

Pretrial Resource Guide

Over the past 4 years, leadership representing all of Multnomah County's local public safety stakeholders, including representatives from the Judiciary, the District Attorney's office, the Defense bar, the Department of Community Justice, the Multnomah County Sheriff's Office, Portland Police, victim's representatives, and the Local Public Safety Coordinating Council, have been collaborating to jointly develop a better pretrial justice system. These public safety partners have committed to work together to improve a system that is beholden to the U.S. Constitution and the right to due process while also promoting community well-being and safety, protecting the rights of victims, and ensuring fairness and equity. Read more about the work below:

- **What is pretrial and pretrial release?**
- **How does the pretrial system work?**
- **What values guide decision-making in the pretrial system?**
- **What changes are being made to the pretrial system?**
- **What is the Public Safety Assessment (PSA)?**
- **What is pretrial monitoring?**
- **Can a defendant who is charged with a serious or violent crime be released?**
- **What does the data show regarding pretrial?**
- **What is each system partner's role?**
- **How do system partners work together?**

What is pretrial and pretrial release?

“Pretrial” is the time period between arrest and when a case is finished. Everyone charged with a crime is presumed innocent. “Pretrial release” is a decision that is made when a person who is facing charges, but has not been convicted, may be released before the resolution of their case. The pretrial system is beholden to the U.S. Constitution and the right to due process.

Oregon’s pretrial system was developed over decades. General rules for pretrial release are set by [various Oregon Revised Statutes](#) to establish consistency across the state. Relevant pretrial release statutes include ORS 135.230 through 135.290. Those statutes were updated in the 2021 legislative session with the passage of [Senate Bill 48](#), which was designed to, among many goals, increase the likelihood that those accused of a crime show up for court, promote community well-being and safety, protect the rights of victims, and ensure fairness and equity.

The Oregon Supreme Court Chief Justice’s Criminal Justice Advisory Committee (CJAC) Pretrial Subcommittee developed recommendations to comply with Senate Bill 48 and to inform the Chief Justice’s pretrial release guidelines. The Pretrial Subcommittee included representatives from state and local courts, district attorneys, defense attorneys, community-based service providers and legal service providers for crime victims, and appellate attorneys, as well as representatives from law enforcement, community corrections, state and local government, and the Oregon State Bar. The Chief Justice’s pretrial order (CJO) was based on the recommendations of the CJAC. The Chief Justice guidelines direct that any release condition imposed be the least restrictive necessary to ensure both public and victim safety, and that the defendant returns to court as required. The Multnomah Circuit Court’s Presiding Judge Order reflects the CJO on the local level.

How does the pretrial system work?

In Multnomah County, the Presiding Judge has issued a Presiding Judge Order (PJO), which establishes guidelines for pretrial release based on charge. A person who is arrested and facing charges may be held in jail until their first court appearance. Alternatively, an individual may be released on their own recognizance, (i.e., released from jail with a written agreement to appear for all scheduled court dates, without paying money bond) or with conditions.

Multnomah County Department of Community Justice Recognizance Officers verify release criteria information and run risk assessments on defendants facing charges. Recognizance officers do not use their discretion in release determinations; rather, they follow guidelines established by the PJO.

There are different types of pretrial release that require a defendant to sign and agree to specific terms and conditions, including conditional releases and release on a defendant’s own recognizance.

Defendants may also be referred to Pretrial Release Services (PRS), which allows a person to remain in the community pending resolution of their court case. PRS monitors released defendants to ensure they return to court and obey release conditions through two programs: the [Pretrial Services Program](#) and the Multnomah County Sheriff’s Office’s Close Street program.

A defendant may not be eligible for release from jail custody based on identified pretrial risk factors, or if they are facing certain charges stipulated in the PJO and are being held for a first appearance before a judge.

Learn more about the Court pretrial process: [here](#).

What values guide decision-making in the pretrial system?

Individuals suspected of committing crimes have due process rights guaranteed by the U.S. and Oregon Constitutions. The right to physical liberty is one of the foundational principles of the United States Constitution. The U.S. Supreme Court is unequivocal concerning this right, stating: “In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” The pretrial justice system must uphold this fundamental principle while balancing these Constitutional rights with public safety, accountability, equity, and fairness.

Over the past several years, Multnomah County’s public safety partners have committed to improving the pretrial system so that it better promotes and supports these values, including community safety and well-being; improved rates of pretrial court appearances; the rights of victims; and a fair and equitable justice system for all. These partners must account for public safety from all perspectives — from the person who experienced harm to the collateral consequences on justice-involved individuals (e.g., losing housing, child custody and employment).

In addition, as this national video about pretrial justice illustrates, pretrial risk is solely defined by two factors: the risk of not returning to court and the risk of committing a new crime if released before the completion of the case. Through collaboration, research and data analysis, input from stakeholders, and more, we continue to work to improve outcomes for those charged with a crime while protecting victims and the community at large.

What changes are being made to the pretrial system?

Senate Bill 48, implemented on July 1, 2022, made substantial, wide-reaching changes across Oregon’s pretrial system. Among them was the elimination of the statutory mandatory minimum security amounts (bail) that had led to standardized security schedules across the state. Prior to this change, those with money — regardless of where they got the money or the potential danger they posed to the community — were able to purchase their freedom prior to trial. By shifting away from a money-based system, justice partners can better manage risk in their communities while maximizing efficient use of resources. **Senate Bill 48 allows for security release when less restrictive options are unlikely to meet court appearance and community safety goals.**

Building on many of these changes, Multnomah County’s justice system partners — including the Oregon Judicial Department, the Multnomah County Sheriff’s Office, Multnomah County Department of Community Justice, the Multnomah County District Attorney’s Office, defense attorneys, the Local Public Safety Coordinating Council and more — have agreed to implementation of **automated** risk assessments on **all eligible** defendants who are booked into custody with new Multnomah County charges, effective June 1. The risk assessments will be conducted by the Department of Community Justice Recognizance Officers. While risk assessments have been used for decades, not all individuals were assessed, and the

assessment needed to be updated. The new risk assessment, known as the Public Safety Assessment, will be used to inform release conditions for defendants.

Multnomah County is also implementing a new case management system to improve case coordination for individuals on pretrial monitoring and to better track and report outcomes. This system will be used by both the Multnomah County Sheriff's Office's Close Street program and Multnomah County's Pretrial Services Program.

Funding for this system change comes from a multimillion-dollar grant from [John D. and Catherine T. MacArthur Foundation Safety and Justice Challenge](#).

What is the Public Safety Assessment (PSA)?

The Public Safety Assessment (PSA) is an actuarial (an analysis of statistics to determine risk) tool created by Arnold Ventures, an organization that invests in evidence-based solutions in criminal justice, education and health care. The tool uses nine factors, including age and criminal history, to predict the risk of an individual's failing to appear at court dates and committing new criminal activity during the pretrial period. Assessing a person's likelihood to succeed while on pretrial release is common practice in courts across the country.

The PSA was created using approximately 750,000 diverse pretrial case samples from roughly 300 jurisdictions nationwide, including Colorado, Connecticut, Florida, Kentucky, Maine, Ohio, Virginia, and all 94 federal judicial districts. It was nationally validated using 500,000 pretrial case samples from multiple jurisdictions. The PSA score will be used alongside other information to help inform judges and determine appropriate monitoring conditions — based on risk — for individuals released to the community on pretrial monitoring.

Research has shown that low-risk defendants who are over-monitored in the community can have higher pretrial failure rates. In addition, higher-risk individuals who need greater monitoring may not receive adequate support. The PSA score can help better match individuals assessed risk to appropriate monitoring conditions — which can help avoid exacerbating circumstances for those who can be released to the community by allowing them to maintain stability by remaining employed, in school or engaged in medical services (including drug, alcohol and/or mental health treatment), pending resolution of their court case.

What is pretrial monitoring?

Pretrial monitoring is the process of maintaining contact with people to help them follow the court-ordered conditions of pretrial release. The goal of this program is to protect community safety by evaluating the risk of releasing defendants prior to trial, then monitoring them in the community to ensure that they appear at scheduled court hearings.

In Multnomah County, as noted above, there are two programs that provide pretrial release services: Multnomah County's Pretrial Services Program and the Multnomah County Sheriff's Office Close Street program.

The Multnomah County's Pretrial Services Program (PSP) has two primary goals: to maximize public safety and law-abiding behavior and to ensure individuals appear at scheduled court hearings. When an individual is charged with a crime, a risk assessment is performed to determine if they might engage in new criminal activity and if they are likely to appear in

court. The judge uses the assessment information to order release conditions, which could include releasing the individual on their own recognizance, releasing the individual to pretrial monitoring, or holding the individual in jail until they appear in court for their arraignment hearing.

When someone is released to pretrial monitoring, they are required to report to specially trained corrections technicians and follow release conditions until they appear in court and their case is adjudicated. Pretrial monitoring allows individuals to remain employed, in school, or engaged in medical care and treatment, pending a resolution of their court case. A combination of phone contacts, in-office visits and electronic monitoring are used until a court case is resolved.

Those assigned to higher risk levels will report to the Multnomah County Sheriff's Office's Close Street program. Program staff complete an initial intake with all clients to ensure that they fully understand their release conditions, ongoing reporting requirements, and also have a plan for appearing at their upcoming court hearings. Individuals assigned to report to Close Street will also have the option of engaging in an additional needs intake with a counselor, who can work to connect clients directly to support services in the community.

Clients are required to regularly report to the program by phone or in person until their case is resolved, or until the Court removes their pretrial monitoring conditions. In some situations, clients may also be required to comply with electronic monitoring or home checks. Corrections technicians and corrections deputies are responsible for monitoring a clients' compliance with all release conditions and will take action to address non-compliance.

Can a defendant who is charged with a serious or violent crime be released?

The Oregon Chief Justice has issued guidelines for those charged with more serious offenses — including violent felonies such as sex crimes and domestic violence felonies or misdemeanors — as well as offenses that indicate a person may not comply with court-imposed conditions of release, be held for arraignment, first appearance or a release decision by a judge. The guidelines also encourage courts to establish or expand the use of pretrial assessments. A risk-based approach, including consideration of person-based criteria in addition to offense-based guidelines, also helps to ensure community and victim safety.

In some cases, the Multnomah County District Attorney's Office may also request that individuals with certain violent felonies be held in custody pretrial and that release decisions be made at a separate, more detailed hearing called a Preventative Detention Hearing.

What does the data show regarding pretrial?

The CUNY Institute for State & Local Governance, a research and policy organization based out of City University of New York, [analyzed violent crime, incarceration, and rebooking data](#) from sites participating in the Safety and Justice Challenge (SJC) and found that most individuals released on pretrial status were not rebooked into jail.

This has remained consistent before and after reforms were implemented, as well as after the start of COVID-19. Only 1 in 4 people released pretrial was rebooked into jail for any reason. Of the people released, only 2 to 3% returned with a violent crime charge, and less than 0.01% returned with a homicide charge.

What is each system partner's role?

Law Enforcement

Determine if evidence of a crime establishes enough probable cause to warrant the arrest of a suspect, and if the arrested individual should be: released pending additional evidence collection; given a citation; or brought to the Multnomah County Detention Center for booking.

Multnomah County Sheriff's Office (MCSO)

Provides corrections, civil enforcement and law enforcement services to unincorporated Multnomah County, and the four contract cities of Fairview, Maywood Park, Troutdale and Wood Village. MCSO operates two correctional facilities, the Multnomah County Detention Center in Downtown Portland and the Multnomah County Inverness Jail in Northeast Portland. MCSO also operates the sole booking location, at the Detention Center, for all law enforcement agencies operating in Multnomah County. MCSO is responsible for establishing and maintaining the booking criteria, or the list of offenses in which police officers are allowed to book someone arrested. MCSO also provides and maintains a component of the pretrial supervision service for Multnomah County.

Close Street

A pretrial program managed by corrections deputies and civilian professionals to monitor defendants in the community and work to ensure that defendants attend court hearings and do not commit new crimes. Staff use evidence-based criteria during their investigations to determine whether a defendant is likely to attend subsequent court hearings or if they pose a safety risk to the community. When the defendant is released under Close Street, the assigned deputy and civilian member monitors the defendant's behavior and actions, to include home visits, employment verification, and confirming services participation, which is then reported to the Court.

Multnomah County Department of Community Justice

Recognizance Unit

A 24/7 program housed at the Multnomah County Detention Center. Recognizance staff have the knowledge, expertise and tools necessary to make preliminary releases, which are based on the guidelines in the current Presiding Judge Order for pretrial release.

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Multnomah County District Attorney's Office

After an individual is arrested and booked into jail, the District Attorney's Office (DA) reviews the evidence provided by law enforcement to determine if charges can be issued against the individual. If the DA's office issues charges, the individual will be arraigned before a judge. At that arraignment the prosecutor and defense make recommendations to the judge, who will then decide on the proper type of release for the defendant.

The District Attorney's Office may also seek "preventative detention" when a defendant is charged with a violent felony (as defined in Oregon law) and there are specific facts that lead prosecutors to believe that the victim or the public is in danger of serious harm should the individual be released. When the prosecutor seeks detention on an eligible case, the judge must then decide whether or not the person is eligible for release.

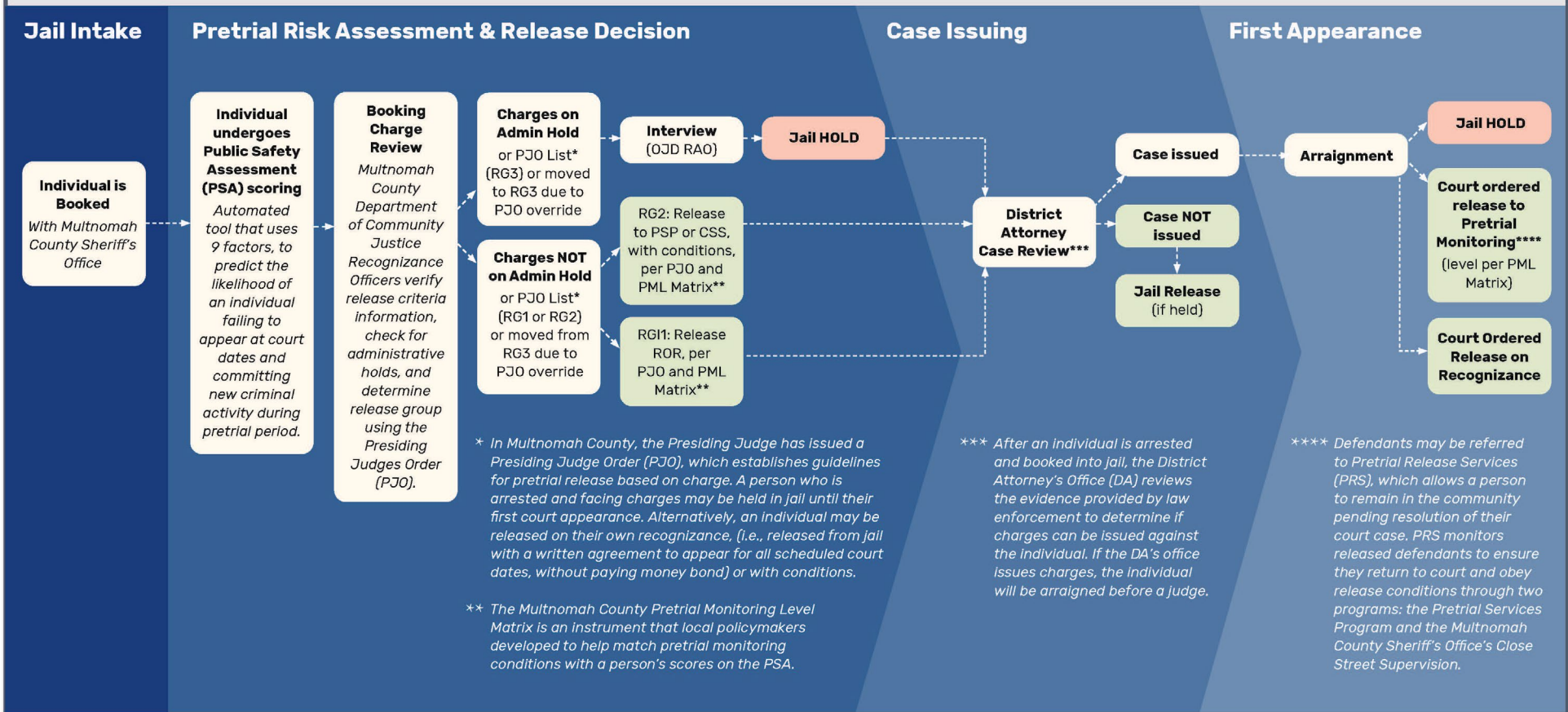
Multnomah County Circuit Courts

Multnomah County Circuit Court employs Release Assistance Officers who are authorized by statute to contact victims in cases and interview defendants who are being held in custody pending arraignment. The Release Assistance Officers contact named victims and ask several questions to obtain their position on the defendant's release. The interview is voluntary. The officers generate a report with information and recommendations and provide it to the parties at arraignment, which are scheduled for every weekday the court is open. There are two courtrooms in the Justice Center dedicated to arraignments in misdemeanors and felonies, and for both in-and-out-of-custody cases. The court enters the case into court records and oversees the process for appointment of attorneys.

For in custody cases, the judge considers whether there is probable cause for a defendant to be detained. During arraignment, the court considers release for people detained, and considers what conditions have been imposed for out of custody cases. The court hears motions from the DA and defense counsel and reviews any documents available to the court. Upon considering the release criteria set out by statute, the judge considers release in an order specified by statute – release on recognizance; conditional release if the court finds straight recognizance is not appropriate; or security release if the court finds neither recognizance or conditional release are appropriate. If the state is seeking preventive detention for a violent felony under ORS 135.240(4), the hearing is set over to another day.

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Beginning June 1, 2023, the Pretrial system in Multnomah County will look like this:





PRETRIAL SYSTEM

Updated: 5/23/2023

How do system partners work together?

Coordination between local law enforcement, prosecution, defense, courts, victims' rights organizations, and those who impact or are impacted by the system work is critical to improving the overall justice system. This applies to local and statewide decision-making regarding pretrial. In fact, during the development of Senate Bill 48, the presiding judge in each judicial district was encouraged to work collaboratively with justice partner agencies that have pretrial responsibilities and other stakeholders to take a practical approach to achieve shared goals.

Additionally, Multnomah County's Local Public Safety Coordinating Council works to advance and align local criminal justice policy and planning, and improve system-wide communication and collaboration. This work is contingent upon partnership and commitment to work together to improve our public safety system and community.

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