

Multnomah County Circuit Court

- ▶ Pretrial Release Transition

Release is a Statutory & Constitutional Process

- Article I, Sections 14 and 43 - right to bail
- ORS 135.230 to ORS 135.295
- Presumption of Innocence - fundamental right under 14th Amendment
- “Liberty is the norm and detention prior to trial or without trial is the carefully limited exception.”
 - *United States v. Salerno*, 481 US 739, 755 (1987)

Prior to SB 48

- Bail Schedule - bail set at pre-determined amounts, i.e., \$5,000 for C felonies, \$50,000 for A felonies, \$250,000 for M11.
- No clear statutory right to non-bail release prior to arraignment - decision made by judge at arraignment under ORS 135.245.
- ORS 135.235 permits judges to delegate decisions release to release assistance officers, or to make recommendations to judge.

Pre-SB 48 Multnomah County

- DCJ Recog Unit designated as release assistance officers.
- DCJ could release people prior to arraignment under charge-based Presiding Judge Order “In the Matter of Delegating Release for Pretrial Release Officers.”
- Worked to pursue best practices. Administered risk assessment tool (Modified VPRAI), conducted interviews, provided information to judges.

Senate Bill 48 (SB48)

- Passed in 2021 legislature, in effect July 1, 2022
- Eliminated bail schedule, removed bail for new criminal cases
- Required Chief Justice to establish release guidelines to:
 - Provide consistency throughout state
 - Reduce reliance on security
 - Provide for victim notification and input
 - Balance presumption of release with community safety and risk of failure to appear (FTA)

State Criminal Justice Advisory Committee to the Chief Justice

- Created framework and recommendations for Chief Justice Order required by SB 48 (ORS 135.233)
 - Broad group of participants from across the state, small and large counties
 - District Attorneys/Public Defenders
 - Sheriff's Office Staff/Victims Representatives
 - OSCA Staff/Judges

Presiding Judge Pretrial Release Orders Now Required Under ORS 135.233

- All counties required to follow Chief Justice Order and Release Guidelines.
- Statute now provides authority for pre-arraignment release.
- Designates non-judicial agencies to apply the pretrial release order, but no discretion permitted. (DCJ no longer “release assistance officers.”)

Multnomah County PJO adopted July 1, 2022

- Worked within our existing Pretrial Reform Team led by LPSCC & Sarah Mullen
- First created an order to implement the Chief Justice Release Guidelines
- Worked with stakeholders, particularly DA's office negotiating with defense providers, to establish our local overrides.

Release Guidelines

Recog Unit reviews charges, criminal history to determine initial release guideline

- Guideline 1 - Release on Own Recognizance (ROR)
 - Theft 2 / Non Person Class C Felony
- Guideline 2 - Release with specified conditions
 - DUUI, Non-Domestic Violence Misdemeanor Person
 - Some Class B Felonies
- Guideline 3 - Hold for Arraignment -
 - *RAO's will be interviewing this group*
 - Assault 4 - Domestic Violence / Protection Order Violations
 - Any Violent Felony

Overrides

- Aggravating or mitigating factors that can move someone from one release guideline to one higher or one lower. A complex array.
 - Offense with named victim in RG1 moves to RG 2 - no contact with victim
 - Person in RG 2 moved to RG 3 if there is a pending person felony or Class A misdemeanor in any court, or defendant on probation or PP for any person felony or Class A misdemeanor
 - Certain offenses from RG 3 to 2 if circumstances present, i.e., Burglary in the First Degree if not of a dwelling.

Release Assistance Officers

- ORS 135.235 never required RAOs
- Statute has always specified RAOs be employed by OJD.
- OJD approved funding for RAOs.
- Interview RG3 people held for arraignment only
- Do not place booked individuals in release guidelines.
- Do not release people or make release decisions
- Gather information for primary and secondary release criteria.
- Interview victims
- Conduct criminal history

Release Assistance Officers RAO's

- New Department
 - 7 RAO's
 - 1 Supervisor
- New Spaces
 - Justice Center Room 301 - supervisors office
 - RAO Main Office 301A - down hallway
 - Jail Side - workspace - 2 computers
 - Jail Escorts - if not approved by MCSO
- Programs SWIS/DOC/JCS/Odyssey/Outlook

Release Assistance Officer Funding

In the 2022 Legislative Short Session, the Oregon Judicial Department was successful in securing funding for 40 (20.0) FTE Release Assistance Officers (RAO). The funding will be allocated to courts identified as being in Group 1: no pretrial program and Group 2: Release Assistance Officers only. Group 3: Are counties that have some time of RAO program already either through the county or state.

Arraignment

- SB 48 requires tiered decision from judge
 - Presumption is release on recognizance
 - Only move to conditional release if release criteria shows ROR unwarranted.
 - Only sets bail if release criteria shows conditional release unwarranted.
 - Judges do not apply Release Guidelines. DCJ applies the PJO.