman Center Warrants**.

Release Assistance Officers verify release criteria and may make the release decision for certain out-of-custody defendants arranging to turn themselves in to clear a warrant. However, this process²⁰ may only take place at the Sherman Center (DOMC) Monday through Friday between the hours of 0800 - 1430. Once the DOMC deputy has confirmed and cleared the warrant, the release assistance officer executes the release agreement from within the Sherman Center.

Release Assistance Officers are otherwise unable to place defendants who are not in custody on a release agreement, unless ordered by a judge. Those appearing at the Pretrial Services window after-hours to clear a warrant are redirected to the Jail Records window for booking processing. Upon intake, defendants are assessed by Pretrial Services.

²⁰ Pretrial Services and LCAC implemented a policy to efficiently serve warrants and issue release agreements from within the Sherman Center at the Lane County Adult Corrections facility. January 22, 2021.

RELEASE MONITORING SECTION 7

- 7.0 The purpose of this section is to provide guidelines for the risk management of defendants on pretrial release. Release Assistance Officers are expected to consistently maintain the caseload and promptly identify violations when monitoring compliance of release conditions.

Release monitoring commences when a release agreement is signed by both the defendant and a release assistance officer and concludes when either the release agreement terminated or the case is adjudicated.

7.1 **Case Monitoring**

Pretrial Services staff conducts a systematic review of every defendant on a release agreement.

- Notification of all upcoming court proceedings.
- Post release checks for compliance within 24-48 hours of release.
- Post release check on defendants maintaining an alternate address requirement.
- High level supervision cases are monitored on a daily basis.
- Middle level supervision cases are monitored on a weekly basis.
- Low level supervision cases are monitored on a monthly basis.
- Conduct follow-up on failures to appear for all court proceedings daily.
- Conduct follow-up on failures to check-in, flagged alerts, and messages in CE Pretrial daily.
- Conduct follow-up on violations of release conditions daily.

Pretrial Services staff follow internal procedures regarding **Monitoring Conditions of Release**.

- All client contact documentation is recorded in RAP and in the case file.
- All contact with attorneys, treatment providers, and other agencies is recorded.
- Any information pertinent to case management is entered as soon as practical.
- Every entry should be sufficiently detailed so that any staff member will be able to follow the defendant's progress, be aware of any requirements and/or requests, and be informed of any actions taken when reviewing the case file.

- 7.2 Case information is additionally transferred to and maintained in **CE Pretrial** (a CJIS compliant case and data management software system designed specifically for pretrial agencies).

Pretrial Services staff makes a dedicated effort to know and monitor the population. CE provides the means for defendants on pretrial release to communicate with Pretrial Services after-hours. Parties with a registered number possess the ability to correspond by text and receive court date/time reminders two days prior to and on the morning of the proceeding.

CE currently tracks defendants' compliance with supervised check-ins, in an effort to reduce the failure to appear rate. Defendants instructed to check in regularly with Pretrial Services are asked to self-report any change in contact information and/or police contact. Phone check-ins are completely automated and reported changes are flagged for review.

7.3 Pretrial Services staff follow internal procedures regarding **Change of Address**.

Defendants are required to notify the court in writing regarding a change of address:

- Defendants who do not have the alternate address, third party supervisor, and/or electronic supervision conditions of release may submit a [Change of Address](#) form. Release Assistance Officers may amend the release agreement to reflect the change in residence.
- Defendants with an alternate address requirement must first submit an [Alternate Address Application](#) form for approval and sign an amended release agreement prior to changing residences.
- Defendants with a third party supervisor requirement that request a change of address and/or third party supervision must submit both an [Alternate Address Application](#) and [Third Party Supervisor Permission](#) form for approval and sign an amended release agreement prior to changing residences and/or third party supervisor.

7.4 Release Assistance Officers follow internal procedures regarding Electronic Supervision Program.

Defendants participating in the **Electronic Supervision Program (ESP)** are informed of program expectations, provided with an ESP manual, advised of ESP fees,²¹ and have agreed to abide by the ankle and/or alcohol monitor device requirements (e.g., device charging, restricted zones, curfew, urinalysis testing) prior to release. An ankle monitor device has the ability to notify the defendant to contact Pretrial Services upon receiving an alert sent by staff through the Attenti EM Program. An [Electronic Surveillance and/or Alcohol Monitor Permission Form](#) must be obtained from every adult residing with the defendant, which acknowledges their consent to the defendant's participation in ESP. Case files are placed in a red or yellow file jacket for ease of identification as an ankle or alcohol monitor client respectively.

LCSO deputies at the Residential Reentry Center (formerly Community Corrections Center) handle equipment hook-up/maintenance, provide maps of restricted zones, establish payment plans, offer 24/7 monitoring coverage, and may conduct residential visits for compliance checks.

Defendants (assessed as high-risk) with increased supervision during non-curfew hours must submit a [Weekly Schedule](#) documenting the requested activity and hours in which they depart from and return to their residence. Release Assistance Officers review the proposed schedule in advance and notify both the defendant and RRC regarding approved movement.

7.5 Release Assistance Officers follow internal procedures regarding **Travel Permits**.

Defendants with an active Lane County Circuit Court case may request permission to leave the state²² through Pretrial Services by completing a [Travel Permit](#) application form. Release Assistance Officers follow procedural guidelines in making a determination regarding approval or denial of the travel request. Defendants authorized for travel are instructed to carry a copy of the approved permit and directed to establish contact with Pretrial Services upon return.

7.6 Under no circumstances should Pretrial Services staff conduct field visits or accompany defendants to any outside referral agency.

²¹ ESP clients are subject to fees and regulations as set by the Lane County Sheriff's Office. Defendants may apply with the RRC if qualified for reduced fees. Through hearing, a judge may order a reduction in the daily rate of ESP fees.

²² Defendants must contact their attorney to request a hearing regarding any travel outside the country.

RELEASE VIOLATIONS AND NONCOMPLIANCE SECTION 8

8.0 Violations of release are handled in a variety of ways dependent upon the seriousness of the violation and type of condition violated. Release Assistance Officers may address violations in one or a combination of the following methods:

- **Verbal or Written Warnings:** Used to remind defendants of their conditions of release.
- **Increase Check-in Requirements:** Used for technical violations or for defendants whose residence turned less than stable during the pretrial process.
- **Revocation of Release Agreement:** Used for any violations of release that involves alleged victim contact, new misdemeanor or felony charges or convictions, or for any other behaviors that may lead to a community safety concern. Defendants' release status may be revoked for continued disregard of any of the release conditions, including failure to respond to and/or maintain contact with Pretrial Services.
- **Arrest:** Used only in domestic violence cases when the defendant allegedly engages in prohibited contact with the alleged victim. Verification of the prohibited contact allegation is obtained through police report, sworn statement of the alleged victim, or other documented sources of information. A law enforcement agency is contacted and the peace officer shall arrest without a warrant given probable cause [[ORS 133.310 \(6\)](#)].

8.1 Every effort is made to establish contact and to bring a defendant back into compliance. Attempts are made to contact the defendant through the defendant's message numbers, character references, alternate address, third party supervisor, and/or person posting. A request may be made to the defendant's attorney to have their client contact Pretrial Services.

Release Assistance Officers may use alternative methods for addressing non-compliance, unless community safety is in question. When a release assistance officer has reason to believe that an alleged victim or member of the community may be at risk, revocation must be requested.

8.2 Pretrial Services staff follow internal procedures regarding **Failure to Appear Follow-ups**.

Defendants on release agreements who fail to appear in court may be contacted by Pretrial Services staff to arrange a voluntary appearance to clear their warrant.

Defendants on release agreements who fail to appear in court may be contacted by Pretrial Services staff to sign for a new court date if a warrant has not yet issued. A judge may order the defendant to follow the directives of Pretrial Services in executing an amended release agreement with the new appearance date. Upon failure to comply and/or failure to maintain contact with Pretrial Services, revocation of release must be requested to issue the warrant for the arrest of the defendant.

8.3 Pretrial Services staff follow internal procedures regarding **Revocation of Release**.

Release Assistance Officers must promptly inform the court of a defendant's noncompliance. An Affidavit for Order Revoking Release Agreement and an Order Revoking Release Agreement are provided to the judge for review. Judicial Services Specialists may prepare the documents for the Release Assistance Officer, however verification of information is a responsibility of the Release Assistance Officer.

The **Revocation of Release** must contain the following information:

- A statement that accuses the defendant of the designated noncompliance with the conditions of the release agreement.
- A statement that the noncompliance occurred on, or on or about, a designated date or during a designated period of time.
- A statement of the acts constituting the noncompliance.
- A declaration to revoke the release agreement.
- A declaration of the forfeiture of the entire security amount, when applicable.
- A declaration to:
 - (out of custody) Issue a bench warrant for the arrest of the defendant.
 - (in custody) Remand to the legal and physical custody of the Lane County Sheriff.

INVOLVEMENT SECTION 9

9.0 Ongoing Goals

Expand the knowledge and resources of Lane County Pretrial Services.
Support the integration of Odyssey with programs utilized by Pretrial Services.
Build partnerships and connect with organizations offering long-term resources for defendants.

9.1 Community Contacts

[Coburg Police Department](#)

[Cottage Grove Police Department](#)

[Eugene Mission](#)

[Eugene Municipal Court](#)

[Eugene Police Department](#)

[Florence Police Department](#)

[Junction City Police Department](#)

[Lane Council of Governments](#)

[Lane County Adult Corrections – Inmate Search](#)

[Lane County Behavioral Health](#)

[Lane County Board of County Commissioners](#)

[Lane County Defense Consortium](#) [link currently unavailable, contact (541)687-9001]

[Lane County District Attorney’s Office – Victim Services Division](#)

[Lane County Health and Human Services](#)

[Lane County Parole and Probation](#)

[Lane County Sheriff’s Office](#)

[Lane County Youth Services – Juvenile Detention Division](#)

[McKenzie Ridge Secure Residential Treatment Facility](#)

[Oakridge Police Department](#)

[Oregon State Courts – Interpreter Requests](#)

[Oregon State Police Department](#)

[Oregon Youth Authority](#)

[Public Defender Services of Lane County, Inc.](#)

[ShelterCare](#)

[Springfield Municipal Court](#)

[Springfield Municipal Jail – Inmate Search](#)

[Springfield Police Department](#)

[University of Oregon Police Department](#)

[White Bird Clinic – CAHOOTS \(Crisis Assistance Helping Out On The Streets\)](#)

9.2 Reference Materials & Resources

- [IRS Form 8300 Report of Cash Payments Over \\$10,000: Form 8300](#)
- [National Association of Pretrial Services Agencies \(NAPSA\)](#)
 - [National Standards on Pretrial Release](#)
- [National Criminal Justice Association \(NCJA\): National Criminal Justice Reform Project](#)
- [National Institute of Corrections \(NIC\): Pretrial](#)
 - [A Framework for Pretrial Justice: Essential Elements of an Effective Pretrial System and Agency](#)
 - [Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field](#)
 - [Virginia Pretrial Risk Assessment Instrument \(VPRAI\)](#)
- [National Institute of Justice \(NIJ\): Pretrial Research and Safety](#)
 - [Pretrial Services Programs: Responsibilities and Potential](#)
- [Oregon Criminal Justice Commission \(CJC\)](#)
 - [Justice Reinvestment Grant Program](#)
 - [Justice Reinvestment Summit](#)
- [Oregon Criminal Justice Information Services \(CJIS\)](#)
- [Oregon Department of Corrections \(DOC\)](#)
- [Oregon Department of Human Services \(DHS\)](#)
- [Oregon Department of Justice \(DOJ\): Criminal Justice Division](#)
- [Oregon State Bar \(OSB\): Modest Means Program](#)
- [Oregon State Courts](#)
 - [Lane County Circuit Court: Supplementary Local Court Rules \(SLR\)](#)
 - [Uniform Trial Court Rules \(UTCR\)](#)
- [Oregon State Legislature](#)
 - [Oregon Constitution](#)
 - [Oregon Revised Statutes \(ORS\)](#)
 - [Oregon Rules of Civil Procedures \(ORCP\)](#)
- [Pretrial Justice Institute \(PJI\)](#)
 - [3DaysCount](#)
 - [Pretrial Services Program Implementation: A Starter Kit](#)
- [U.S. Department of Agriculture - Food and Nutrition Service](#)
 - [Supplemental Nutrition Assistance Program \(SNAP\) Eligibility](#) (income guidelines)
- [U.S. District Court for the District of Oregon](#)
- [United States Code \(USC\)](#)
- [Victim Information and Notification Everyday \(VINE\) \(1-877-OR-4-VINE\)](#)

APPENDIX

- [APPENDIX A](#) – Advice of Rights
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APPENDIX A – Advice of Rights

English:

ADVICE OF RIGHTS

Right to Be Represented By Counsel, Eligibility for Court-Appointed Counsel, Application Fee, and Contribution Amount

You (or your child in a juvenile delinquency, dependency, or termination of parental rights case) have the right to have an attorney represent you in court on this matter. You may be financially eligible to have an attorney appointed by the court.

The court may require you to pay a \$20 Application Fee to determine whether you are eligible for court-appointed counsel. This fee is due even if your request for appointment of counsel is denied. Payment of this fee is due in full today. This fee may, in limited circumstances, be waived.

The court will determine if you can afford to hire an attorney. If you are eligible to have an attorney appointed, the court will determine whether you are "eligible and indigent" or "eligible and able to contribute". If you have some available cash or liquid assets, but not enough to privately hire your own attorney, you may be ordered to pay a Contribution Amount to the court toward the cost of having court-appointed counsel.

If you are ordered to pay an Application Fee and a Contribution Amount, the amount ordered will be entered as a Limited or Supplemental Judgment in your case. Unless the Limited or Supplemental Judgment is later changed, you are required to pay these amounts regardless of the outcome of your case. Payment in full is due today.

You may request a hearing before the trial court at any time to contest any decision made on your application for appointment of counsel, including an order that you pay an Application Fee and a Contribution Amount. You also have a right to appeal a Limited or Supplemental Judgment ordering you to pay an Application Fee and a Contribution Amount. (See, Notice and Advice of Right to Appeal.)

Appointment of counsel cannot be denied, delayed, or withdrawn because of failure to pay the Application Fee and Contribution Amount ordered.

Financial Information Required

In order for the court to decide whether you are eligible for court-appointed counsel, you must provide information about your income, expenses, property, debts, and dependents on a financial statement, called an "Affidavit of Eligibility" or, if a juvenile in a juvenile cases, a "Juvenile Uniform Application Contribution Affidavit". Financial information on your spouse, if you have one and others in your household may also be required. If you are charged with failure to pay court-ordered obligations, you may wish to talk to an attorney prior to completing the affidavit.

The financial information provided to the court will be reviewed. You (and generally your spouse) must sign a Release of Information for Verification. This allows the court to obtain information from others to verify your financial situation. You may also be asked to provide proof of debts, property, and income (such as recent wage stubs).

Your social security number is requested on the Affidavit of Eligibility. Your provision of this number is voluntary. You cannot be compelled to provide it nor denied court-appointed counsel for failure to provide it. However, providing your social security number will likely speed the processing of your request for court-appointed counsel. By providing your social security number, you are acknowledging that it may be used to verify your financial information, and it may be used for collection purposes.

ADVICE OF RIGHTS

Revised 9/2016

Spanish:

INFORMACIÓN DE DERECHOS

Derecho a ser representado por un abogado, requisitos para obtener un abogado nombrado por el tribunal, cuota por concepto de solicitud y monto de aportación

Usted (o su hijo, de tratarse de un caso de delincuencia juvenil, dependencia o terminación de derechos parentales) tiene derecho a que un abogado le represente ante el tribunal en este caso. Usted podría reunir los requisitos económicos necesarios para que el tribunal le asigne un abogado.

El tribunal podría requerirle el pago de una cuota por concepto de solicitud de \$20 dólares, para determinar si usted satisface los requisitos necesarios para que se le asigne un abogado nombrado por el tribunal. Dicha cuota es pagadera aun si su solicitud para que se le nombre un abogado es denegada. El pago total de dicha cuota vence el día de hoy. Usted, bajo circunstancias limitadas, puede quedar exento del pago de la cuota.

El tribunal determinará si usted puede sufragar el costo de contratar un abogado. Si usted reúne las condiciones necesarias para que se le asigne un abogado, el tribunal decidirá si usted "reúne los requisitos y es indigente" o si "reúne los requisitos y puede contribuir". Si usted cuenta con efectivo disponible o bienes líquidos, mas estos no son suficientes para contratar su propio abogado, podría ordenársele pagar al tribunal un monto de aportación aplicable a los gastos que se incurrirán al asignársele un abogado.

Si se le ordena pagar una cuota por concepto de solicitud y un monto de aportación, la cantidad que se ordene pagar será registrada en su caso como una sentencia limitada o suplementaria. A menos que la sentencia limitada o suplementaria sea modificada posteriormente, se le requerirá pagar las cantidades arriba mencionadas independientemente del resultado de su caso. El pago total vence el día de hoy.

Usted en cualquier momento puede solicitar una audiencia ante el tribunal de primera instancia para impugnar cualquier decisión tomada sobre su solicitud de que se le asigne un abogado, incluyendo la orden de pagar una cuota por concepto de solicitud y un monto de aportación. Tiene derecho a apelar una sentencia limitada o suplementaria que le ordene pagar una cuota por concepto de solicitud y un monto de aportación. (*Ver Notice and Advice of Right to Appeal.*)

La asignación de un abogado no puede negarse, demorarse o cancelarse debido a la falta de pago de la cuota por concepto de solicitud y del monto de aportación ordenados.

Información económica requerida

Para que el tribunal decida si usted reúne los requisitos necesarios para que se le asigne un abogado, debe proporcionar información acerca de sus ingresos, gastos, propiedades, deudas y dependientes en una declaración de situación económica llamada "*Declaración jurada de elegibilidad*" o, en casos de menores, "*Juvenile Uniform Application Contribution Affidavit*". También podría requerirse información económica sobre su cónyuge, de existir tal, y de otros en su familia. Si se le acusa de no pagar obligaciones ordenadas por el tribunal, tal vez desee hablar con un abogado antes de llenar la declaración jurada.

La información económica que se proporcione al tribunal será revisada. Usted, y generalmente también su cónyuge, deben firmar la autorización para divulgar información con motivos de verificación. Esto permite que el tribunal obtenga información de otras fuentes para verificar su situación económica. Podría asimismo pedírsele que proporcione comprobantes de deudas, propiedad e ingresos (tales como recibos recientes de salario).

En la *Declaración jurada de elegibilidad* se solicita su número de seguro social. Facilitar este número es voluntario. No se le puede obligar a proporcionarlo ni se le puede negar la asignación de un abogado por no revelarlo. Sin embargo, es muy probable que el dar su número de seguro social acelere el proceso de su solicitud para obtener un abogado nombrado por el tribunal. Al proporcionar su número de seguro social usted reconoce que este podría usarse para verificar su información económica y podría también usarse con fines de cobranza.

ADVICE OF RIGHTS- SPANISH Revised 9/2016

APPENDIX B – Affidavit of Eligibility and Request for Court-Appointed Counsel



**Risk Assessment Program
Eligibility Work Sheet**

Printed: 2/2/2021 15:07

Case Type (charge): ASSAULT-4 Work Sheet Date: _____
 Applicant's Name: LASTNAME, FIRST MIDDLE Next Court Date: 2/23/2021
 Case Number(s): EGC #21CRTEST1 ID Number: INM4567

Household Size

Applicant: _____
 Spouse: _____
 Dependents: _____
 Other: _____
 Total: _____

Monthly Net Household Income

Applicant: _____
 Spouse: _____
 Other: _____
 Total: _____

Liquid Assets

Real Estate (equity): _____
 Automobile (equity): _____
 Security/Stocks: _____
 Bonds/Trust Accounts: _____
 Bank Account(s): _____
 Cash: _____
 Other: _____
 Total: _____

Monthly Expenses

*True Living Expenses: _____
 Income Guideline: _____
 Medical Bills: + _____
 Child Support: + _____
 Court Ordered Fees: + _____
 Child Care: + _____
 Garnishments: + _____
 Other: + _____
 Total: _____

*True living expenses include: Rent/Mortgage, Basic Utilities, Food, Clothing, Car Payment and Insurance

Determining Eligibility (enter each categories total)

Monthly Net Household Income: _____
 Liquid Assets: + _____
 Sub-Total: _____
 Monthly Expenses: + _____
 Available Resources: = _____

Privately-Hired Atty Fee Schedule _____
 If interpreter is required, Add \$150 to attorney fee schedule

Court Appointed Counsel Recommendation

Allow Deny

Attorney Name: _____

Application Fee Recommendation

Ordered Waived

*****Stop Here if Diversion Eligible*****

Available Resources: _____
 Application Fee: - _____
 Sub-Total: _____
 Allowed Assets: + _____
 Remaining Resources: = _____

OR

Guideline Contribution Amount: _____

(Remaining Resources or Guideline Contribution Amount, whichever is less)

Contribution Amount Recommendation

Ordered Waived

Recommended Contribution Amount _____

If this amount is less than \$50.00, recommend \$0.00

Verifier's Initials _____

APPENDIX D – Alternate Address Application



**PRETRIAL SERVICES
LANE COUNTY CIRCUIT COURT
ALTERNATE ADDRESS APPLICATION**

PHOTO IDENTIFICATION AND PROOF OF ADDRESS ARE REQUIRED

Defendant's Name: _____

Your FULL Legal Name: _____

Alias(es)/Alternate Name(s) Used: _____

Date of Birth: _____ Social Security #: _____

Driver's License #: _____ State: _____

Cell Phone: _____ Home Phone: _____

Physical Address: _____

Apt/Space #: _____ City: _____ State: _____ Zip Code: _____

How long at this address? _____ Length of residency in Oregon: _____

Mailing Address, if different from above: _____

City: _____ State: _____ Zip Code: _____

Place of Employment: _____ Address: _____

Length of Employment: _____ Alternate/Work phone: _____

Your relationship to defendant: _____ If not related to defendant, how long have you known them? _____

If not related, your reason for applying: _____

Have you or anyone in your residence ever been the victim/defendant in a crime in which the defendant was involved? _____

If yes, please explain: _____

Number of bedrooms in home: _____ Will Defendant have bed/bedroom to sleep? _____ Any minor children living in home? _____

Own Rent Landlord's Name: _____ Landlord Phone: _____

Approved Denied Release Officer/Court Clerk Signature: _____ Date: _____

Are there weapons in your home? _____ Alcohol in home? _____ If there are alcohol/weapons in your home, are you willing to remove them for the duration of this case? _____ (Cases can last as long as four to six months)

Are there any dogs in your home? _____ If so, how many? _____ What breed(s)? _____

Do you or any other household member have a medical Marijuana card? _____ If yes, who? _____

List all persons other than yourself that are living at the residence and their relationship to the defendant:

<u>FULL First Middle and Last Name</u>	<u>Relationship to defendant</u>	<u>DOB</u>	<u>SSN</u>	<u>Sex</u>

I understand that the application process includes a criminal history check. I must submit a picture ID and I may have to submit a current utility bill as proof of my address. I understand that the Defendant must reside at my residence until the case is closed by the court. Furthermore, I understand that by signing this application, I am affirming that the information provided is true and correct. If false information is provided, I am subject to a criminal charge of perjury, which is a felony offense.

(DO NOT SIGN UNTIL INSTRUCTED) Signature of Applicant: _____ **Date:** _____

Subscribed and Sworn before me this _____ DAY OF _____, 20____, Release Officer/Court Clerk.

Qualified Not Qualified Reason for Denial: _____ Applicant notified of Decision on: _____

Release Officer: _____ Date: _____

APPENDIX E – Third Party Supervisor Permission



PRETRIAL SERVICES
LANE COUNTY CIRCUIT COURT

Third Party Supervisor Permission

Defendant's name: _____
[Please print defendant's full name]

I, _____
[Please print your full name]

have been advised that I am obligated to abide by the conditions of the defendant's release. I give my permission for the defendant to live at my residence, listed below, until final disposition of his case. I will immediately notify Pretrial Services should the defendant violate any conditions of his release agreement, which includes not living at my residence, leaving the state without permission, using or dealing with persons that use or deal in illegal substances, if the defendant plans to fail to appear in court or any other special conditions of release.

The defendant will be residing at:

[Address] [City] [State] [Zip code]

[Third Party Supervisor Signature] [Date]

[Your relationship to defendant]

[Witness: Release Assistance Officer] [Date]

NOTE: Completing this document does not guarantee release.

Pretrial Services Office / Lane County Circuit Court / 101 W. 5th Ave. / Eugene, OR 97401 / (541) 682-4201

APPENDIX F – Electronic Surveillance and/or Alcohol Monitoring Permission Form



PRETRIAL SERVICES
LANE COUNTY CIRCUIT COURT

Electronic Surveillance and/or Alcohol Monitoring Permission Form

I, _____
(Please print your full name)
give permission for _____
(Please print defendant's full name)
to live at my address, listed below, while a participant on the Electronic Surveillance Program
and/or the Alcohol Monitoring Program.

I have been advised of the requirements of the programs. I UNDERSTAND and AGREE to the following: Lane County Sheriff's Office staff will arrive at my residence, randomly and unannounced, to verify that the ESP equipment is in good working order and that the conditions and rules of the program are being followed as directed. Specifically, Lane County Sheriff's Office staff have my full consent to search my entire residence, all out buildings, and vehicles to confirm compliance with all program conditions and rules, including but not limited to searching for alcohol, alcohol containers, firearms, controlled substances, illegal contraband, and any items specifically prohibited which would constitute a violation of the program rules and regulations. I give this consent freely and voluntarily. If I do not comply with the terms of this agreement at the time staff members arrive to search my residence, I acknowledge that this will constitute a violation of the program rules and regulations.

My residence location is:

[Address] [City] [State] [Zip code]

[Signature] [Date]

[Your relationship to defendant]

[Witness: Release Assistance Officer] [Date]

NOTE: Completing this document does not guarantee release.

Pretrial Services Office / Lane County Circuit Court / 101 W. 5th Ave. / Eugene, OR 97401 / (541) 682-4201

APPENDIX G – Electronic Surveillance Program Weekly Schedule

**LANE COUNTY SHERIFF'S OFFICE
ELECTRONIC SURVEILLANCE PROGRAM
75 WEST 5th AVE EUGENE, OR 97401 (541) 682-2139 (RRC Deputy)**

WEEKLY SCHEDULE

INMATE#: _____

NAME: _____

DATE: _____

IN AND OUT TIMES

DATE	DAY	FIRST	SECOND	THIRD	REASON
	Sun	out _____ in _____	out _____ in _____	out _____ in _____	1. _____ 2. _____ 3. _____
	Mon	out _____ in _____	out _____ in _____	out _____ in _____	1. _____ 2. _____ 3. _____
	Tue	out _____ in _____	out _____ in _____	out _____ in _____	1. _____ 2. _____ 3. _____
	Wed	out _____ in _____	out _____ in _____	out _____ in _____	1. _____ 2. _____ 3. _____
	Thu	out _____ in _____	out _____ in _____	out _____ in _____	1. _____ 2. _____ 3. _____
	Fri	out _____ in _____	out _____ in _____	out _____ in _____	1. _____ 2. _____ 3. _____
	Sat	out _____ in _____	out _____ in _____	out _____ in _____	1. _____ 2. _____ 3. _____

SPECIAL LOCATION ADDRESSES: (AA/NA MEETINGS, APPOINTMENTS, ETC.)

1. _____ PHONE # _____
2. _____ PHONE # _____
3. _____ PHONE # _____
4. _____ PHONE # _____
5. _____ PHONE # _____
6. _____ PHONE # _____

 Client's signature Release Assistance Officer Date

APPENDIX H – Interview Questions

RISK ASSESSMENT TOOL				
QUESTION	RISK FACTORS AND POINTS			
	FAILURE RISK	RE-OFFENSE RISK	DANGEROUSNESS	REBESISTANCE TO CHANGE
Historical FTAs	None = 0, 1 time = 1, more than 1 = 5	0	0	0
FTA's on current charge	None = 0 = 1 : 4	0	0	0
Resides with Victim?	0	Yes = 1	Yes = 3	0
Protective orders (RO/SO) Relationships?	0	Any = 3	Any = 4	0
Violations of protective orders?	2 X Number of Violations	1 X Number of Violations	4 X Number of Violations	2
Current charge for violation of protective order?	3	3	5	2
Current charge is violent felony?	5	0	5	0
Current charge is violent misdemeanor?	0	0	3	0
Current charge is high recidivism crime? (Rob., Burg, Arson, Theft, UUMV)	3	5	Rob, Arson = 4 Burg, Theft, UUMV = 1	4
Conviction for violent felony?*	4	4	5	4
Convictions for violent misdemeanors?*	0	1	2	1
Convictions for high recidivism crimes? (Rob., Burg., Arson, Theft, UUMV)*	3	5	Rob, Arson = 4 Burg, Theft, UUMV = 1	4
Other Pending Charges?	One or more pending, same incident date = 1 Two or more pending, different dates = 3 Add 1 point for each felony pending	One or more pending, same incident date = 2 Two or more pending, different dates = 4 Add 1 point for each felony pending	0	0
Outstanding warrants? Y/N	4	3	0	2
Indicator crimes? (Animal abuse, Indecent exposure, Public indecency – current or historical)	3	5	4	5
Convictions for drug or alcohol felonies?	3	Drug = 2 Alcohol = 4	Drug = 2 Alcohol = 4	Drug = 2 Alcohol = 5
In current case is victim known or unknown, in violent offense only? (how long have you known victim?)	Victim known = 4 If APA (Domestic Violence) add 1	Victim known = 4	Sex Offense, victim unknown = 5 Sex Offense, victim known = 3 All others, victim known = 3	
Prior Release Agreement Failure?	4	0	0	3
Is defendant on Community Supervision now or in past 5 years?	Current = 3 Past = 2	Current = 3 Past = 2	0	3
Revocations or Custody Sanctions?*	Sanctions = 1 Revocations = 3	Sanctions = 1 Revocations = 3	0	4
PO name?	0	0	0	0
Is defendant on Court Probation now or in past 5 years?	Current = 3 Past = 2	Current = 3 Past = 2	0	3
Alternative program history. Success / failure.	Successful completion = -2 Failure = 2	0	0	Success -1 Failure = 1
Place of birth	0	0	0	0
Current address	No address = 3; Lane County = 0; OR = 1 Other State = 2; Non-USA = 4	0	0	0
Length of stay at current address (if less than 1 year, consider previous address).	> 1 year = 0 6 mos. to 1 yr. = 1 < 6 mos. = 2; < 1 mos. = 3	0	0	0
Time in Oregon	> 1 year = 0 < 1 year = 1	0	0	0
House/Apartment?	0	0	0	0
Own/Rent?	Own = -1 Rent = 0	0	0	0
Relationship / partnership status	Married/partnered more than 1 year = -1	0	0	0

APPENDIX I – No Contact Order

Original as of 2/2/2021

State of Oregon vs. LASTNAME, FIRST MIDDLE	Case No. EGC 21CRTEST1 Pretrial No Contact Order
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Protected Person's Identifiers:

LASTNAME, SPOUSE

Relationship: SPOUSE

Date of Birth: 01-02-1910

Gender: Female Race: Unknown

Defendant's Identifiers:

Date of Birth: 01-01-1910

Gender: Male Race: Unknown

Additional Victims (if blank there are none):

2. Defendant:

By signing this document, I acknowledge that I am prohibited from having contact with the victim(s) of the crime(s) that I am alleged to have committed unless I have prior authorization of the Court.

PROHIBITED CONTACT INCLUDES, BUT IS NOT LIMITED TO:

- A. coming into the visual or physical presence of the protected person;
- B. following the protected person;
- C. waiting outside the home, property, place of work or school of the protected person or of a member of the protected person's family;
- D. sending or making written or electronic communications in any form to the protected person;
- E. speaking with the protected person by any means;
- F. communicating with the protected person through a third person;
- G. committing a crime against the protected person;
- H. knowingly entering, remaining, or coming within one mile of the protected person's residence, school, workplace, other: _____;
- I. other: or as directed in a release agreement.

3. THIS ORDER SHALL APPLY AT ANY TIME DURING WHICH THE DEFENDANT IS HELD IN CUSTODY ON THE CHARGE AND SHALL REMAIN VALID UNTIL SUCH TIME AS THE DEFENDANT IS SENTENCED FOR THE CRIME, THE CHARGE(S) IS (ARE) DISMISSED, THE DEFENDANT IS ACQUITTED OF THE CRIME OR A JUDGE AUTHORIZES CONTACT WHILE IN CUSTODY.

4 WARNING: VIOLATION OF THIS ORDER IS PUNISHABLE BY CONTEMPT.

Dated: 02/02/2021 at: _____
 I acknowledge receipt of a copy of this order:

_____ Defendant _____ Release Officer/Pretrial Deputy

I am a certified or registered interpreter or found by the court to be qualified to interpret in the _____ language, which the defendant understands. I translated this order for the defendant from English into that language.

Signed at (City) _____, (State) _____, on (Date) _____.

Signature: _____ Printed Name: _____

APPENDIX J – Notice to Person Posting Money for Release of a Defendant

NOTICE TO PERSON POSTING MONEY FOR RELEASE OF A DEFENDANT

DEFENDANT'S NAME: _____

CASE NUMBER: _____ CHARGE(S): _____

Before you pay any money to obtain the release of a defendant from custody, you should understand that the law provides that:

1. Pursuant to ORS 135.265, the court will automatically keep 15% of the deposit posted for administrative release costs. These costs will not be less than \$5 nor more than \$750.
2. The court may order that the remainder of the deposit be applied toward payment of any fines, costs, assessments, restitution, attorney fees, past due child support obligations, or other financial obligations imposed in this case or any case in Lane County Circuit Court in which the defendant owes money.
3. The court may order the deposit amount forfeited to the State if the defendant violates any of the conditions of his or her release agreement.
4. If the court should order a refund of the money posted, no refund will be processed until all matters in the case have been completed, or the defendant has been sentenced. The refund will be made payable to the person who posted the money as shown by the court records, or as otherwise ordered by the court. It will be your responsibility to notify the court if your address changes.
5. If the court orders a refund, it usually takes from two to three weeks after all matters in the case have been completed before a refund is processed.

I further understand that if I obtain the release of the above defendant upon use of my MasterCard/Visa/Discover to post the required security deposit, I acknowledge receipt of value for those funds and specifically authorize this charge against my account. I agree to pay the card issuer the above amount according to the agreement furnished with the card, and understand and acknowledge that I cannot rescind this transaction. If a refund is processed, I understand it will be credited back to my MasterCard/Visa/Discover account.

I HAVE READ AND UNDERSTAND THE ABOVE INFORMATION

Signature of person posting Date

Name (please print)

Address

City State Zip Phone #

APPENDIX K – Notification of Release Options

NOTIFICATION OF RELEASE OPTIONS

NAME: _____

CASE NUMBER: _____

ID NUMBER: _____

HOUSING: _____

NOTIFICATION DATE: _____

Your pending Lane County Circuit Court case was reviewed by Pretrial Services Staff, and the following release options set:

ALL CHECKED OPTIONS ARE REQUIRED FOR RELEASE:

- Alternate Address
- 3rd Party Supervisor
- Electronic Surveillance Program
- Alcohol Monitor
- Other:

If you have a potential Alternate Address or 3rd Party Supervisor, ask that person to bring picture ID to Pretrial Services to apply. A release officer will review the application and notify the applicant if they are approved or not approved.

If you have questions, send a kite to Pretrial Services. Do not return this form to Pretrial with your questions or comments. Do not send this form to your attorney.

CONFIDENTIAL

APPENDIX L – Release of Information



PRETRIAL SERVICES
LANE COUNTY CIRCUIT COURT

AUTHORIZATION FOR RELEASE OF INFORMATION

NAME: _____ **DOB:** _____
Case Number(s): _____

TO: Pretrial Monitoring Officers

I understand that my records may have information that is protected by federal and state law. By signing below, I am authorizing the release of my records directly to:

- Pre-Trial Release Office
- Lane County Parole and Probation Department
- Lane County Victim Services

This authorization allows the following type of information to be released:

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> MEDICAL | <input checked="" type="checkbox"/> PSYCHOLOGICAL | <input checked="" type="checkbox"/> PSYCHIATRIC |
| <input checked="" type="checkbox"/> FINANCIAL | <input checked="" type="checkbox"/> EMPLOYMENT | <input checked="" type="checkbox"/> DRUG/ALCOHOL Tx |
| <input checked="" type="checkbox"/> EDUCATIONAL | <input checked="" type="checkbox"/> DHS | |

This authorization also allows release of information:

- TO Lane County Parole and Probation Department FROM Pretrial Services Office
- TO Pre-Trial Release Office FROM Lane County Parole and Probation Department

Immediate notification if the defendant has any unauthorized contact with the alleged victim or if the the defendant is not in compliance with the Pretrial Monitoring Program.

It is my understanding that all information received by the Pretrial Services, Lane County Parole and Probation Department and the Lane County Victim Services as a result of this authorization will be treated as confidential. These agencies may, however, disclose this information for the purposes of the administration of their programs including disclosure in Circuit Court proceedings.

This authorization remains in effect until sixty (60) days after disposition of my case. A photocopy or facsimile (FAX) of my signature is as valid as the original.

Signature Date

Address City State Zip Code

Pretrial Services Office Lane County Circuit Court 101 West 5th Ave, Eugene, OR 97401 541-682-4201 fax: 541-682-2134

APPENDIX M – Revocation of Release (Affidavit & Order)

Affidavit:

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON,		CASE NO. 21CRTEST1
	Plaintiff,	AFFIDAVIT FOR ORDER
v.		REVOKING SECURITY
		RELEASE AGREEMENT
FIRST MIDDLE LASTNAME,		TOTAL SECURITY PAID \$2,000.00
	Defendant.	DATE 02/02/2021 #2021-12345 21-LAN-01234
		CHARGES: ASSAULT-4

STATE OF OREGON)
) ss.
 COUNTY OF LANE)

COMES NOW Tiffany Gibson to advise the Court that the defendant is in violation of the Security Release Agreement dated February 2, 2021 (\$20,000.00 security set; \$2,000.00 security deposit posted), for the reason that, on or about February 3, 2021, the defendant is accused of having prohibited contact with the alleged victim by contacting or attempting to contact the alleged victim via telephone by sending her text messages and in person by being at the alleged victim’s residence. Per the Release Agreement 21CRTEST1, the defendant is prohibited from contacting the alleged victim and prohibited from coming into the visual or physical presence of the alleged victim.

DATED this 4th day of February, 2021

 Tiffany Gibson, Release Assistance Officer

SUBSCRIBED AND SWORN to before me this 4th day of February, 2021

 Example Template, JSS

AFFIDAVIT FOR ORDER REVOKING SECURITY RELEASE AGREEMENT (21CRTEST1)

Order (REMAND):

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON,		Plaintiff,	CASE NO. 21CRTEST1
v.			ORDER REVOKING SECURITY RELEASE AGREEMENT REMAND
FIRST MIDDLE LASTNAME,		Defendant.	TOTAL SECURITY PAID \$2,000.00 DATE 02/02/2021 #2021-12345 21-LAN-01234
			CHARGES: ASSAULT-4

STATE OF OREGON)
) ss.
COUNTY OF LANE)

BASED UPON the Affidavit For Order Revoking Security Release Agreement filed this date by Tiffany Gibson, Release Assistance Officer advising the Court that the defendant is in violation of the Security Release Agreement dated February 2, 2021, for the reason that, on or about February 3, 2021, the defendant is accused of having prohibited contact with the alleged victim by contacting or attempting to contact the alleged victim via telephone by sending her text messages and in person by being at the alleged victim's residence. Per the Release Agreement 21CRTEST1, the defendant is prohibited from contacting the alleged victim and prohibited from coming into the visual or physical presence of the alleged victim.

IT IS HEREBY ORDERED that the Security Release Agreement signed February 2, 2021 (\$20,000.00 security set; \$2,000.00 security deposit posted on February 2, 2021) is revoked; and

IT IS FURTHER ORDERED that the security deposit in the amount of \$2,000.00 shall be forfeited; and

IT IS FURTHER ORDERED that the defendant is remanded to the legal and physical custody of the Lane County Sheriff.

[e-signed & dated by CIRCUIT COURT JUDGE]

ORDER REVOKING SECURITY RELEASE AGREEMENT (21CRTEST1)

APPENDIX N – Statewide Privately-Hired Attorney Fee Schedule

PRIVATE ATTORNEY FEE SCHEDULE Effective January 1, 2011 Homicides		STATEWIDE
Aggravated Murder		\$100,000
Intentional, Felony Murder		\$50,000
Manslaughter I or II (Class A or B Felony)		\$25,000
Criminally Negligent Homicide (Class C Felony)	Assault/Kidnap/Rape/Robbery/Armed/Unlawful Harassment	\$12,000
Attempted Murder		\$12,000
Assault I or II, Kidnap I or II (Class A or B Felony)		\$12,000
Assault III or IV, Assaulting a Public Safety Officer, Robbery III (Class C Felony)		\$6,000
Resisting Arrest (Misdemeanor)		\$3,000
Assault IV, Menacing, Recklessly Endangering, Harassment (Misdemeanor)	Sexual Offenses	\$2,500
Rape I or II, Sodomy I or II, Unlawful Sexual Penetration I or II, Sex Abuse I (Class A or B Felony)		\$15,000
Rape III, Sodomy III, Sex Abuse II (Class C Felony)		\$8,000
Sexual Abuse III (Misdemeanor)		\$6,000
	Drug Offenses	
Manufacture/Delivery/Controlled Substance Schedule I, II, or III (Class A, B, or C Felony)		\$7,000
Possession Controlled Substance Schedule I or II (Class B or C Felony)		\$3,000
Felony DWI/R	Child and Family, White Supremacy/Extremist (DWI/R)	\$2,500
Misdemeanor DWI		\$2,000
Felony DUI		\$5,000
Misdemeanor DUI		\$2,500
DUI: (Diversion Eligible)	Probation Violations, Contempt and WFO	\$5,500
Probation Violation		\$1,500
Contempt (Violation of a Restraining Order (VRO))	Other Offenses Not Listed Above	\$1,500
Class A Felony		\$10,000
Class B Felony		\$7,000
Class C Felony		\$5,000
Misdemeanor		\$2,000
Extortion		\$2,000
Attempt or Solicitation to Commit "X" Crime: To determine the fee for an "attempt" to commit a crime, use the attorney fee for the next less serious underlying offense, e.g. for Attempted Assault I or II, use the Assault I attorney fee schedule. For a conspiracy to commit a crime, e.g. for conspiracy to commit murder, use the individual murder fee. For a conspiracy to commit a crime, e.g. for conspiracy to commit murder, use the individual murder fee.		
Attorney-Hired Attorney Fee Schedule - For Non-Criminal Inherent Defense Cases Types:		
Juvenile Delinquency (When the amount from the Privately Hired Attorney Fee Schedule for the underlying offense applies)		\$4,000
Juvenile Dependency (If parent - Child Representative)		\$10,000
Termination of Parental Rights (Parent or Child Fee - representative)		\$7,500
Civil Commitment		
Habes Corpus - Use one-half the amount from the Privately-Hired Attorney Fee Schedule for the offense on which the incarcerated person is filing the Habeas Corpus petition.		
Post Conviction Relief - Use the amount from the Privately-Hired Attorney Fee Schedule for the most serious conviction being challenged.		

APPENDIX O – Sworn Statement



PRETRIAL SERVICES
LANE COUNTY CIRCUIT COURT

Defendant _____ Case Number _____
(Please print defendant's full name)

I, _____, hereby swear that the following information
(Please print your full name)
is true and complete to the best of my knowledge:

I am a Victim Witness Third Party Other: _____

X _____
(Signature)

X _____
(Date)

Subscribed and sworn to before me,
This _____ day of _____, 20__.
By: _____
Pretrial Services Office (Court Clerk)

Pretrial Services/Lane County Circuit Court/101 West 5th Ave., Eugene, OR 97401 541-682-4201 Fax: 541-682-2134

APPENDIX P – Travel Permit



**Travel Permit
Pretrial Services**

Name: _____ Date: _____

Request permission to leave the state of Oregon for the following reason:

City: _____ State: _____

Contact name (or hotel) and address:

Phone: _____

Departure Date: _____ Return Date: _____

Traveling by: _____ Next Court Date: _____

Traveling With: _____ Case #: _____

Special Instructions Relative to Trip:

1. People on call-in schedules must continue to call in on scheduled days unless otherwise informed.
2. Report in person to the Pretrial Services Office when you return.
101 W 5th Ave., Eugene, OR 97401 (541) 682-4201

Approved/Denied: _____

Signature of Defendant

Signature of Release Officer

Dated this _____ day of _____, 20

Dated this _____ day of _____, 20

APPENDIX Q – Lane County Circuit Court Appearance Dates of Persons Released from Custody

FILED
AT 10:00 CLOCK A.M.

APR 3 2005

Court Administrator
Circuit/Dist. Court for Lane Co. Oregon
[Signature]

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

IN THE MATTER OF APPEARANCE
DATES OF PERSONS RELEASED
FROM CUSTODY

GENERAL ORDER

610104610

[Circular stamp]

THIS General Order is issued to establish appearance dates in pending proceedings for persons released from the custody of the Lane County Sheriff in Circuit Court cases. This order also continues present procedures for inserting trial and appearance dates in release documents.

IT IS HEREBY ORDERED THAT:

- (1) All defendants in custody on criminal cases pending trial, probation violation, or show cause proceedings, or some other appearance shall be advised of the next required appearance date and time in Circuit Court before being released.
- (2) Each such defendant shall sign a document clearly stating the appearance date and time before release from custody. A copy of that document shall be given to the defendant. Another copy shall be forwarded to the court in filing in the case file. Such document may be a Release Agreement, Security Release Agreement, or some other notice or document issued upon release of a defendant as required by the Federal Court order limiting the jail population.
- (3) The appearance date and time shall be the date and time set by the court as shown in the computer (CMIN) record of the case or in the Pretrial Services records.

General Order no: Release Dates - Page 1

APPENDIX R – Lane County Circuit Court Establishment of a Pretrial Release Program

Verifile Court Copy of Original 8/22/02

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR LANE COUNTY

FILED

02 AUG -9 PM 3:35

CIRCUIT COURT OF OREGON
FOR LANE COUNTY

BY 

IN THE MATTER OF THE
ESTABLISHMENT OF A PRETRIAL
RELEASE PROGRAM

GENERAL ORDER

61-01-04610

13

Pursuant to the provisions of ORS 135.235, concerning the appointment and duties of Release Assistance Officers, the Second Judicial District adopts the following policy:

IT IS HEREBY ORDERED that the Trial Court Administrator shall establish and maintain a Pretrial Release Program in accordance with this order and all applicable statutes, rules, and policies.

Release Assistance Officers shall be appointed by the Trial Court Administrator under the personnel plan established by the Chief Justice of the Supreme Court.

Release Assistance Officers shall have authority to make release decisions. The level of authority for each officer shall be determined by the Trial Court Administrator pursuant to guidelines established by the Administrator and approved by the Presiding Judge.

This order supercedes all previous orders appointing a Custody Referee and unprinting individual Release Assistance Officers.

DATED this 9th day of August, 2002


MARY ANN DEARDEN
PRESIDING CIRCUIT JUDGE

61014810
01
11:00
200208



APPENDIX S – Lane County Circuit Court Uniform Security Release Schedule

FILED
 JUL 01 1956
 CLERK OF COURT
 DEPARTMENT OF JUSTICE
 OREGON

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

In the matter of

THE ADOPTION OF THE UNIFORM
 SECURITY RELEASE SCHEDULE

GENERAL ORDER

619500007
 1956

THIS MATTER HAVING come before the court to provide a uniform schedule for security amounts for persons charged in this court with crimes. The court provides the schedule set forth below. This schedule shall be used by the Custody Referee's office and by the court to assist in the determination of an appropriate release amount. In any individual case, a judge, or the custody referee, may impose a security amount higher or lower than the ranges set forth if circumstances so justify it.

Judges, and the Custody Referee, also may review the security amounts on warrants issued for the arrest of defendants.

The setting of security in cases involving Murder or Aggravated Murder shall be set only by judges of this court.

SCHEDULE

Measure 11 Offenses	Low	Medium	High
Assault in the First Degree	\$75,000	\$150,000	\$250,000
Kidnaping in the First Degree	\$75,000	\$150,000	\$250,000
Manslaughter in the First Degree	\$75,000	\$150,000	\$250,000
Rape in the First Degree	\$75,000	\$150,000	\$250,000
Robbery in the First Degree	\$75,000	\$150,000	\$250,000
Sexual Abuse in the First Degree	\$75,000	\$150,000	\$250,000
Sexual Penetration with a Foreign Object 1	\$75,000	\$150,000	\$250,000
Sodomy in the First Degree	\$75,000	\$150,000	\$250,000

APPENDIX T – Lane County Circuit Court Release Agreement

ROR:

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON	Plaintiff,	)	ROR
		)	RELEASE AGREEMENT
vs.		)	Case # EGC 21CRTEST5
		)	Charges:
LASTNAME, FIRST MIDDLE		)	POSSESS METH
ADDRESS LINE)	
EUGENE, OR 97401	Defendant.)	

I, FIRST MIDDLE LASTNAME, promise on oath that I will:

- 1) Appear personally in court at the Lane County Circuit Courthouse in Eugene on Tuesday, February 23, 2021 at 9:00 a.m. and all other dates. The Lane County Circuit Courthouse address is 125 E 8th Ave, Eugene, OR 97401, Tel: (541) 682-4020.
- 2) Your court appearance WILL be a remote appearance unless otherwise directed. The only exceptions are your initial arraignment, trial and Harris Hall C.O.P and sentencings. You must maintain contact with your attorney regarding the mode of appearance. Failure to appear for a remote court appearance will result in a warrant for your arrest, just as failure to appear for an in-person court appearance would.
- 3) Disregard any conditions pertaining to Pretrial Services if this is not a Lane County Circuit Court Case.
- 4) Obey all other orders and requirements of the court, which includes cooperating with all court staff, specifically the Pretrial Services Office, and in a courteous and respectful manner.
- 5) Not leave the state without the court's permission.
- 6) Maintain a mailing and/or residential address, as well as a contact telephone number. I understand that I am required to immediately give written notice in person of any changes to Pretrial Services, 101 West 5th Ave Eugene, OR 97401.
- 7) I understand that I am required to keep in contact with the attorney of record in this matter, which includes any changes in my mailing or residential address or telephone number.
- 8) Obey all laws and notify this court within 5 days, in writing, if I am arrested or charged with any new crime.
- 9) Not use or associate with persons using or dealing in illegal drugs. I understand that I may be required to submit to a Urinalysis and pay the \$10.00 fee at the time of the collection.
- 10) Properly wear a face covering for any proceeding held in a courtroom at the Lane County Courthouse unless or until specifically directed to remove the face covering by the judge presiding over the proceeding.

I understand that

I will be subject to arrest and revocation of my release if I fail to appear as required on my release agreements. If the court finds that I have violated the conditions of this release agreement, other active release agreements or have been charged with any new crime, my release may be revoked and a warrant may be issued for my arrest.

Failure to appear is punishable as a separate crime with 5 years in prison and \$125,000 fine for a felony, or 1 year in jail and \$6,250 fine for a misdemeanor.

If I fail to keep the court informed in writing of my correct mailing address, I will not get notices advising me of court dates and that would not be an excuse for failure to appear.

If I have been released on security, (1) the court will keep as a fee, 15% of the security deposit and (2) if I violate this release agreement the deposit may be forfeited and a judgment entered against me for the entire security amount, which is 10 times the security deposit amount.

Page 1 of 2 _____ (Initials)

LASTNAME, FIRST MIDDLE - 21CRTEST5

Lane County Pretrial Services / 101 West 5th Ave Eugene, OR 97401 / Tel: (541) 682-4201 / Fax: (541) 682-2134

CONDITIONAL:

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON	Plaintiff,	)	CONDITIONAL
		)	RELEASE AGREEMENT
vs.		)	Case # EGC 21CRTEST1
		)	Charges:
LASTNAME, FIRST MIDDLE		)	ASSAULT-4
ALTERNATE ADDRESS)	
SPRINGFIELD, OR 97477	Defendant.)	

I, FIRST MIDDLE LASTNAME, promise on oath that I will:

- 1) Appear personally in court at the Lane County Circuit Courthouse in Eugene on Tuesday, February 23, 2021 at 9:00 a.m. and all other dates. The Lane County Circuit Courthouse address is 125 E 8th Ave, Eugene, OR 97401, Tel: (541) 682-4020.
- 2) Your court appearance WILL be a remote appearance unless otherwise directed. The only exceptions are your initial arraignment, trial and Harris Hall C.O.P and sentencings. You must maintain contact with your attorney regarding the mode of appearance. Failure to appear for a remote court appearance will result in a warrant for your arrest, just as failure to appear for an in-person court appearance would.
- 3) Disregard any conditions pertaining to Pretrial Services if this is not a Lane County Circuit Court Case.
- 4) Obey all other orders and requirements of the court, which includes cooperating with all court staff, specifically the Pretrial Services Office, and in a courteous and respectful manner.
- 5) Not leave the state without the court's permission.
- 6) Maintain a mailing and/or residential address, as well as a contact telephone number. I understand that I am required to immediately give written notice in person of any changes to Pretrial Services, 101 West 5th Ave Eugene, OR 97401.
- 7) I understand that I am required to keep in contact with the attorney of record in this matter, which includes any changes in my mailing or residential address or telephone number.
- 8) I understand that I must reside at the above alternate address to which I have been released pending final disposition of this case or another address approved by Pretrial Services.
- 9) YOU MUST REMAIN IN YOUR RESIDENCE BETWEEN 10:00 PM AND 6:00 AM.
- 10) Obey all laws and notify this court within 5 days, in writing, if I am arrested or charged with any new crime.
- 11) Not use or associate with persons using or dealing in illegal drugs. I understand that I may be required to submit to a Urinalysis and pay the \$10.00 fee at the time of the collection.
- 12) Properly wear a face covering for any proceeding held in a courtroom at the Lane County Courthouse unless or until specifically directed to remove the face covering by the judge presiding over the proceeding.
- 13) I understand that I am prohibited from having any contact with the victim(s) of the crime(s) that I am alleged to have committed unless I have prior authorization of the Court.

PROHIBITED CONTACT INCLUDES, BUT IS NOT LIMITED TO:

- Coming into the visual or physical presence of the other person
- Following the other person
- Waiting outside the home, property, place of work or school of the other person or a member of that person's household
- Sending or making written or electronic communication in any form to the other person

Page 1 of 3 _____ (Initials)

LASTNAME, FIRST MIDDLE - 21CRTEST1

Lane County Pretrial Services / 101 West 5th Ave Eugene, OR 97401 / Tel: (541) 682-4201 / Fax: (541) 682-2134

APPENDIX U – Lane County Circuit Court Release Order

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON	Plaintiff)	
)	
vs.		)	RELEASE
)	
LASTNAME, FIRST MIDDLE)	
ID# INM4567	Defendant)	

TO THE SHERIFF OF LANE COUNTY, OREGON:

Said Defendant, who is detained by you on the following charge(s):

Case# EGC 21CRTEST5
Release Type: ROR
Charge(s): POSSESS METH

having been discharged by me, you are commanded forthwith to discharge him from your custody.

Dated at Eugene, Oregon on February 2, 2021

Pretrial Services Officer

Court Date for Appearance:

02/23/2021 @ 0930

APPENDIX V – Lane County Circuit Court Victim Addendum



Risk Assessment Program - Pretrial Services
Confidential Addendum to Release Agreement

Original as of 2/2/2021

Defendant's Name: LASTNAME, FIRST MIDDLE
Alleged Victim's Name and Address: SPOUSE LASTNAME - ADDRESS LINE, Eugene, OR 97401
Witnessing Minors: CHILD LASTNAME
Other Restricted Addresses: SPOUSE'S PLACE OF EMPLOYMENT, CHILD'S SCHOOL

I, FIRST MIDDLE LASTNAME, do acknowledge that I have read or had read to me the No Contact Condition of my release agreement on the below case number and charges. I understand that the name of the alleged victim is the person with whom I am to have no contact per the condition in the release agreement. Furthermore, I understand that I am not to be within one (1) mile of the above address(es), unless the court has allowed modifications to either of these conditions in this matter. Should I violate the no contact condition, I understand that my release agreement can be revoked and a warrant issued for my arrest. "Per ORS 135.290(2) A defendant who knowingly breaches any of the regulations in the release agreement imposed pursuant to ORS 135.280 may be punished by contempt if the defendant knowingly: (a) Breaches any of the regulations in the release agreement imposed pursuant to ORS 135.280."

<u>Case Number</u>	<u>Charges</u>
21CRTEST1	ASSAULT-4

LASTNAME, FIRST MIDDLE

Release Officer

CONFIDENTIAL