



Meaningful First Appearance (Aka Meaningful Initial Appearance)

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Arraignments in Multnomah County

- **All in custody Defendants must be arraigned within 36 hours of being arrested** (excludes holidays and weekends) – *ORS 135.010*
- **Horizontal Representation:** MPD represents defendants ONLY for arraignment
 - Attorney is then appointed (if available) to handle the case
- **Court needs to make a release decision for most arraignments**
 - Court relies on the parties' release arguments to inform its decision – The less information, the less informed the decision
 - Bad release decisions means releasable individuals held – often ends up being at least a week before subsequent release decision
- **Defense prepares release argument based on information from defendant**
- **ISSUE: Current process provides ZERO opportunity for meaningful confidential communication with the defendant prior to that appearance**

Current Issues with Communication: Access and Confidentiality

- First opportunity to communicate with defendant is in open court
 - NO CONFIDENTIALITY
 - Clients confused, agitated □ Leads to outbursts
 - No opportunity to build ANY rapport with the client

Counselor,
can you
move along?
We have a
large docket
today.



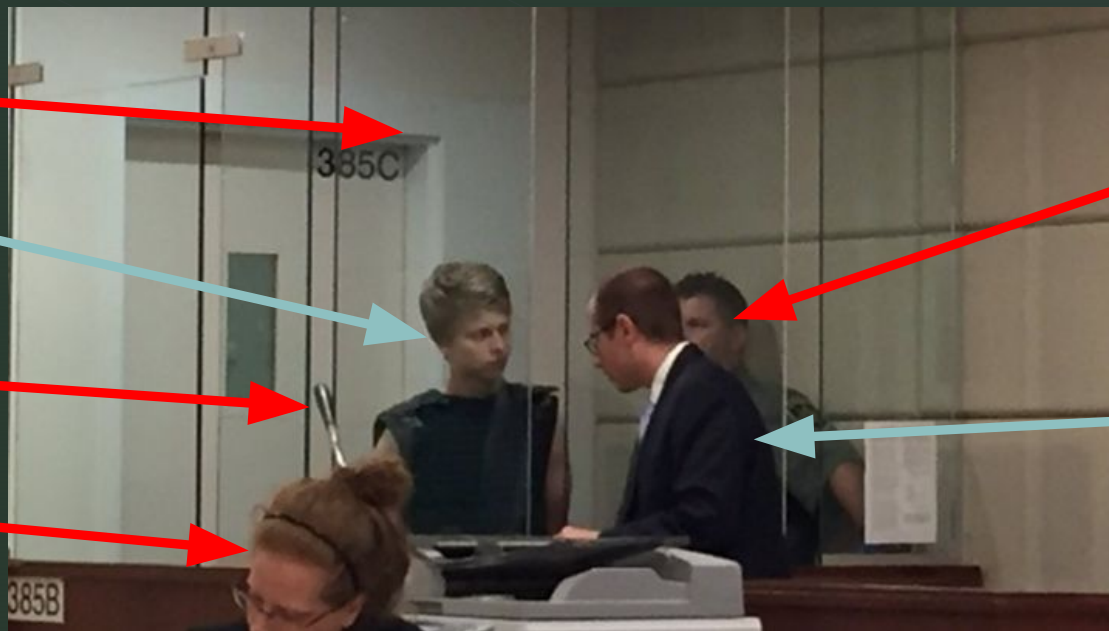
Judge

Glass Barrier – limits communication

Frightened and Confused Defendant

Hot Mic – Recording for the Record

DA “not listening,” but listening



Jail Deputy listening and hurrying along

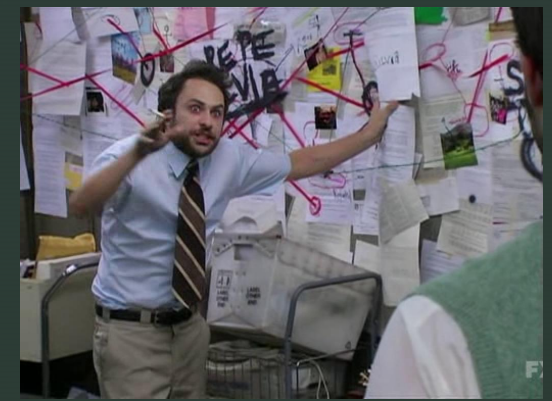
Defense Attorney frantically trying to review documents, calm client, and collect necessary information for a release/bail argument

Costs of Pretrial Detention

- **An inadequate release argument from defense causes an imbalance of information provided to the court □ Leads to Uninformed Release Decisions**
 - **Releasable Defendants are Held Pretrial** (at the very least, until a subsequent release hearing – several weeks)
- **Costs to Defendants and Community:**
 - Jeopardize Employment, Housing, and Family □ Stability
 - Traumatic – Both for Defendant and Family (lack of privacy)
 - Justice Outcomes: 24.5% more likely to plead guilty & twice as likely to receive sentence of incarceration
 - Collateral Consequences of Detention are long term (future employment; housing; education; salary)
- **Direct Costs of Pretrial Detention (2019 figures):**
 - Mult Co Jail: \$270.73 per day
 - Close Street Supervision: \$14 per day
 - Pretrial Release Services: \$4 per day
 - Release on Recognizance: \$0



How do we fix this problem?



- **Restructure the current Arraignment Dockets to allow defense attorneys to communicate with defendants CONFIDENTIALLY prior to initial appearance**
- **Solution:** Move all felony cases that require a release argument to PM Docket
 - Move all other cases to the AM docket
 - Defense attorney covering the PM docket spends the morning meeting with defendants in their housing units
 - Defense and State meet prior to docket to discuss stipulated release agreements
- **Result:** Dockets move faster; Less agitation; Better release arguments; **BETTER RELEASE DECISIONS**
 - While more comprehensive release arguments sound like they would make the docket longer, not actually the opposite (here or other jurisdictions)

Vision for MFA

- **LOCATION:** Conducting Interviews in the Jail Housing Units (*Idea came from the Chief of the Sheriff's Office*)
 - **Benefits:** Confidential; no shackling; better environment; face-to-face communication
 - *Eases tension in those units – Not knowing what is going on, leads to agitation*
 - *Reduces need for transport until docket starts*
 - **Issues:** New Classification Unit; Staffing
- **Defense Attorney Explains, Collects, and Confirms**
 - **Explain:** Who I am; Process; No Complaints; Answer Questions
 - **Collect:** Information related to release argument; Contact Info; Housing; Services; Etc.
 - **Confirm:** Potentially opportunity to confirm information – contact support network
- **Service/Needs Assessments:** Opportunity to assess for services
 - Case manager conducts an initial screening – forwarded to appointed counsel
 - Supplement, not substitute – Attorney would still meet with clients
- **Better Victim Communication:** DA's office has entire morning to contact VI



▸ Hurdles to Overcome



- **MCSO:** Remodel/Reorganize to create Classification Unit
 - Staffing – Should be improving by fall
- **MCDA:** Optimize charging decision process to get information to the court ASAP (Direct filing?)
- **Public Defense:** Seek additional FTE to cover the docket (we will cover)
 - Dedicate a Case Manager for Service/Needs Screening
- **Courts:** Restructure the dockets – modify workflows for building the dockets
 - Closing docket before 5; Media requests; etc.
- **General Issues:**
 - Later releases (imbed PSP staff on backside of JC3 or at release)
 - Large dockets – generally after long/holiday weekends



QUESTIONS?

(Shannon and Zach to Present on Trial Run Results)