

**Multnomah County  
Pretrial System Assessment  
February 25, 2020 (Revised)**

**JUSTICE SYSTEM PARTNERS**



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## Executive Summary

Multnomah County was awarded \$2 million from the John D. and Catherine T. MacArthur Foundation's Safety and Justice Challenge (SJC) in 2017 to implement strategies that address the main drivers of the local jail population, including unfair and ineffective practices that take a particularly heavy toll on people of color, low-income communities, and people with mental health and substance abuse issues. As part of the SJC work, Multnomah County stakeholders asked Justice System Partners (JSP) to conduct a pretrial system assessment, hoping to identify efficiencies in the pretrial system that could improve the pretrial system in Multnomah County.

JSP approached the assessment with a focus on legal and evidence-based practices and principles of limiting pretrial detention to those that pose a significant risk of harm to the community, eliminating money as a factor for release, and using pretrial risk assessment results to set release conditions. JSP conducted multiple interviews with staff from various agencies and analyzed data received from the Department of Community Justice (DCJ), the Multnomah County Sheriff's Office (MCSO) and the Multnomah County Circuit Court.

JSP found the pretrial system in Multnomah County to be progressive, with delegated authority to pretrial Recognizance Unit (Recog) staff for early release prior to first appearance. Pretrial supervision is provided by two separate agencies, the Department of Community Justice's Pretrial Supervision Program and the Sheriff's Office's Close Street Supervision Program. Recommendations for both agencies include revisions to policies and procedures that will both save resources and reduce inconsistencies and inefficiencies in practices.

The Presiding Judge Orders in Multnomah County drive much of the release decisions made by pretrial staff. The first order delegates release authority to release assistance officers and provides limits to defendants that can be released prior to first appearance. The second order sets security release amounts for charges on defendants booked into the jail for new offenses. Both orders limit defendants from release and support a charge-based system that benefits defendants with resources and disadvantages those without.

As part of the pretrial system assessment in Multnomah County, data was obtained from multiple agencies, each of whom maintain data relative to their role in the system in their own separate database or information management system. Pretrial supervision data was not obtained from DCJ's Pretrial Supervision Program or from MCSO's Close Street program. Both programs use an information management system called Ce Pretrial. Interviews with staff indicated that there were concerns about the quality of the data available in the Ce Pretrial system. Upon reviewing the data obtained from MCSO, DCJ and the Court, JSP was able to conduct analysis to answer some questions, but not all of the questions we had prior to submitting the original report on January 3, 2020. In particular, understanding the current pretrial outcomes data for failure to appear and new case filings is critical to the County's ability to measure changes over time. This revised version (submitted February 25, 2020) includes an addendum that addresses these questions and provides additional recommendations.



Based on JSP's assessment, our recommendations for improvements in Multnomah County's pretrial system are summarized below:

- Revise the Presiding Judge Order that limits the pretrial defendants that can be released prior to first appearance. JSP has provided a draft order as a suggestion.
- Eliminate the Presiding Judge Order Adopting a Security Release Schedule. The revised presiding judge order would address the statutory charges that require a security amount set before release.
- The Department of Community Justice should revise the policies and procedures manual for the Recog Unit and Pretrial Release Services to increase efficiency and consistency in practice.
- Consideration should be given to either updating and validating the Modified Virginia Pretrial Risk Assessment (MVPRAI) risk assessment currently in use or moving to a non-interview-based risk assessment instrument.
- Stakeholders should change the assignment of pretrial defendant monitoring and supervision to PSP and Close Street Supervision to incorporate risk-informed decision criteria.
- MCSO's Close Street Program should revise its internal policies and procedures to eliminate concerns of over-supervision of pretrial defendants.
- A data committee specific to pretrial issues be convened. The committee should include individuals that understand the complexities of the data and can help identify an appropriate methodology for merging data across systems. The committee should also provide routine analysis of data to understand the impact of any changes that are made to policies and practices across the pretrial system and how they impact release decisions, length of stay in custody, case processing times and pretrial outcomes.
- Stakeholders should further explore and analyze some system areas to better understand why certain circumstances exist in the system and how to better address inefficiencies that delay the processing of criminal cases. These areas include cases excluded from the Recog process, administrative holds, cases interviewed by the Recog Unit but not released, failures to appear, new criminal filings while on pretrial, waivers of probable cause and court case dispositions of dismissed.

*Additional Recommendations from Outcomes Addendum*

- Reconfigure the booking process to allow for assessment of all defendants. The analysis indicates that the expedited population has a high new case rate and therefore it would be expected has a significant portion of moderate to high risk individuals who would benefit from more targeted pretrial supervision. Assessing those people who are currently



released through the expedited process will allow for more appropriate assignment of conditions and result in better outcomes.

- Implement an assessment tool that does not require an interview to allow for more efficient use of staffing resources and for the expansion of the assessed population. This will allow for Multnomah County to continue to expedite releases for low level misdemeanants but will also provide an opportunity to provide the necessary supervision for those that fail at higher rates.
- Better match supervision level with assessed risk. The analysis suggests that low risk defendants supervised in more intensive services (e.g., Pretrial Services) have higher failure rates. Moreover, higher risk individuals who need greater services are not receiving adequate support. If placements were driven by risk, Multnomah County could develop a range of services from ROR for the low risk individuals to intensive support services and supervision for higher risk individuals.
- Develop a more comprehensive differential supervision structure that incorporates PSP and CSS and clearly assigns supervision and conditions based on risk.
- If the county continues to use the MVPRAI assessment tool, re-norm it to the population, with special consideration of females. The current cut off scores are not in alignment with the failure rates, especially for the moderate risk defendants. As noted in Appendix A, the tool is significantly stronger with the adjusted cutoffs. While these cutoffs provide better fit for the sample, it is recommended that Multnomah County conduct a study specific to validating the MVPRAI. It would also be appropriate to use these adjusted cutoffs until a study can be conducted.
- Conduct subsequent analysis around the releases on money bail that controls for housing, employment and other relevant factors. The analysis indicates a relatively low failure rate for people released on money bail. While this analysis did not explore this population in depth, it would be helpful to better understand the characteristics of the population and the associated bond amounts.
- Conduct an analysis to explore how these changes will impact workload for PSP and CSS.



## Introduction

The U.S. Department of Justice, Bureau of Justice Statistics estimates that 745,200 inmates were confined in local jails at midyear 2017.<sup>1</sup> More than six out of every ten jail inmates are awaiting trial, and nine out of ten defendants who remain in jail pretrial are there because they have not posted bail.<sup>2</sup> Multnomah County recognizes that their jail capacity issues are driven by pretrial detention and this is one of the many reasons the county chose to join the John D. and Catherine T. MacArthur Foundation’s Safety and Justice Challenge (SJC) in 2015. Since joining the SJC, county stakeholders have been meeting to discuss criminal justice policy and practice changes, including those in the pretrial system. The stakeholders in Multnomah County requested that Justice System Partners (JSP) conduct an assessment of the county’s pretrial system to provide recommendations on how to gain efficiencies in their system and to inform their SJC strategies, including moving to a more risk- than charge- based release decision process, reducing duplication caused by a bifurcated pretrial supervision system, and increasing pretrial release options.

The overall intention of this report is to provide local pretrial policymakers and staff with information on opportunities to more closely align current pretrial policies and practices with those that are legal and evidence-based, cost-effective, and that will best enable local policymakers to instill a culture of continuous system improvement. The report summarizes the findings and recommendations from the pretrial assessment and reflects the status of policies and practices as of December 2019. All findings are interpreted, and all recommendations are made within the context of legal and evidence-based pretrial practices and Justice System Partner’s expertise.<sup>3</sup>

## Assessment Approach

### Overview

JSP has broad experience supporting pretrial reform projects and wherever possible used empirical research to inform our recommendations for improving policy and practices. Several overarching principles guided our consideration and recommendations.

### **Principle 1: Jurisdictions should limit pretrial detention to those that pose a significant risk of harm to the community.**

The Supreme Court affirmed over thirty years ago that “[i]n our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”<sup>4</sup> In the United States, every person is presumed innocent until proven guilty and has a fundamental right to pretrial

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<sup>1</sup> Zeng, Z. Jail Inmates in 2017. U.S. Department of Justice, Bureau of Justice Statistics, Washington, DC, (April 2019).

<sup>2</sup> Reaves, Brian A. 2013. “Felony Defendants in Large Urban Counties, 2009—Statistical Tables.” Bureau of Justice Statistics, U.S. Department of Justice, Washington, DC

<sup>3</sup> Legal and evidence-based pretrial practices are largely derived from U.S. Supreme Court rulings; empirical research, most of which has been conducted since 2013; and national pretrial “best practices” (e.g., American Bar Association, 2007; Smart Pretrial Key Elements; and National Institute of Corrections (2017)).

<sup>4</sup> Salerno v. United States, 481 U.S. 739, 755 (1987).



liberty. Consistent with that constitutional requirement, jurisdictions should implement strong procedural protections in favor of release pending trial. Jurisdictions wishing to detain violent defendants pretrial should look to states that have adopted constitutionally required procedures for preventive detention. Fortunately, ORS 135.240 outlines a process to detain violent defendants without the use of security amounts.

**Principle 2: Jurisdictions should eliminate money bail as a condition of release. The money bail system results in poor people being detained because they are poor, not because they are a danger to others or will not show up to court.**

At the same time, the money bail system allows dangerous defendants to post their security amount and be released simply because they can afford the bail amount. No legitimately recognized research study has shown that financial bail conditions improve failure to appear rates or reduce re-arrest rates during the pretrial period.

**Principle 3: Pretrial risk instruments should be used to set release conditions. Pretrial risk assessment typically provides two measures of risk: 1) the risk a defendant will not appear for their court events and 2) the risk that the defendant will be arrested again if they are released during the pretrial period.**

We believe it is important to note that pretrial risk assessments should not be used to determine whether a defendant is released or not. That is a legal decision based on state statutes, state constitutions, and local policy and practices. Once a release decision is made, risk assessment results should guide the setting of release conditions that will mitigate the defendant's risk.

### **Qualitative Data Review**

JSP used a structured interview approach with pretrial system stakeholders along with observations of Pretrial Release Services and first appearance courts to learn about and understand the current pretrial system in Multnomah County. These interviews were conducted on September 19, 2019; September 23<sup>rd</sup> through September 26<sup>th</sup>, 2019; and October 24, 2019. Additional interviews and follow-up conversations were conducted by phone. JSP's assessment team reviewed a large volume of documents shared by e-mail as well as via hard copy distribution by various agencies in the County. These documents included policies and procedures, presiding judge's orders, various reports and studies, and articles from local media. A list of people who participated in interviews and discussions during the assessment can be found in the Acknowledgement on page iii.

### **Quantitative Data and Methodology**

As part of this assessment, data were obtained from multiple agencies, which maintain information in their local database or information management system. Specifically, jail booking and release data were obtained from the Multnomah County Sheriff's Office (MCSO) and data associated with release decisions and pretrial risk assessments were obtained from the Department of Community Justice (DCJ) and the Recognizance Unit. Case and court outcomes were supplied by the Multnomah County Circuit Court. This report will focus primarily on the



analysis of the booking and release data and release decisions. The Court data will be analyzed and presented in a supplementary report.

JSP did not obtain data related to pretrial supervision through the Pretrial Supervision Program of DCJ or from the Close Street program of the MCSO. Both of these programs use an information management system called Ce Pretrial. Interviews with staff indicated that there were concerns about the quality of the data that could be obtained from the Ce Pretrial system. Due to concerns that an accurate picture of the status of individuals supervised through both pretrial programs could not be obtained, the decision was made not to request this data.

### **Pretrial Process and Bookings Data Analyses**

The data obtained for this assessment were analyzed by linking the Recognizance Unit's data to the MCSO booking and release data. Items from each of these sources were used to create a single database in which the final analyses were conducted. Given that the focus of this evaluation was primarily on the pretrial release decision-making process, the universe of cases to begin the analysis was individuals booked into jail and processed through the Recog Unit in calendar year 2018. The Recognizance Unit data designates who is included in their process of expedited release or interview. For those that were interviewed, the Recog Unit data indicates those that had various judicial and administrative holds, the Modified Virginia Pretrial Risk Assessment (MVPRAI) score, release decision, and release recommendation if the decision was not to release on non-financial conditions by the Recog Unit. The MCSO data designates the booking date, release date, release type, primary booking charge level, primary booking charge description, gender, age, and race.

Cases were not included when the booking information did not match between the Recog Unit and MCSO databases and when the release outcome by the Recog Unit was unknown.<sup>5</sup> However, no cases were excluded because of primary booking charge.<sup>6</sup> While JSP did identify some cases that appeared to be booked only on a probation violation or contempt of court, some of these cases were also released with pretrial release reasons, including money bail, and therefore are being treated by the system as having committed a new crime and appropriate for a similar release process and were thus included in this initial process analysis. Length of stay was calculated using calendar days. When a person was booked and released on the same day it was counted as a length of stay of zero days. When a person was released the next calendar day, it was counted as a length of stay of one day.

The total number of bookings included in our analysis was 29,492. All subsequent analyses are based on that booking number and illustrated in the following flow chart. Figure 1 includes an

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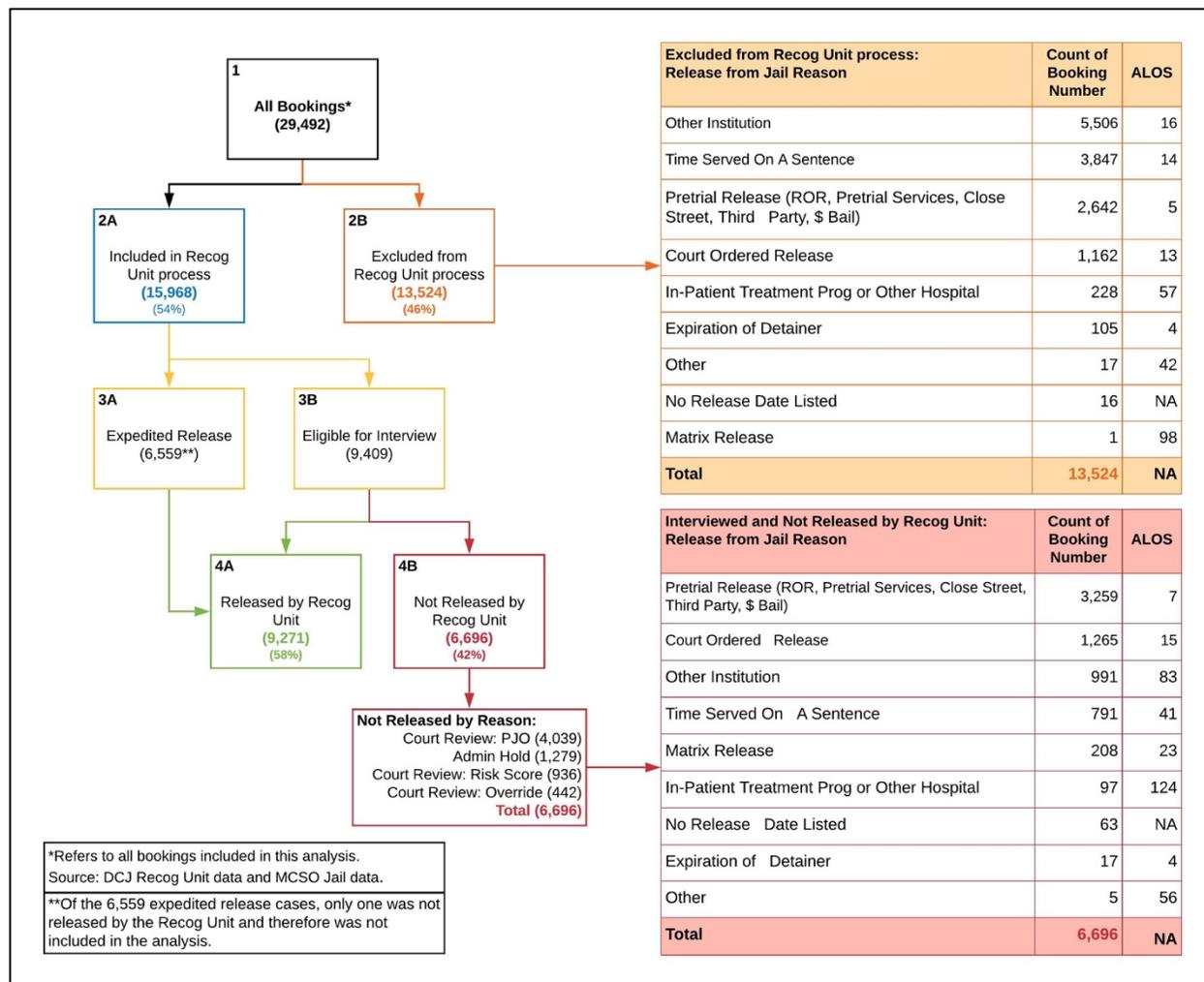
<sup>5</sup> Cases not included in this analysis: no match between the Recog Unit and MCSO database on booking number (46), booking date (21), inconsistent Swis# and booking number (104); missing release date when release reason was populated (19); the Recog Unit release outcome of the case was unclear (53). Also excluded were the 2,617 of 32,306 CY 2018 bookings in the MCSO database that didn't match to a Recognizance Unit record. All of the cases in the Recognizance Unit system matched to standard booking types. In the group of unmatched MCSO cases, there were some standard bookings (395), however, most were classified as turn self in bookings (1,215) and in transit bookings (976). Only 155 of the 2,216 unmatched cases had a pretrial release reason.

<sup>6</sup> The primary booking charge is designated by MCSO staff at the time of booking. It does not preclude the presence of any other types of charges that may also be associated with the booking. The primary booking charge is used in this analysis to give a big picture overview of the primary types of charges that bring people to the jail.



overview of each step in the pretrial process, with more detail in each of the subsequent sections of the report. We will continue to refer to this chart throughout this report.

**Figure 1: Multnomah County Pretrial System Process and Summary Data**



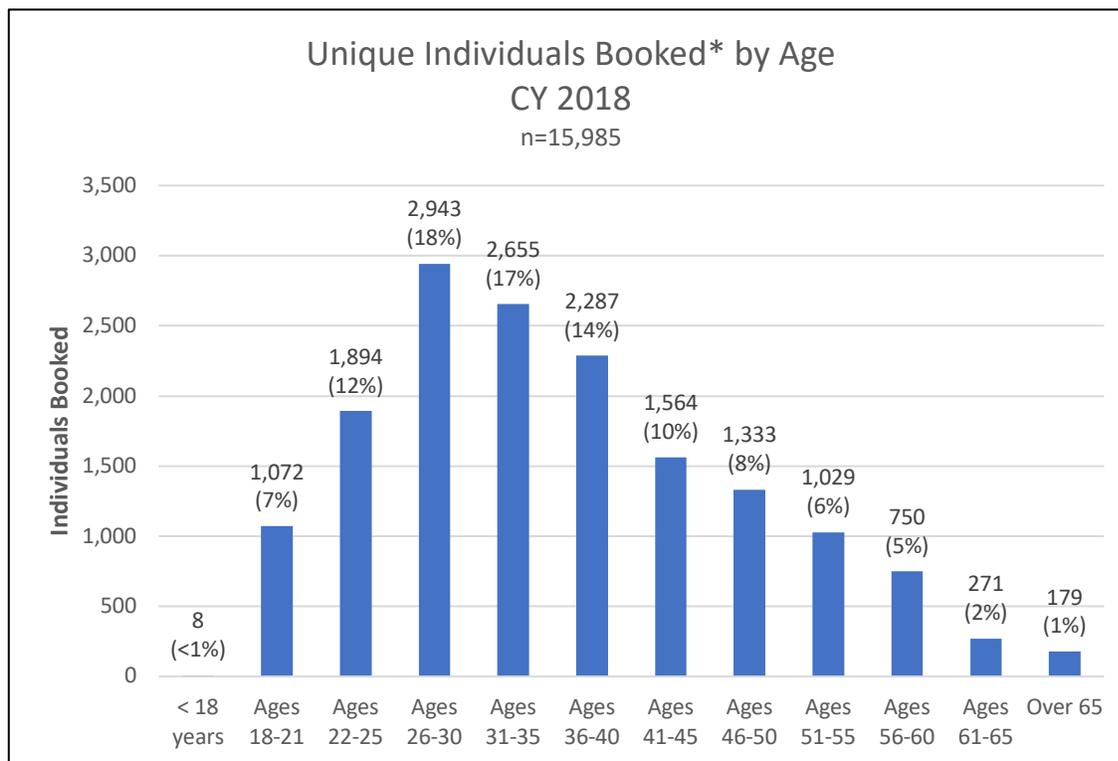
## Demographics of Jail Bookings in 2018

There were a total of 29,492 bookings from 2018 used in this analysis. This represents 15,985 unique individuals. The following is a demographic breakout of those 15,985 unique individuals by age, gender, and race. This section then provides a breakout of the 29,492 bookings by MVPRAI score and primary booking charge level.



**Individuals Booked in CY 2018 by Age<sup>7</sup>:** Almost half of people booked were between the ages of 26 and 40 years of age (Figure 2). Most people booked, 2,943 (18%), were between 26-30 years of age. 2,655 (17%) of the people booked were between 31-35 years of age, and 2,287 (14%) were people between 36-40 years of age.

**Figure 2: Unique Individuals Booked by Age (CY 2018)**



\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

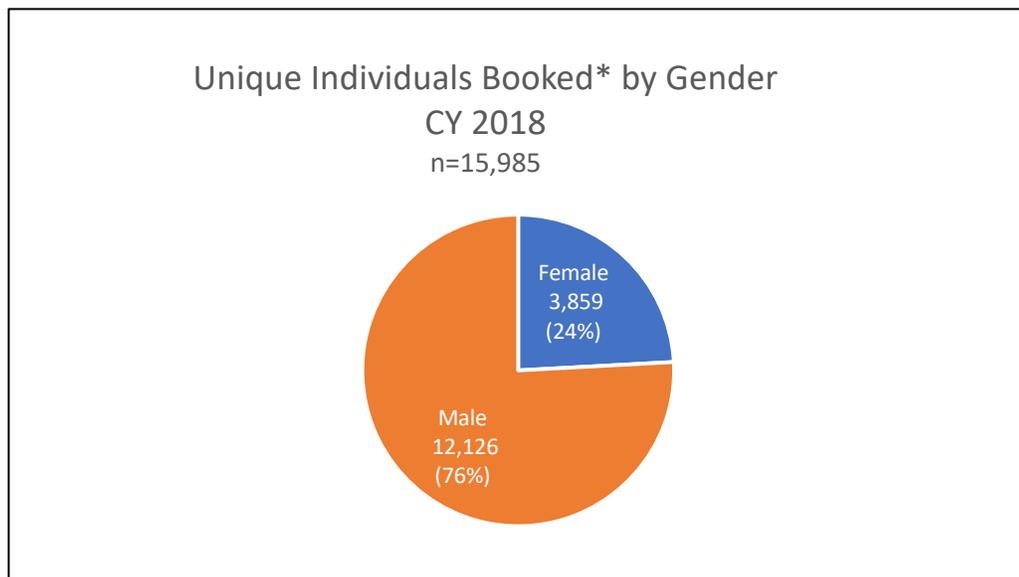
<sup>7</sup> If there were multiple bookings for one person, the age at first booking in CY 2018 was counted.



**Figure 3: Unique Individuals Booked by Gender (CY 2018)**

**Individuals Booked in CY 2018 by Gender:**

The majority of individuals booked in 2018 were males, 12,126 (76%), as compared to 3,859 (24%) for females (Figure 3).

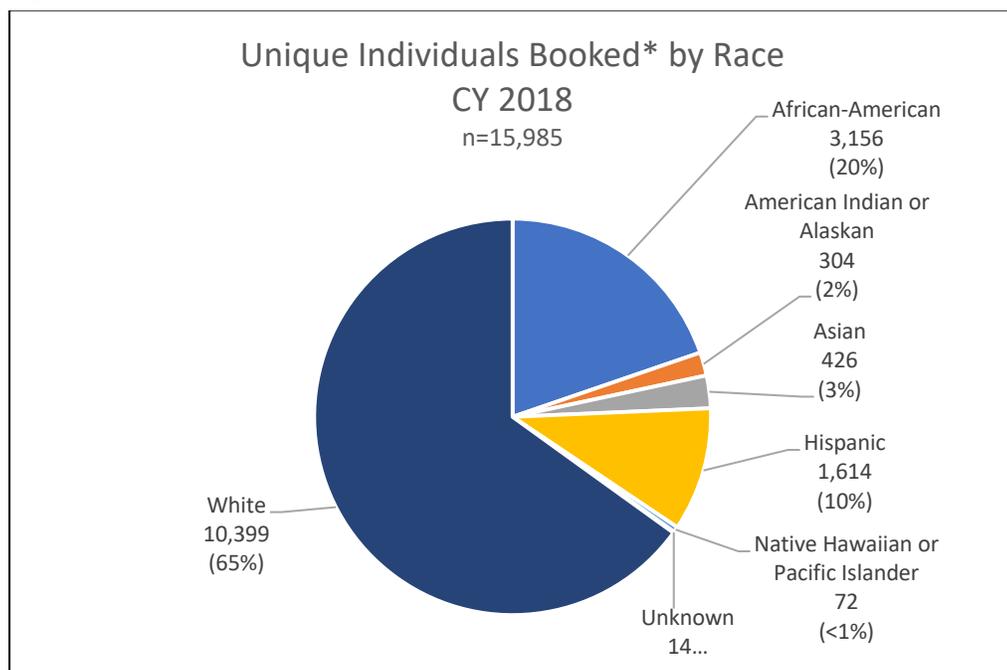


\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

**Individuals Booked in CY 2018 by Race:**

In 2018, most of the people booked into the jail, 65% (10,399), were White. African Americans represented 20% (3,156) of the people booked, followed by Hispanics who represented 10% (1,614) of people booked. Other groups, including American Indian or Alaskan, Asian, and Native Hawaiian or Pacific Islander each represented 3% or less of bookings (Figure 4).

**Figure 4: Unique Individuals Booked by Race (CY 2018)**

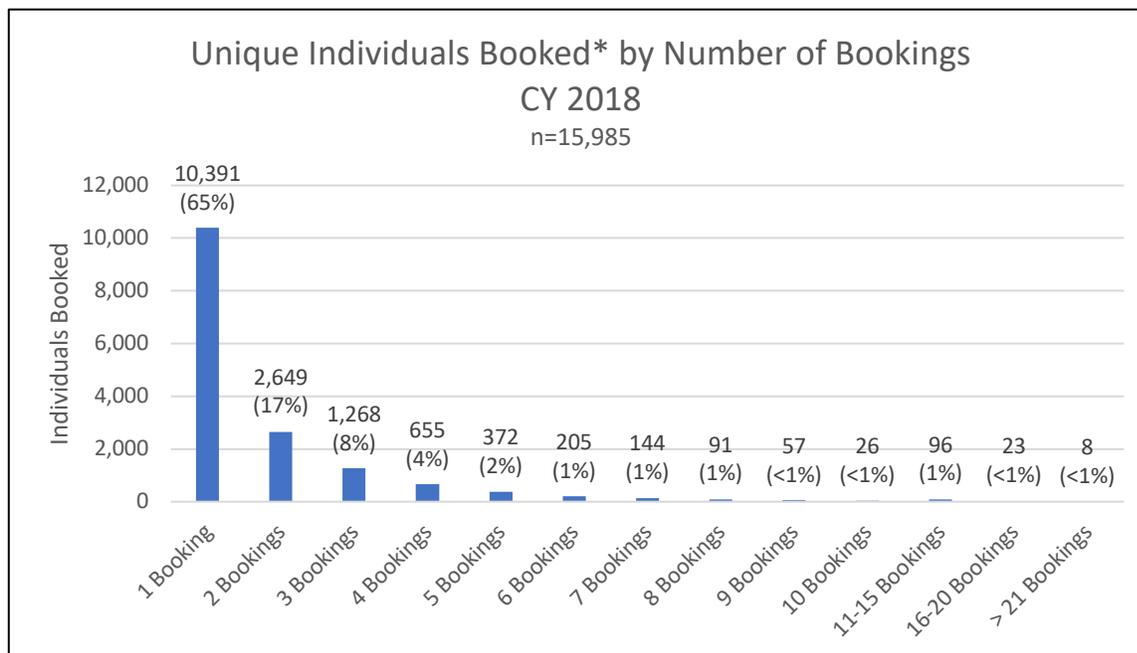


\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data



**Individuals Booked in CY 2018 by Number of Bookings:** The 15,985 unique individuals had a total of 29,492 bookings in CY 2018. The number of bookings an individual had in 2018 ranged from 1 to 28 bookings. The majority of people, 65% (10,391) were booked only once in CY 2018, 17% (2,649) were booked twice, 8% (1,268) were booked three times, 4% (655) were booked four times, and 6% were booked five or more times (Figure 5).

**Figure 5: Unique Individuals Booked by Number of Bookings (CY 2018)**



\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

See the data appendix in Attachment A for more information on the age, gender, and race breakouts grouped by the number of bookings per individual.

**Bookings in CY 2018 by MVPRAI Score<sup>8</sup>:** Transitioning back to looking at the data through the lens of bookings (Table 1), of the 29,492 bookings, the Recog Unit did not interview or provide a MVPRAI score for the 13,524 bookings excluded from the expedited or interview process, nor did they interview or provide MVPRAI scores for the 6,559 cases that were expedited. Of the 9,409 cases that were interviewed by the Recog Unit, 4,546 (48%) had a MVPRAI Score between 0-3, 2,575 (27%) had a MVPRAI Score between 4-5, and 2,288 (24%) had a MVPRAI Score between 6-9.

<sup>8</sup> This analysis is done on the booking and not individual level as one person can have different MVPRAI scores for different bookings. If there was a value in the MVPRAI score field, including 0, it was counted. JSP noticed inconsistency in the data in this area. While the 9,409 bookings in the analysis that were interviewed all had a value entered in the MVPRAI Score data field, 763 had notes that the defendant declined the interview. MVPRAI Scores entered for these 763 bookings ranged from 0-9.



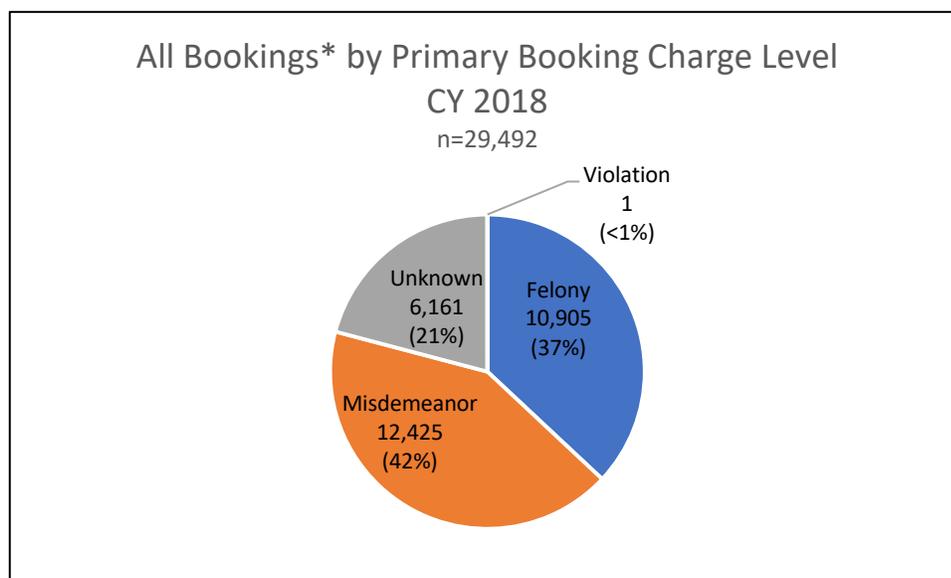
**Table 1: Bookings by MVPRAI Score CY 2018**

All Bookings* by MVPRAI Score CY 2018	
MVPRAI Score	Count of Bookings
MVPRAI Score 0-3	4,546
MVPRAI Score 4-5	2,575
MVPRAI Score 6-9	2,288
Unknown - Excluded from the Recog Unit Process	13,524
Unknown – Expedited Release by Recog Unit	6,559
<b>Total</b>	<b>29,492</b>

\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

**Bookings by Primary Booking Charge Level:** The majority of bookings into the jail 12,425 (42%) were booked for misdemeanor charges (Figure 6). 10,905 (37%) were booked for felony charges, and 6,161 (21%) were listed as unknown. For a complete list of 2018 bookings by primary charge, please see the data appendix in Attachment A.

**Figure 6: Bookings by Primary Booking Charge Level (CY 2018)**



\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data



## Pretrial System Components and Considerations

### Oregon Pretrial Law

Oregon law currently provides four options for release of defendants held in pretrial custody: forced capacity release, personal recognizance, conditional release, and security release. Multnomah County utilizes all four options for release.

1. **Forced capacity release allows for the release of jail inmates in the event that the population of a jail exceeds its capacity limits.** (ORS 169.046; 135.230 to 135.295). Forced capacity release is not a judicial function and is instead a function of the county sheriff. A person released by this method is subject to a forced release agreement, which must include an agreement that the person appear at the next court appearance.
2. **Personal recognizance release involves a promise by a defendant to appear in court at all appropriate times.** (ORS 135.230(6)). A defendant released on personal recognizance must comply with general conditions of release, which include appearing to court, submitting to the orders and process of the court, and not leave the state without approval of the court. (ORS 135.250(1)).
3. **Conditional release is a non-security release agreement where the court imposes regulations on the defendant's association and activities.** ORS 135.230(2). Regulations could include the general conditions of release and additional conditions imposed by the court, such as restricting the defendant to his or her residence or prohibiting the defendant from having contact with the victim. (ORS 135.260)
4. **Security release allows for a defendant's promise to appear to be secured by cash, stocks, bonds, or real property.** (ORS 135.230(12)). The court must set security in an amount that will reasonably assure the defendant's appearance. ORS 135.265(1)). A defendant who posts security must deposit a sum of money equal to 10% of the security amount with the court. (ORS 135.265(2)).

### Pretrial Programs in Multnomah County

There is no statewide pretrial release program in Oregon; 14 counties have established pretrial services programs, which vary considerably. Multnomah County has a pretrial service program within the Department of Community Justice (DCJ) and another program within the Sheriff's Office (MCSO). DCJ's Pretrial Services Program (PSP) has two primary goals articulated on the program's website: to protect community safety by evaluating the risk of releasing defendants prior to trial and supervising them in the community to ensure that they appear at scheduled court hearings. The program is made up of two distinct units: Recognizance Unit (Recog) and Pretrial Supervision Program (PSP). In addition to the services provided through DCJ, the MCSO also provides pretrial supervision through its Close Street program. A map of Multnomah County's pretrial system is included in Attachment B.

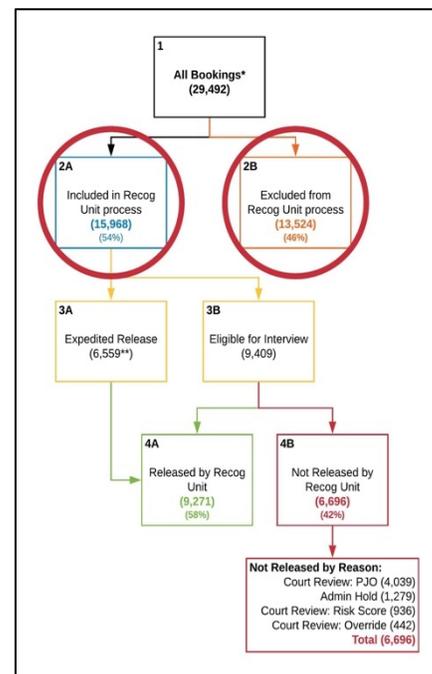


### Recognizance Unit (Recog)

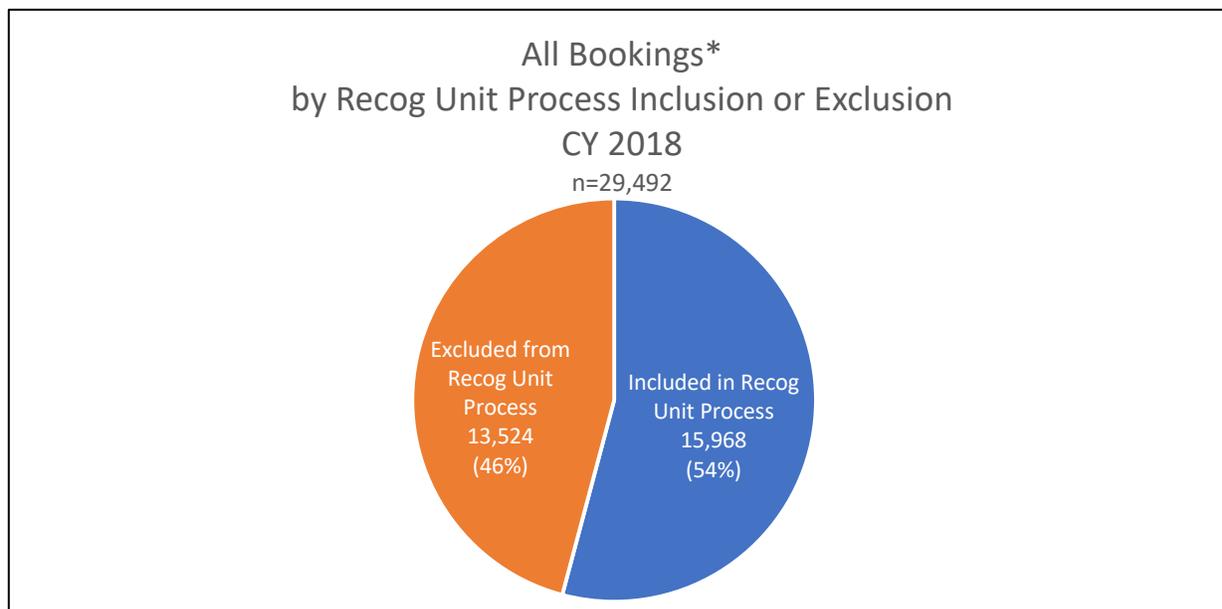
The purpose of the Multnomah County Department of Community Justice Pretrial Services Program’s Recog Unit is to “to objectively aid the Court in reaching the best possible release decision through the collection and reporting of pertinent information.”<sup>9</sup> Recog Unit staff interview people charged with an offense to determine their eligibility for release with non-financial release conditions prior to first appearance. The unit is staffed by correctional technicians and operates seven days a week, 24-hours per day.

Recog Unit staff determines whether a defendant booked into the facility is eligible for expedited release or whether they will go through a full interview process (Figure 8). Not all bookings are eligible for either expedited release or an interview by the Recog Unit. Of the 29,492 bookings included in this analysis, 15,968 (54%) were included in the Recog Unit’s process for either expedited release or a full interview and 13,524 (46%) were classified as “excluded from the Recog Unit process” (Figure 8).

**Figure 7: Multnomah County Pretrial System Process**



**Figure 8: Bookings by Recog Unit Process Inclusion or Exclusion (CY 2008)**



<sup>9</sup> Multnomah County Adult Community Justice, Pretrial Services, Release Assistance Officer’s Policies and Procedures



According to DCJ staff, there is a simple decision tree based on two independent criteria for how a person gets sorted into these process categories. The criteria used by the Recog Unit are: 1) does the person have at least one new charge for a person misdemeanor or felony, and 2) is there an administrative hold (Table 2).

**Table 2: Recog Unit Expedited Release and Interview Criteria**

Recog Unit Expedited Release and Interview Criteria			
Administrative Hold Status		New Charges <sup>10</sup>	
		Only non-person misdemeanors or no new charges	At least one person misdemeanor or felony
Is there an administrative hold (warrant, county hold, detainer, etc.)?	No	Expedited Release	Full Interview
	Yes	Not eligible for expedited release or interview	Full Interview

*Exclusion from the Recog Unit Process*

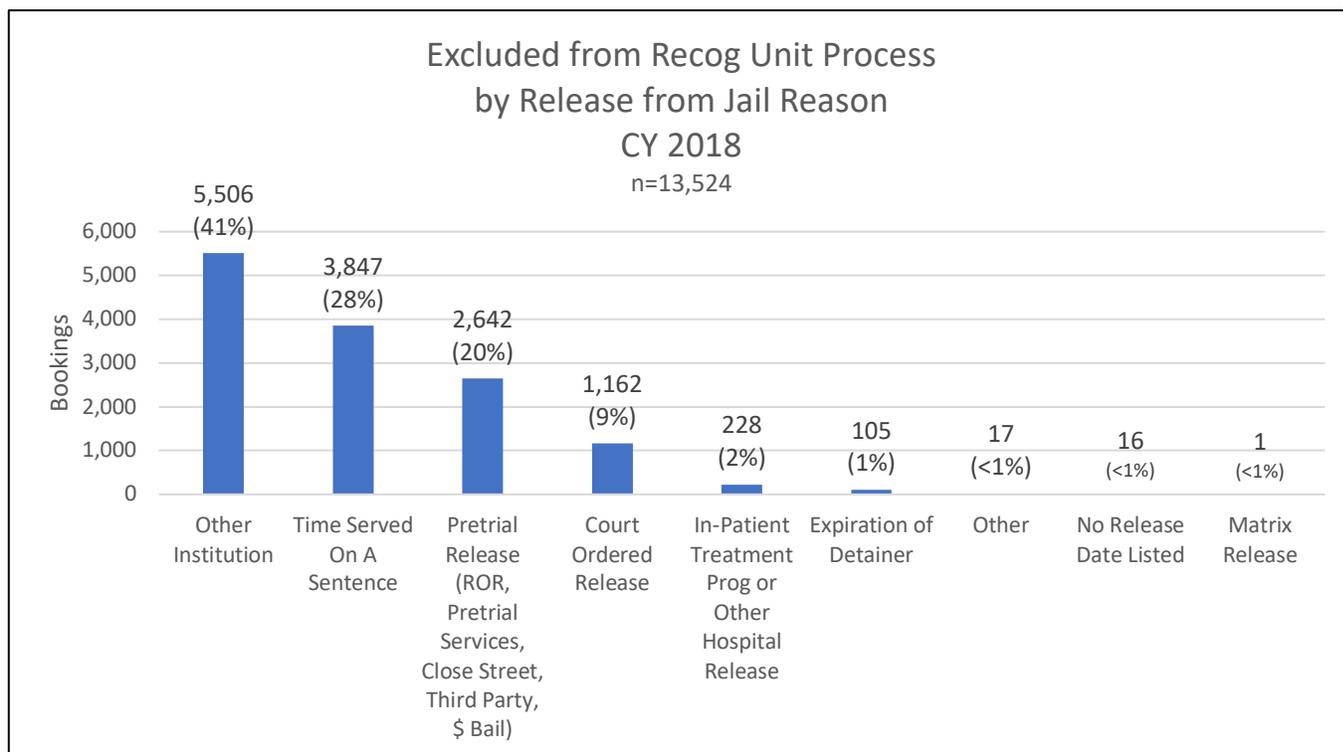
There were 13,524 (46%) of the 29,492 bookings in our analysis that were excluded from the Recog Unit process. Looking at the primary booking charge associated with these bookings, the two most frequent primary charge descriptions were warrants from other counties (3,863) and parole violations (2,928). Also, looking at the release from jail reasons displayed in Figure 9, the two most frequent release reasons are to other institutions (5,506) and time served on a sentence (3,847). While there may be reasons why the Recog Unit can't process someone out on non-financial release conditions, Figure 9 shows that there are many people (2,642) who are initially excluded, but ultimately released on some type of pretrial release (ROR, Pretrial Services, Close Street, Third Party, or \$ Bail) and Table 3 shows an average length of stay booking to release of 5 days for this group.

See the data appendix in Attachment A for details on the location summary and detail for the other jurisdictions that people are being released to.

<sup>10</sup> Recog Unit staff use the booking charge(s) to determine if a case is eligible for expedited release or interview.



**Figure 9: Excluded from Recog Unit Process by Release from Jail Reason (CY 2018)**



\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

**Table 3: Excluded from Recog Unit Process by Release from Jail Reason**

Excluded from Recog Unit process: Release from Jail Reason	Count of Booking Number	Average Length of Stay: Booking to Release
Other Institution	5,506	16
Time Served on A Sentence	3,847	14
Pretrial Release (ROR, Pretrial Services, Close Street, Third Party, \$ Bail)	2,642 <sup>11</sup>	5
Court Ordered Release	1,162	13
In-Patient Treatment Prog or Other Hospital Release	228	57
Expiration of Detainer	105	4
Other	17	42
No Release Date Listed	16	NA
Matrix Release	1	98
<b>Total</b>	<b>13,524</b>	<b>NA</b>

\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

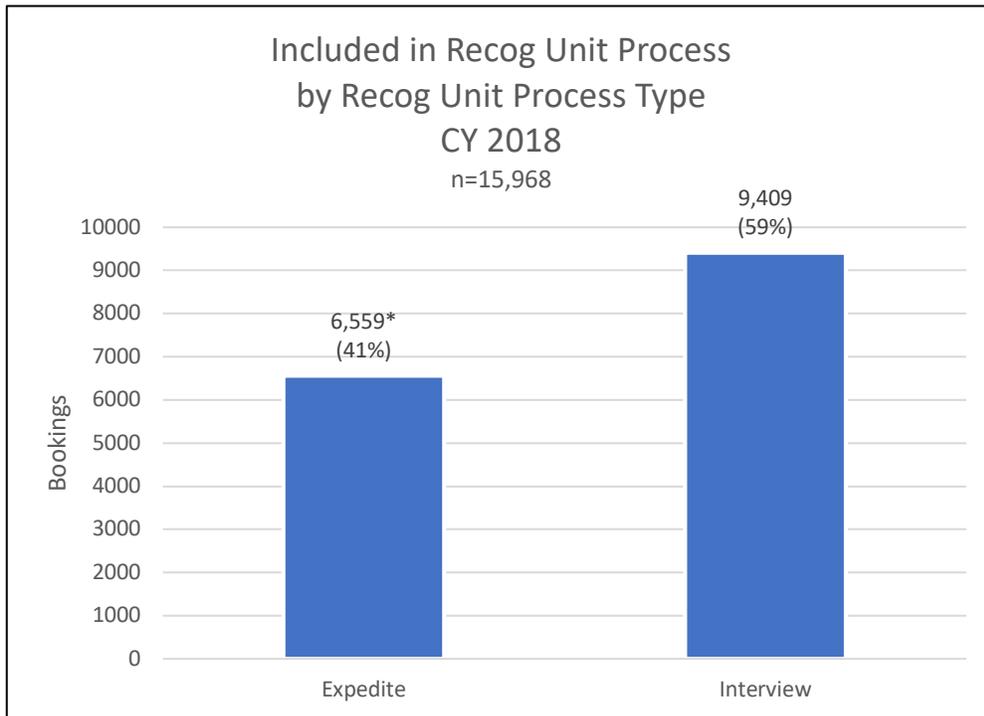
<sup>11</sup> 1,642 were released on ROR, 609 were released to PRS, 335 were released on money bail, 53 were released to Close Street, 3 were released to a third party (relative).



### *Inclusion in the Recog Unit Process*

For the 15,968 bookings in our analysis that were included in the Recog Unit process, Figure 10 displays the type of Recog Unit process that the person went through.

**Figure 10: Included in the Recog Unit Process by Recog Unit Process Type (CY 2018)**



\*Of the 6,559 expedited release cases, only one was not released by the Recog Unit and therefore was not included in further analysis.

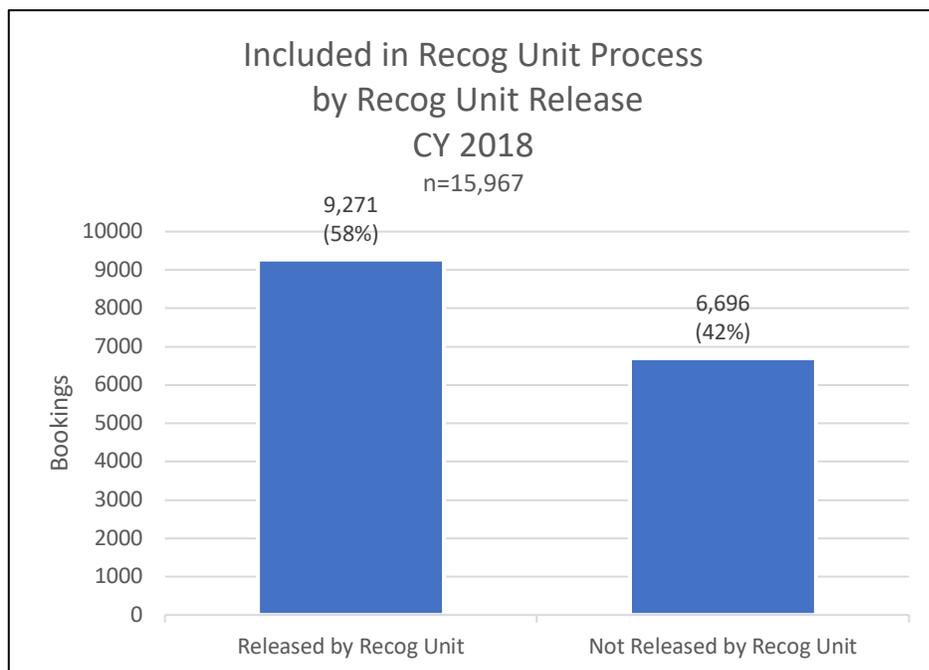
\*\*Refers to all bookings included in this analysis

Source: DCJ Recog Unit data and MCSO Jail data



The 15,967<sup>12</sup> bookings in our analysis that were included in the Recog Unit Process were eligible to be released on non-financial conditions by the Recog Unit<sup>13</sup> if they met certain conditions. The following sections describe those conditions in more detail. Figure 11 displays the bookings that were released by the Recog Unit overall.

**Figure 11: Included in the Recog Unit Process by Recog Unit Release (CY 2018)**



\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

<sup>12</sup> This number is one less than the 15,968 bookings included in the Recog Unit Process because the one expedited case not released by the Recog Unit was not included in the analysis.

<sup>13</sup> This analysis considers a booking to have been released by the Recog Unit when the person had a ROR or PRS Recog Unit release decision or were released on ROR or PRS on or before the arraignment date. There was one expedited release that was not released by the Recog Unit and therefore was not included in the further analysis.



### Expedited Cases

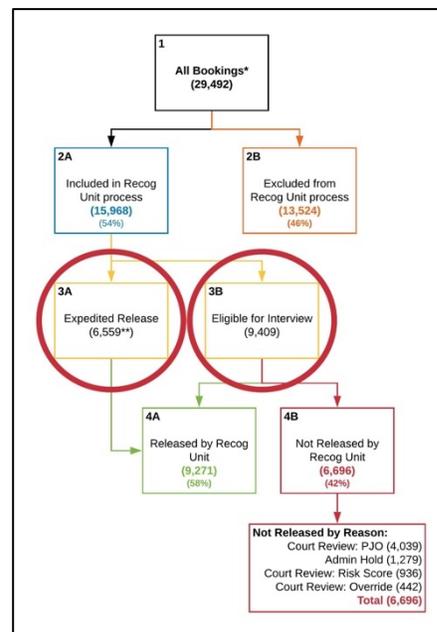
The expedited case process begins with staff conducting background and criminal history checks on all defendants included in the Recog Unit process. Recog Unit staff then identify the defendants that meet the eligibility release criteria for a release on their own recognizance (ROR) prior to first appearance and who are eligible according to the Presiding Judge's Order. If they are eligible, Recog Unit staff conducts a brief interview of defendants to complete release order agreement forms, notify defendants of court dates and inquire if there are any obstacles that would prevent them from making their court dates. Defendants that are eligible for ROR are termed expedited release candidates (Figure 12). JSP analysis indicated that all but one of the 6,559 cases marked as expedited were released with non-financial conditions by the Recog Unit.<sup>14</sup>

According to DCJ policy, the following charges qualify for Expedited Release:

- New traffic charges including felony DWS and DUIIs
- FTA traffic warrants
- Civil warrants for Support Enforcement Division and Judgement Debtor Exams (unless the bail is set at >\$5,000)
- New non-person misdemeanor charges

Recog Unit staff make the decision to release expedited release candidates or to override the eligibility for release and not release the defendant on non-financial conditions until first appearance court. Staff indicated that they may override release eligibility due to a history of FTAs or a perceived threat to others. This decision is somewhat subjective in nature and is not adequately addressed in the policy manual that JSP reviewed. DCJ's policy provides no guidance for staff on criteria for these overrides, including factors such as how many prior FTAs are needed to qualify for an override and what circumstances define a threat to another person. Without this stated policy and criteria, inconsistent use of overrides will be experienced, and subjective release decisions will threaten the credibility of the program.

**Figure 12: Multnomah County Pretrial System Process**



<sup>14</sup> There was one booking that was marked expedite but was not released by the Recog Unit due to an administrative hold. This one case falls out of the subsequent analysis of the included in the Recog Unit process group.

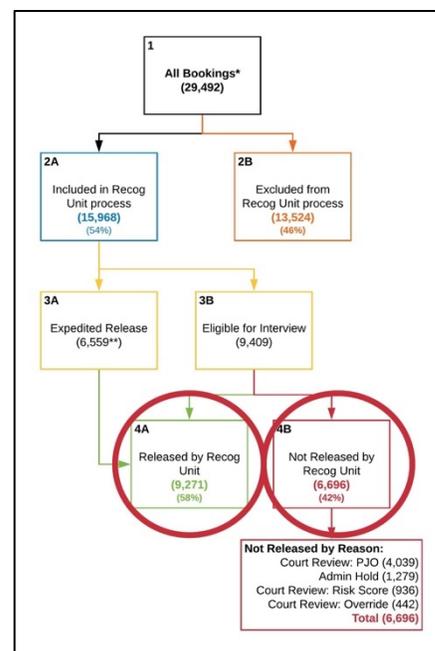


### Full Interviews

If the defendant is not eligible for expedited release, the Recog Unit staff conducts a full interview with the defendant. In 2018, the unit conducted 9,409 interviews and determined whether to release the defendant on non-financial conditions prior to first appearance. Overall, of the 15,968 defendants included in the Recog Unit process, expedited and full interview, the Recog Unit released 9,271 (58%) and did not release 6,696 (42%). The 6,696 not released by the Recog Unit represent 71% of the 9,409 people interviewed (Figure 14). Recog Unit staff explain the purpose of the interview and ask defendants if they agree to participate in the interview. During this interview the Recog Unit staff complete a multi-screen, automated Release Application which includes sections summarizing the defendant's conviction history, housing, relationships, alcohol and drug use, employment and mental health. It also contains the MVPRAI which is scored during the interview. Defendants may refuse to participate in this interview. If they refuse to be interviewed, DCJ's policy is to not release them with non-financial conditions prior to first appearance. This also pertains to defendants who refuse to sign the release agreement which Recog Unit staff provide to defendants prior to processing their release. If they refuse to sign the agreement, staff indicated to JSP that the Recog Unit policy is to not release them with non-financial conditions, but the data analysis indicated that the practice is actually varied. JSP's analysis of the data found 13 cases in which defendants who did not sign the release agreement were interviewed and eligible for non-financial release by the Recog Unit. Seven of those defendants were released by the Recog Unit and six were detained until first appearance. This is an example of why the department needs to develop standard policies and procedures. It also raises concerns as to the "voluntary" nature of the interview and the defendant's right to not participate in the process without release ramifications. American Bar Association Standards 10-4.2(c) states "Release may not be denied solely because the defendant has refused the pretrial services interview".<sup>15</sup>

If the defendant does agree to participate in an interview, Recog Unit staff ask for information that addresses the primary and secondary release criteria that ORS 135.230 requires that the court considers in making pretrial release decisions. During the interview Recog Unit staff also collect information that is used to score the pretrial risk assessment instrument used in Multnomah County. The Modified Virginia Pretrial Risk Assessment (MVPRAI) is currently used by Recog Unit staff to measure risk of failure to appear and re-arrest. The scores of the risk

**Figure 13: Multnomah County Pretrial System Process**



<sup>15</sup> American Bar Association, Criminal Justice Section Standards, *Pretrial Release*, [https://www.americanbar.org/groups/criminal\\_justice/publications/criminal\\_justice\\_section\\_archive/crimjust\\_standards\\_pretrial\\_release\\_blk/](https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_pretrial_release_blk/)

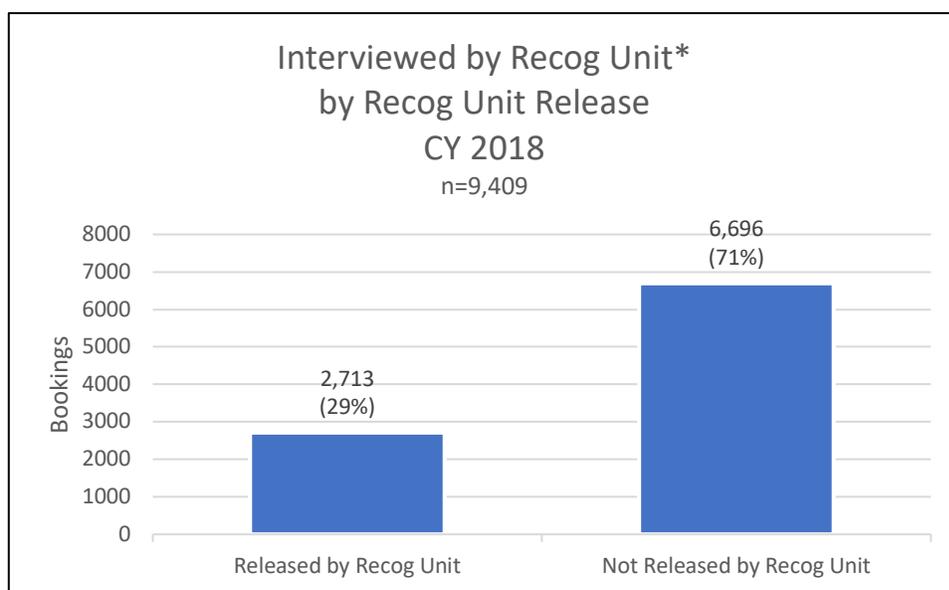


assessment can determine if the defendant is released. According to staff and managers in DCJ, the following is a breakdown by risk score and the release decisions made:

- Scores of 1 – 3 result in ROR release prior to first appearance
- Scores of 4 – 5 result in assignment to PSP
- Scores of 6 or higher are not released with non-financial conditions until first appearance

These scores and the listed release decisions can be overridden by Recog Unit staff depending on information discovered during the interview. According to DCJ policy, if the score on the assessment meets or exceeds a “6,” the defendant is not eligible for release with non-financial conditions by the Recog Unit unless overridden by a manager or lead staff. The policy governing these “overrides” does not identify criteria or circumstances staff should consider when making this decision. The same concern regarding lack of criteria to assist staff in making override decisions exists here as previously stated for the expedited releases.

**Figure 14: Interviewed by Recog Unit by Recog Unit Release (CY 2018)**



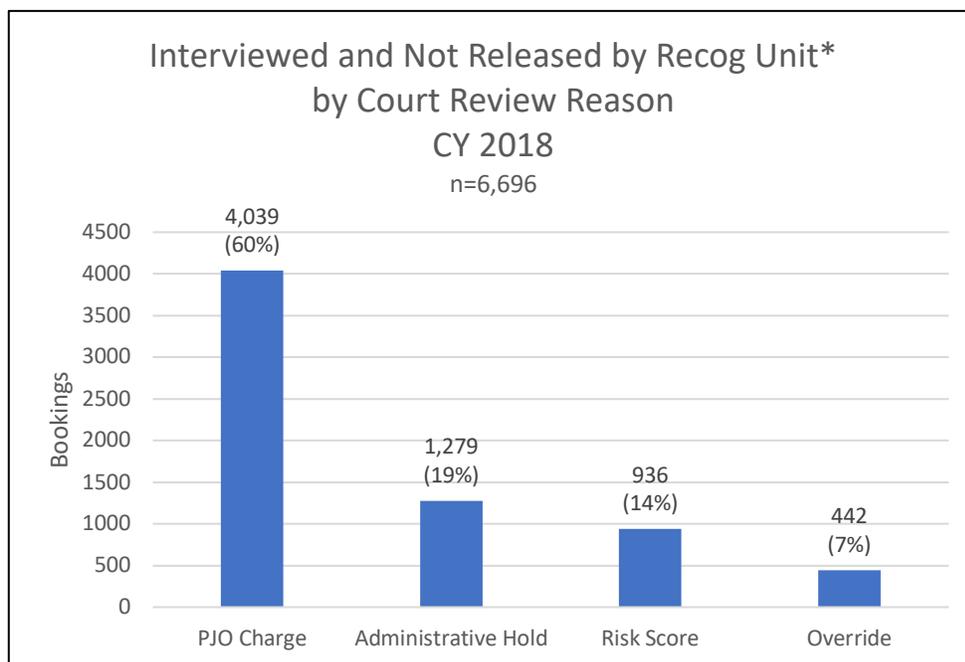
\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

For the 6,696 bookings in our analysis that were interviewed but not released by the Recog Unit, Figure 15 shows the reason why the person was not released on non-financial conditions by the Recog Unit. The majority (4,039 or 60%) are not released by the Recog Unit because they have a PJO charge. The next highest group (1,279 or 19%) have an administrative hold. 936 (14%) were not released by the Recog Unit due to having a MVPRAI score of 6 or higher. Finally, 442 (7%) were not released by the Recog Unit due to an override, i.e., the risk score was lower than 6 but the Recog Unit decided not to release them.<sup>16</sup>

<sup>16</sup> Court Review: Override represents cases that did not have any indicated judicial or administrative holds, were interviewed by the Recognizance Unit, had a MVPRAI risk score 0-5 and the Recognizance Unit release decision was “deferred to judge”.



**Figure 15: Interviewed and Not Released by Court Review Reason**



\*Refers to all bookings included in this analysis

Source: DCJ Recog Unit data and MCSO Jail data

See the data appendix in Attachment A for more breakouts related to the PJO Charge group.

If defendants are held in custody until first appearance, Recog Unit staff make recommendations to the first appearance court judge regarding release. The list of recommendations available to Recog Unit staff include:

1. Bail Only per SB 1095
2. PRS Evaluation Only
3. PRS if Accepted
4. PRS if Accepted when Hold is Resolved
5. PRS if Accepted with PPO Approval
6. Recommend the Defendant's Release be Denied
7. Release to PRS After Court
8. ROR After Court
9. Defer Per DV Policy
10. ROR When Hold Resolved
11. Release to PRS When Hold Resolved

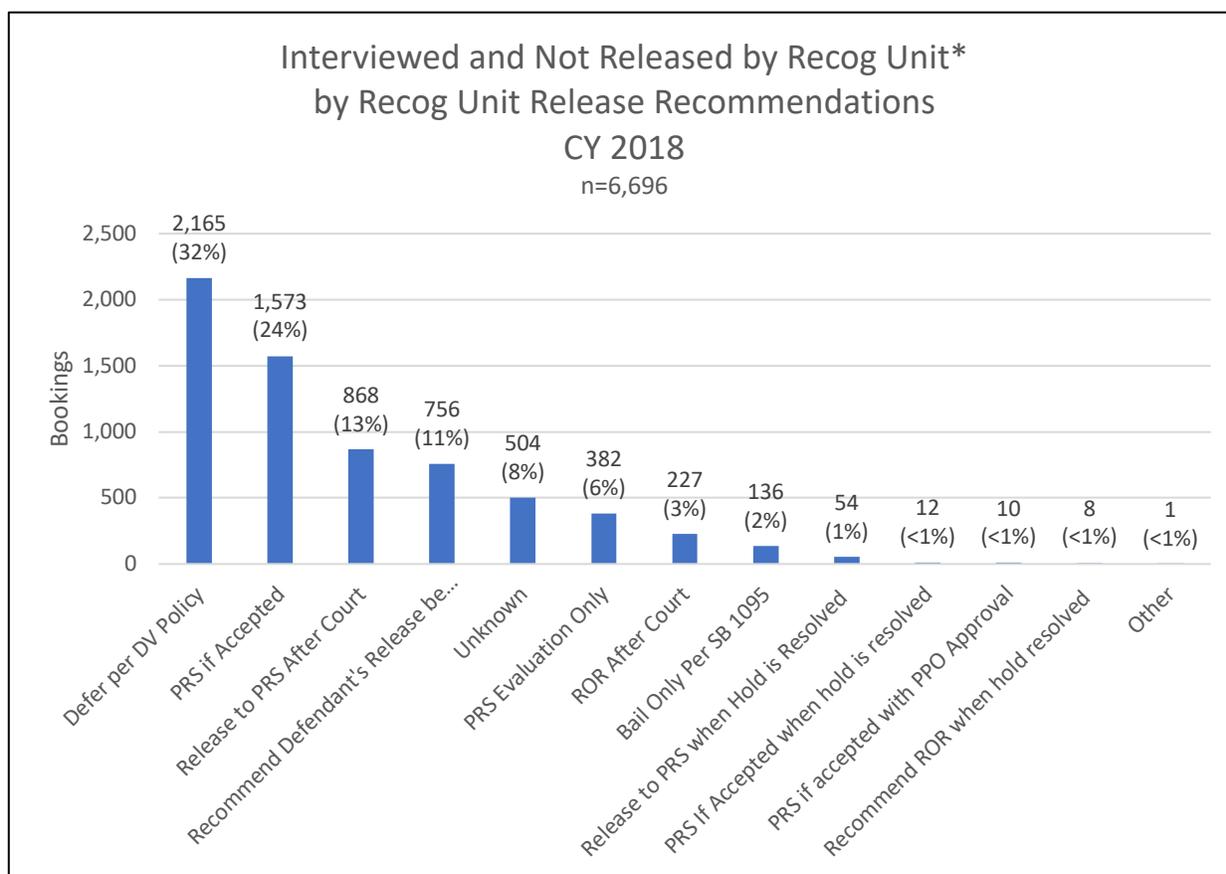
This list of recommendations is numerous and arguably excessive. The decision to detain those pretrial defendants who fall within the statutorily allowed charges should fall only to the court. Pretrial services provides an administrative sorting function to apply release conditions for those defendants who are statutorily eligible for pretrial release. Pretrial recommendations could



include release conditions appropriate to mitigate the assessed risk, such as ROR or release with PRS supervision.

Figure 16 illustrates the recommendations made by Recog Unit staff for defendants they did not release. The most frequent recommendation (32%) was “Defer per DV Policy.” The second most frequent recommendation (24%) was “PRS if Accepted.” (JSP understands that this option was eliminated from the list of available recommendations in November 2019.) Recommending the Defendant’s Release be Denied made up 11% of the recommendations. JSP reiterates our suggestion of eliminating this recommendation and leaving the decision to the courts. Another 23% of the recommendations were for some form of release with PRS. JSP recommends these recommendations be consolidated into two options - ROR or Release to PRS.

**Figure 16: Interviewed and Not Released by Recog Unit Release Recommendations (CY 2018)**

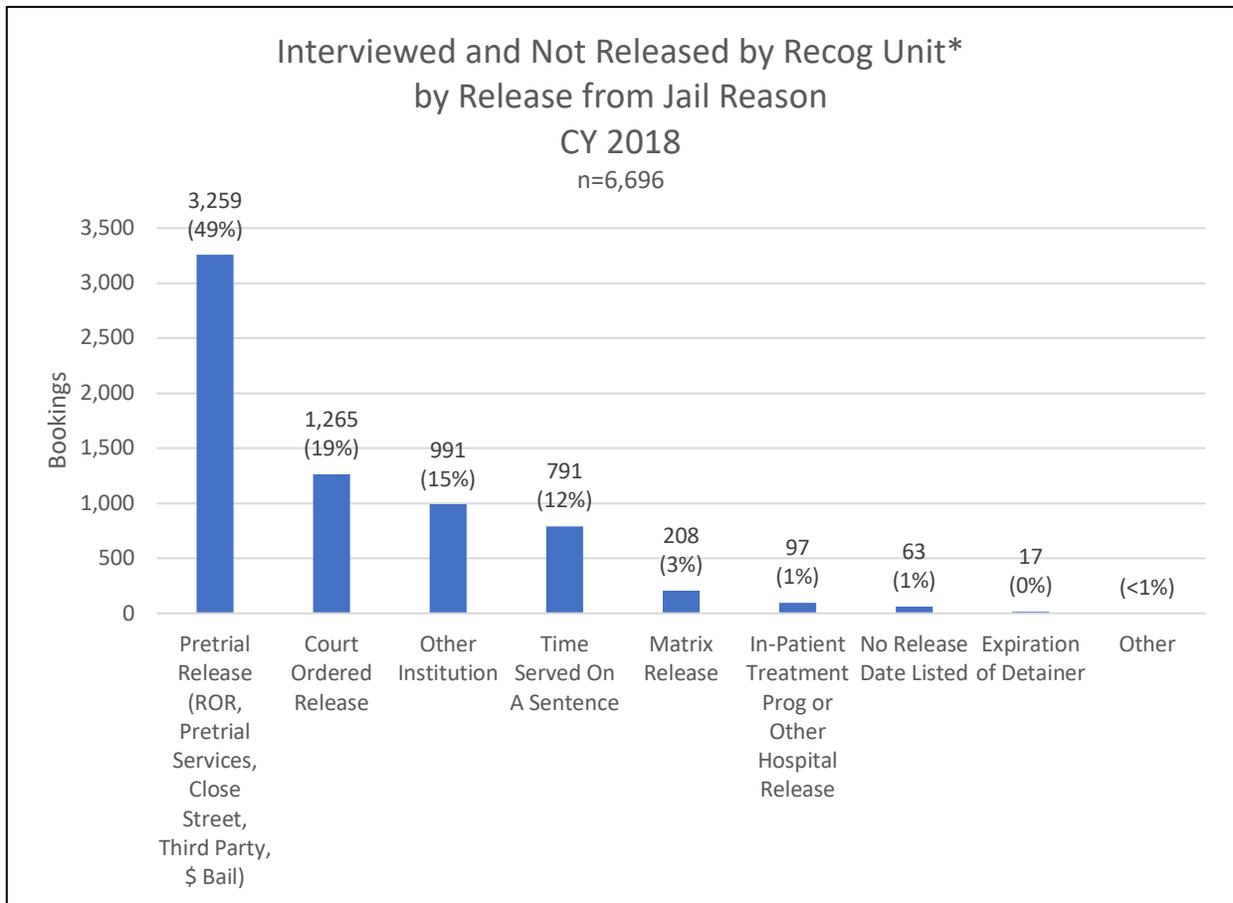


\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data



For the 6,696 bookings in our analysis that were interviewed but not released by the Recog Unit, Figure 17 shows the release reason from jail, as captured in the jail data. Note that many of these bookings (3,259 or 49%) were ultimately released on some type of pretrial release (ROR, Pretrial Services, Close Street, Third Party, or \$ Bail). Table 4 shows an average length of stay booking to release of 7 days for this group.

**Figure 17: Interviewed and Not Released by Recog Unit by Release from Jail Reason (CY 2018)**



\*Refers to all bookings included in this analysis  
 Source: DCJ Recog Unit data and MCSO Jail data



**Table 4: Interviewed and Not Released by Recog Unit by Release from Jail Reason**

<b>Interviewed and Not Released by Recog Unit:* Release from Jail Reason (CY 2018)</b>	<b>Count of Booking Number</b>	<b>Average Length of Stay: Booking to Release</b>
Pretrial Release (ROR, Pretrial Services, Close Street, Third Party, \$ Bail)	3,259 <sup>17</sup>	7
Court Ordered Release	1,265	15
Other Institution	991	83
Time Served on A Sentence	791	41
Matrix Release	208	23
In-Patient Treatment Prog or Other Hospital Release	97	124
No Release Date Listed	63	NA
Expiration of Detainer	17	4
Other	5	56
<b>Total</b>	<b>6,696</b>	<b>NA</b>

\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

There were 3,259 people interviewed and not released by the Recog Unit who were subsequently released from the jail pretrial. Many of these people (1,551) had MVPRAI scores of 0-5 and could potentially have been released earlier at the Recog Unit level. Table 5 lists the MVPRAI<sup>18</sup> scores for people interviewed and not released by the Recog Unit<sup>19</sup> but subsequently released pretrial.<sup>20</sup>

**Table 5: MVPRAI Score & ALOS for People Not Release by the Recog Unit but Released from Jail Pretrial**

<b>MVPRAI Score and ALOS for People Not Released by the Recog Unit* but Released from Jail Pretrial (CY 2018)</b>		
<b>Row Labels</b>	<b>Count of Booking Number</b>	<b>Average Length of Stay: Booking to Release</b>
MVPRAI Score 0-3	1,551	6
MVPRAI Score 4-5	768	10
MVPRAI Score 6-9	940	7
<b>Total</b>	<b>3,259</b>	<b>7</b>

\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

See the data appendix in Attachment A for more information on the MVPRAI scores by specific type of pretrial release other than by the Recog Unit.

<sup>17</sup> 1,375 were released to PRS, 931 were released on money bail, 690 were released on ROR, 263 were released to Close Street.

<sup>18</sup> If there was a value in the MVPRAI score field, including 0, it was counted. JSP noted inconsistency in the data in this area. While the 9,409 bookings included in the analysis that were interviewed all had a value entered in the MVPRAI Score data field, 763 also noted that the defendant declined the interview. MVPRAI Scores entered for these 763 bookings ranged from 0-9.

<sup>19</sup> This analysis considers a booking to have been released by the Recog Unit when the person had a ROR or PRS Recog Unit release decision or were released on ROR or PRS on or before the arraignment date.

<sup>20</sup> This includes ROR, Pretrial Services, Close Street, Third Party, and Money Bail release reasons.



### *Pretrial Release Services*

Once the Recog Unit staff release defendants with non-financial conditions or make recommendations for release, their responsibilities for in-custody defendants end and the responsibility shifts to PRS if the Recog Unit made a release to PRS, the courts refer a case for an evaluation, or the courts order a defendant released to supervision.

Pretrial Release Services (PRS) is a unit within the Department of Community Justice whose stated purpose is to make release decisions which allow third party release of defendants pre-adjudication. PRS also supervises defendants released from custody “by ensuring the defendant is complying with their conditions of release.”<sup>21</sup> PRS is an umbrella unit that encompasses the Pretrial Supervision Program (PSP) and referrals made to the Sheriff’s Office Close Street Supervision Program. JSP inquired into the caseload sizes for PSP, however due to challenges with the case management software application (Ce Pretrial) this information was not available. Upon request for the policy and procedures manual for PRS, JSP received the Training Guide for PRS, which staff noted serves the same purpose as a policy and procedures manual for all staff. This Training Guide is oriented towards new employees to familiarize them with the different information systems and operations of PRS. The Training Guide is not written as a policy and procedures manual which would guide the operations and decisions of staff. JSP believes that addressing the lack of policies for PRS should be a priority area for DCJ as any efforts to improve the efficiency and effectiveness of the division will not be successful without clear policies and procedures. The PRS unit consists of staff in corrections technician positions that supervise pretrial defendants through an office-based approach (the staffing classification does not allow for a community-based approach).

### *Referrals*

One of the options available to the first appearance court judge when deciding whether to release a defendant is to refer the case to PRS for “Evaluation” or “Evaluation Only”. An order for “Evaluation” refers the case back to PRS staff to conduct an interview with the defendant to determine if they are acceptable for release as determined by PRS. Staff will conduct this interview and if they determine the defendant is acceptable, they will release the defendant ROR or ROR with PRS. “Evaluation Only” refers to an order to interview the defendant and report back to the court a recommendation for release. The lack of a PRS policy and procedure manual results in a high level of subjectivity when making these significant decisions about whether or not to release the defendant. There are no clear expectations for timelines of when the evaluation should be completed an information provided to court. While PRS staff indicated that most referrals are completed within a few days, the referral process can sometimes delay the release of the defendant due to scheduling and other related issues. An example of this delay was provided when JSP interviewed staff at PSP. Staff described a case they had been assigned by the court for an “Evaluation Only.” Due to staff illness during which no other staff picked up the work, followed by required training upon the assigned staff returning to work, the defendant was not interviewed for one month following the assignment.

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<sup>21</sup> Multnomah County Department of Community Justice Pretrial Services Program Training Guide, September 2019



This process of deferring release decisions for PRS to evaluate is fraught with potential delays. In JSP’s experience, other jurisdictions rarely delay the release decision if pretrial services have made a release recommendation. Certainly, it can occur if new information is collected in court or if the court needs clarification of information. However, as a matter of practice courts accept pretrial service information packets and proceed with release decisions without delay. Multnomah County’s practice of the Recog Unit reporting release application information to the court, the court referring the case back to PRS for Evaluation Only, and PRS then reporting back to court sometimes the same information as originally reported by the Recog Unit is necessarily delaying release. One stakeholder referred to this process as a “ping pong game with the court,” with the court asking for an evaluation and then ordering what was originally recommended.

Of the 382 cases where the Recog Unit recommendation was “PRS Evaluation Only,” 27 (7%) were ultimately released to PRS with an average length of stay (ALOS) of 7 days; 15 (4%) of these cases were released ROR with an ALOS of 10 days; and 22 were released to Close Street with an ALOS of 45 days (Table 6).

**Table 6: Recog Unit Recommendation “PRS Evaluation Only” by Release from Jail Reason**

<b>Recog Unit Recommendation “PRS Evaluation Only” by Release from Jail Reason (CY 2018)</b>		
<b>Release Type</b>	<b>Count of Bookings</b>	<b>Average Length of Stay: Booking to Release</b>
<b>Court Ordered Release</b>	<b>56</b>	<b>46</b>
<b>In-Patient Treatment Prog or Other Hospital Release</b>	<b>9</b>	<b>159</b>
<b>Matrix Release</b>	<b>13</b>	<b>23</b>
<b>No Release Date Listed</b>	<b>28</b>	<b>NA</b>
<b>Other Institution</b>	<b>134</b>	<b>210</b>
<b>Pretrial Release Type</b>	<b>107</b>	<b>26</b>
Bail	43	34
Close Street	22	45
PRS	27	7
ROR	15	10
<b>Time Served on A Sentence</b>	<b>35</b>	<b>72</b>
<b>Total</b>	<b>382</b>	<b>NA</b>

\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

Since JSP began working on this assessment, it is significant to report that Multnomah County has discontinued their practice of recommending “PRS if Accepted”. This practice is similar to that detailed above and resulted in significant delays in determining if defendants could be released. It is to the credit of the county courts and DCJ that this practice is no longer in place.

### *Assignment of Supervision*

Upon receiving a supervision case from the Recog Unit or court, staff in PSP use the PRS Charge List to determine whether PSP will provide the monitoring service or whether they will refer the case to the Sheriff’s Office Close Street Supervision Program. This PRS Charge List



was developed collaboratively by DCJ and MCSO (Attachment C). The list of charge assignments indicates that cases with more serious charges will be supervised by the Close Street Supervision Program, although, many of the charges assigned to PSP, such as assault on a police officer, menacing DV, and sodomy III, are just as violent, if not more violent, in nature.

This practice establishes a charge-based approach to monitoring and supervision. Charge-based approaches to supervision may seem logical, however it does not consider the risk of failure to appear in court (FTA) and new criminal activity of each defendant. In situations where minor charges are filed on a defendant with a high risk of re-arrest, the current practice would result in that individual being monitored by a less structured program than Close Street. DCJ management reported that in 2016 an analysis of risk scores for Close Street and PSP caseloads found that 78% of Close Street's defendants were low risk, compared to 37% of PSP's defendants.<sup>22</sup>

Research in pretrial supervision has shown that the risk principle of focusing supervision and interventions on the moderate and high-risk defendants is a more effective use of resources and decreases the likelihood of pretrial failure for this population. Applying those same supervision strategies and interventions to low risk defendants will result in increased failure rates.<sup>23</sup> When assigning pretrial defendants to supervision, risk should play a significant role in the type and level of monitoring and supervision.

The Pretrial Services Program Training Guide provides no minimum requirements for monitoring of defendants by PSP staff. Staff interviewed by JSP indicated different reporting requirements for each defendant. Court release orders do not indicate reporting schedules to PSP and PSP forms provided by staff only indicate a weekly phone check-in and in-person reporting as directed. While writing this report, JSP received notice of a recent change implemented by PSP that provides minimum monitoring levels based on the risk of each defendant being monitored (see Attachment D). While this risk-based monitoring levels document is a step in the right direction, it does not explain how it was developed, i.e., whether it is based on historical analysis of Multnomah County pretrial outcomes. Several concerns are noted with the risk levels and monitoring standards. First, the lowest level of monitoring includes weekly phone calls with PSP. There is no opportunity for ROR release for these low risk defendants, similar to defendants released from the Recog Unit. Low risk monitoring levels should not include weekly phone calls as this level of contact should be reserved for the highest risk levels. JSP's experience is that most probation and parole departments do not require convicted offenders to contact their assigned officers on a weekly basis.

Secondly, defendants who are scored as low risk and charged with person to person charges (possibly non-violent charges) are required to be placed on enhanced monitoring, regardless of their risk score being low. This indicates that PRS has little confidence in the risk assessment instrument in use in Multnomah County. Charge is historically not a good predictor of pretrial

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<sup>22</sup> Interview with Jay Scroggin, Deputy Director, Multnomah County Department of Community Justice. September 24, 2019.

<sup>23</sup> Pretrial Risk Assessment in the Federal Court. Arlington, VA: U.S. Department of Justice, Office of the Federal Detention Trustee; Lowenkamp, C.T., & VanNostrand, M. (2013)



failure, however PRS is using charge to override the risk scores and monitor those defendants at a higher level.

The last concern is the lack of policy on how these monitoring levels should be utilized in the day-to-day operations of the PSP unit. These monitoring levels and expectations by levels are without guidelines on when and how they are to be utilized, referred to, and most significantly how noncompliance is to be responded to by staff.

### *Multnomah County Sheriff's Close Street Supervision*

The Multnomah County Sheriff's Office Close Street (CS) Supervision Program began operations in 1979 through a federal grant. It has continued to operate since that time and is a well-established program that stakeholders collectively recognize and compliment. JSP heard clearly from judges, prosecutors and defense attorneys that Close Street is considered a good program and the only issue they have with the program is one of capacity. One reason stated for this support is that CS communicates regularly with all the stakeholders involved in cases that they supervise.

In 2018, 316 defendants were ordered released to Close Street Supervision. At the time of JSP interviews, CS had a caseload of 242 defendants being supervised with staff levels designed to supervise 125 defendants (six corrections deputy positions, one corrections supervisor positions and two vacant support staff positions). Staff reported that the number of positions has been reduced due to budget cuts.

CS receives cases from the court as well as “walk-ins” (cases that have been released to PRS and, due to the charge, are referred to CS for supervision). Court referred cases can come directly from first appearance or following a post-first appearance release hearing. Referral assessments are also conducted by CS staff and determine if the defendant is appropriate for CS supervision. However, due to over-capacity issues in the program, Sheriff's staff has notified the courts that CS will no longer provide these evaluations or assessments. The CS policies and procedures manual indicates the assessment addresses three core (primary) and five secondary considerations. These are listed below:

#### Core/Primary

- A. Threat to the community;
- B. Likelihood to engage in criminal activity while under supervision; and
- C. Likelihood to make all court appearances.

#### Secondary

- A. The defendant's employment status and the history of financial conditions;
- B. 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 to indicate that the defendant has strong ties to the community.

CS staff monitors and enforces the release conditions ordered by the court but may also add conditions of release that are “reasonably calculated to ensure one or more of the core



considerations are likely to be met”.<sup>24</sup> Per that policy, additional conditions shall be related to the case and may consist of reporting frequency, field contact frequency, curfew hours, and AA/NA meeting attendance. JSP was provided the conditions of release to CS supervision which are attached as Attachment E.

JSP believes that several of these standard conditions of pretrial release to the CS program raise constitutionality questions. Several of the general conditions of CS supervision meet the “blanket” pretrial release conditions concern as they are imposed on any pretrial defendant entering the program. These include:

2. No use or possession of drugs, unless prescribe by a licensed physician, including **alcohol and marijuana**. Submit to random UA/Breathalyzer testing.
5. Maintain or seek full time work/school or a combination of both.
9. Be subject to search of person, vehicle, and premise while under CSS.
11. Not possess any weapon or ammunition.
12. Not enter any establishment that sells alcohol as the primary source of revenue.

Blanket pretrial release conditions is a term used to describe one or more conditions imposed upon defendants, usually as a group, without regard to individualized risk assessment.<sup>25</sup> Courts have found the requirements of the Eighth Amendment and the Fifth Amendment due process clause apply to any and all pretrial release conditions imposed in a blanket fashion, including universal drug testing, curfew and even the prohibition against possession of a firearm.<sup>26</sup> Courts have instructed us to look at the relationship between the proposed pretrial release conditions and the government interest of assuring the defendant’s appearance at trial and the safety of the community.

CS policies also allow deputies to provide transportation of pretrial defendants to their scheduled court events as well as providing bus passes as an alternative. This is to be commended and recognized as a supportive measure to prevent failures to appear.

CS conducts pre-release home checks to verify the proposed residence, to confirm the defendant is welcomed there, to evaluate whether other occupants will pose a risk to the success of the defendant, and to assess whether the likely conditions of release will be supported by the elements present in the home. This practice is rarely seen in the pretrial field and very resource intensive. Post-release home checks are also conducted at regular and irregular intervals according to the CS policy and procedures manual. This also is resource intensive and it is important to ensure that it is reserved for those that are the highest risk and in need of more intensive supervision.

CS managers and staff indicated that they would like to consider a defendant’s risk levels in both accepting cases on supervision and in supervision case planning. They also reported they could be the conduit to getting defendants to services needed in the community. One additional population they are willing to discuss adding to the CS caseloads are those defendants who

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<sup>24</sup> Multnomah County Sheriff’s Office Close Street Supervision Program Unit Policies and Procedures, March 2009

<sup>25</sup> Pretrial Justice Institute, *State of the Science of Pretrial Release Recommendations and Supervision*, 2011

<sup>26</sup> Ibid



remain in custody that could benefit from services such as mental health treatment. This suggestion is due to the credibility of their program and the support stakeholder have in its continued success. JSP recommends a stakeholder discussion with MCSO to develop agreements to focus CS on higher risk defendants and to shift high risk, less serious charged defendants to CS supervision.

## **Presiding Judge Administrative Orders**

In Multnomah County, DCJ's Recog Unit has the authority and ability to release pretrial defendants from custody. This authority originates from two presiding judge administrative orders (PJO) which delegated responsibilities to pretrial release officers in 2011 and adopted a security release schedule in 2016. Both documents are discussed below and included in Attachment F.

## **Presiding Judge Order Appointing Release Assistance Officers**

Oregon Revised Statute 135.235 authorizes the presiding judge to appoint release assistance officers and to delegate those officers' authority to release people detained in Multnomah County on charges or warrants arising under the laws of the state of Oregon or its municipal governments. These release assistance officers in Multnomah County are employees of DCJ and are positioned in both the Recog Unit and in PSP.

The Presiding Judge Order (PJO) delegating release authority for pretrial release officers dated June 1, 2011 states, "Now, therefore it is ordered that there is delegated to every appointed release assistance officer authority to release any defendant detained pursuant to law in Multnomah County where the release assistance officer determines that release is warranted and within guidelines established by the chief criminal judge, except this delegation does not extend to the following specific offenses...". This broad delegated authority is unique to Multnomah County and perhaps to other counties in Oregon. Rarely has JSP seen this level of release authority entrusted to any agencies outside the court. This authority and the process that Multnomah County has created to apply it, has indeed resulted in many pretrial defendants being released from custody more quickly than if they had been required to wait for a hearing with the court.

This PJO frames the issue of authorization to release pretrial defendants by identifying charges that are governed by statute as not eligible for release. The PJO then goes beyond the statutory requirements and adds over 100 charges, including those grouped in "Person Felonies" and "Person Class A Misdemeanors" (OAR 213-003-0001). Defendants charged with any of these additional charge categories are ineligible for release if they have "any additional person felony or person Class A misdemeanor charges pending disposition . . . or for which the person is on probation, parole, post-prison supervision." The PJO also includes other charges that are eligible for release by statute, but it limits the release assistance officer's ability to consider release prior to first appearance for those charges. These limits imposed on release considerations are purely charge-based limitations, without consideration given to the defendant's prior criminal history or risk to fail to appear for future court dates or be re-arrested if released. Basing eligibility for release on charges assumes that the charging offense is a predictor of future pretrial failure. A



meta-analysis of the strongest predictors of pretrial failure by Bechtel, et al, in 2011 indicates otherwise.<sup>27</sup>

In 2018, 4,039 of the 29,492 defendants booked in the jail were not eligible for release with non-financial conditions due to the PJO criteria. This included 2,433 defendants where the primary booking charge was a misdemeanor. JSP reviewed the risk scores for the 4,039 defendants and found that people with risk scores of 0-3 made up 54% of the defendants held on PJO charges (Table 7).

**Table 7: PJO Charge Holds by MVPRAI Score**

<b>PJO Charge Holds* by MVPRAI Score (CY 2018)</b>		
<b>MVPRAI Score</b>	<b>Number of Bookings with a PJO Hold</b>	<b>%</b>
MVPRAI Score 0-3	2,188	54%
MVPRAI Score 4-5	1,101	27%
MVPRAI Score 6-9	750	19%
<b>Grand Total</b>	<b>4,039</b>	<b>100%</b>

\*Refers to all bookings included in this analysis  
Source: DCJ Recog Unit data and MCSO Jail data

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<sup>27</sup> Bechtel, Kristin & Lowenkamp, Christopher & Holsinger, Alexander. (2011). Identifying the predictors of pretrial failure: A meta-analysis. *Federal Probation*, 75. 78-87.



Table 8 indicates that 2,155 (53%) of the bookings not released by the Recog Unit due to a PJO Charge were subsequently released from jail pretrial.

**Table 8 PJO Charge Holds by MVPRAI Score and Release from Jail Reason**

<b>PJO Charge Holds* by MVPRAI Score and Release from Jail Reason (CY 2018)</b>				
<b>Release Reason</b>	<b>Count of Bookings</b>			
	<b>MVPRAI Score 0-3</b>	<b>MVPRAI Score 4-5</b>	<b>MVPRAI Score 6-9</b>	<b>Total</b>
Court Ordered Release	493	209	124	826
Expiration of Detainer	3	1	2	6
In-Patient Treatment Prog or Other Hospital Release	14	20	15	49
Matrix Release	8	21	32	61
No Release Date Listed	22	21	12	55
Other		1	2	3
Other Institution	172	156	131	459
<b>Pretrial Release (ROR, Pretrial Services, Close Street, Third Party, \$ Bail)</b>	<b>1,350</b>	<b>525</b>	<b>280</b>	<b>2,155</b>
Time Served on A Sentence	126	147	152	425
<b>Total</b>	<b>2,188</b>	<b>1,101</b>	<b>750</b>	<b>4,039</b>

\*Refers to all bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

Of the 2,155 people not released by the Recog Unit due to a PJO hold and who were subsequently released from jail pretrial, 807 (37%) were released by posting money bail, 809 (38%) were released to PRS, 293 (14%) were released on ROR, and 246 (11%) were released to Close Street.

Those released from jail pretrial span the MVPRAI risk groupings (Table 9). People with higher risk scores should not be denied pretrial release, but stakeholders should consider providing supervision services to higher scoring individuals rather than allowing straight money bail.

**Table 9: PJO Charge Holds by MVPRAI Score and Pretrial Release from Jail Reason**

<b>PJO Charge Holds* by MVPRAI Score and Pretrial Release from Jail Reason (CY 2018)</b>				
<b>Release Type</b>	<b>Count of Bookings</b>			
	<b>MVPRAI Score 0-3</b>	<b>MVPRAI Score 4-5</b>	<b>MVPRAI Score 6-9</b>	<b>Total</b>
Bail	613	149	45	807
Close Street	160	59	27	246
PRS	431	229	149	809
ROR	146	88	59	293
<b>Total</b>	<b>1,350</b>	<b>525</b>	<b>280</b>	<b>2,155</b>

\*Refers to all bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data



## Presiding Judge Order Adopting a Security Schedule

The Presiding Judge Order adopting a security release schedule (financial bond schedule) dated November 17, 2016 outlines the security amount to be ordered at booking for defendants to be released by security. Oregon Revised Statute 135.265 indicates that any defendant not released on personal recognizance, granted conditional release, or who fails to agree to the provisions of the conditional release, shall have a security amount that will reasonably assure the defendant's appearance. This PJO sets those amounts for Multnomah County. It is significant to note that ORS 135.242 restricts the court from releasing defendants charged with certain methamphetamine offenses from "any form of release other than a security release." It further sets the amount of security release at not less than \$500,000.

The Oregon statute and the PJO are concerning for several legal and practical reasons. As stated in the introduction of this report, the money bail system results in poor people being detained in custody because they are poor, not because they are a danger to others or will not show up to court. Jurisdictions across the country are involved in civil litigation over bail practices, including the use of financial schedules and the detention of defendants who cannot afford to pay the security amount. Attachment G includes a summary of the pending and resolved federal lawsuits across the country relating to pretrial release and the use of monetary bail.

The PJO security release schedule disregards the defendant's ability to pay, calling to question its constitutionality. The Eighth Amendment to the United States Constitution prohibits "excessive bail." United States Supreme Court case *Stack v Boyle*, 1951 ruled that "Bail set at a figure higher than an amount reasonably calculated to fulfill the purpose of adequately assuring the presence of the accused is excessive under the Eighth Amendment."<sup>28</sup> Further, the ruling states "(W)e are of the opinion that the fixing of bail before trial in these cases cannot be squared with the statutory and constitutional standards for admission to bail...."<sup>29</sup> We believe the PJO's security schedule for Multnomah County may be equivalent to this description of "fixing of bail."

As noted earlier, defendants who are able to post the set security amount and are released, are released without conditions of release that might mitigate their risk of returning to court or being arrested. This type of release may pose an undue risk to the community.

In 2018 1,266 pretrial defendants who were not eligible to be released with non-financial conditions by the Recog Unit posted the security amount ordered and were released. Of those defendants, 800 posted bail within one day or less of being booked. People who posted bail had a wide variety of charges, including:

- 277 people with a charge for a violent offense
- 6 people with a charge for felony driving under the influence of intoxicants
- 73 people with a charge for misdemeanor driving under the influence of intoxicants
- 62 people with a charge for restraining order violations
- 33 people with a charge for unlawful possession of a firearm

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<sup>28</sup> *Stack v. Boyle*, 342 U.S. 1, 72 S. Ct. 1, 96 L. Ed. 3, 1951 U.S. LEXIS 1368 (U.S. Nov. 5, 1951)

<sup>29</sup> *Ibid*



As noted previously, “Defer per DV policy” makes up a large portion of the recommendations made for defendants who were not released. This policy is based on a PJO which states:

“When a defendant is lodged in the Multnomah County Detention Center for a violation of a Family Abuse Prevention Act restraining order under ORS 107.720, a violation of a release condition to not contact the victim in an offense involving domestic violence, or any charge involving domestic violence or for any Class A or Class B Felony, or a charge of assault in the fourth degree under ORS 163.160, assault in the third degree under ORS 163.165, menacing under ORS 163.190, recklessly endangering another person under ORS 163.195, or, harassment under ORS 166.065 and the offense is alleged to have been committed by one family or household member upon another family or household member, then any release decision, other than security release, shall be deferred until the first appearance of the defendant before a magistrate.”

Although the Recog Unit does not have authority to release this population, the PJO allows for those arrested for the charges described above to post a security amount and be released from custody with no or very little conditions. Defendants who cannot afford the security amount must stay in custody until first appearance where a judge will determine if they are released. Out of the 2,165 defendants charged with these offenses and not released by the Recog Unit, 364 posted security and were released within one day or less of booking.

It is worth noting that none of the defendants released within one day or less upon posting the security amount were supervised by pretrial service. The list of all charges for which defendants posted security within one day or less of booking is contained in the data appendix in Attachment A.

## Considerations and Recommendations

Multnomah County Pretrial System stakeholders should undertake a system-wide effort to fundamentally change the basis of their pretrial system by creating rational, fair, and effective release and detention processes to better follow the law and the research. Although much of Multnomah County’s current system is progressive in early release of certain defendants, more purposeful reforms could provide system efficiencies and jail savings for long-term benefits. The specific recommendations below address issues and topics that were discussed in the previous section of this report. Whenever possible below, we attempt to provide specific steps Multnomah County can take to improve the efficiencies of their system.

1. **JSP recommends developing a new Presiding Judge Order to clarify the judiciary’s purpose, process and intent for release and detention of pretrial defendants.** This order would set clear policies and practices declaring who is statutorily eligible for detention. It would also initiate a move from a charge-based system to a risk-informed system of determining pretrial detention. This shift would align with ORS 135.240 which details the circumstances in which a defendant can be detained pretrial.

JSP has created a sample Presiding Judge Order for the court’s and stakeholders’ review that speaks to some of the issues the order could address regarding pretrial release decisions. The draft (Attachment H) leaves several sections for discussion and decisions to be made by the



courts and stakeholders. Should Multnomah County decide to revise the existing presiding judge orders and use something similar to the sample in Attachment H, it would eliminate the need for Recog Staff to complete the release application during full interviews for most defendants.

2. **Revise the existing Presiding Judge Order Appointing Release Assistance Officers.** This PJO addresses both the authority given to release assistance officers and the charges for which release of defendants may not occur prior to first appearance. JSP recommends revising this order to solely provide release authority to release assistance officers.
3. **Eliminate the Presiding Judge Order Adopting a Security Release Schedule dated November 17, 2016.** The new Presiding Judge Order (recommendation #1) will address the statutory charges that require a security amount set before release. Separate from those required by statute, monetary conditions of release should not be used as a condition of release. This and the previous recommendations are designed to help Multnomah County make pretrial release and detention decisions without money. The current Presiding Judge Order setting a security amount hinders practitioner's ability to make evidence-based release decisions. The concern is that even though release assistance officers release many pretrial defendants prior to first appearance, the limits by the current Presiding Judge Order result in a significant number being detained. Studies have shown that even a short jail stay can have a devastating and destabilizing impact on someone's life, putting employment and housing at risk and making them more likely to commit crimes in the future.<sup>30</sup> Multiple jurisdictions in the country are currently fighting lawsuits designed to eliminate secured money bonds based on federal equal protection claims, while other jurisdictions have settled lawsuits by implementing changes to their pretrial practices. Attachment G is a summary of these federal lawsuits created by the Justice Management Institute.
4. **The Department of Community Justice should revise the policies and procedures manual for the Recog Unit and Pretrial Release Services to increase efficiency and consistency in practice.**

#### **Recog Unit Policies and Procedures**

JSP was provided a copy of the policies and procedures for the Recog Unit, however no date or revision date was noted. In revising the policies, DCJ can clarify staff's roles and their impact on the delays in releasing defendants, as well as set a tone for the unit of developing supportive, preemptive action steps to release defendants with appropriate conditions and community-based assistance and services. Policy revisions should include, but not be limited to, the following areas:

- Define the criteria for overriding risk scores. This should include describing the conditions when an override would result in a recommendation for increased or less restrictive conditions.

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<sup>30</sup> Lowenkamp, Christopher T., VanNostrand, Marfie, Holsinger, Alexander M. The Hidden Costs of Pretrial Detention. 2013. Retrieved from <https://nicic.gov/hidden-costs-pretrial-detention-December-31>, 2019.



- Define criminal history and failure to appear history that can be used to increase the release conditions
- Eliminate subjective, staff-based release decisions and recommendations
- Eliminate the requirement that defendants must participate in a pretrial interview
- Develop risk mitigation strategies based on the risk assessment score of the defendant and require staff to use the strategies in making recommendations
- Eliminate all recommendations except ROR, Release to PRS with Conditions Identified to Mitigate the Defendant's Risk, and If Released, Maximum Conditions Recommended
- Develop a policy to address defendants held on charges from other counties, allowing for setting release conditions for the local Multnomah County case and work with other counties to conduct video advisements so the defendant does not have to be transferred

Recommendation #1 would result in limiting the authority of the Recog Unit to detain defendants prior to first appearance. Only those people with charges that statutorily can be detained pretrial would be held until first appearance. The county stakeholders should discuss and determine a process to identify and hold people charged with violent felonies until first appearance.

#### **Pretrial Release Services Policies and Procedures**

JSP recommends that DCJ develop a policy and procedure manual that guides and controls staff in the operations of the PRS. Currently, there are no policies that direct staff in their responsibilities in monitoring defendants ordered to PRS. As noted previously, monitoring levels with contact expectations were recently implemented in the PSP unit. These levels and corresponding contact requirements should be reviewed with the risk principle considered along with available resources. In addition, without accompanying policy and procedures on how they are to be used, staff will not have sufficient guidance and inconsistent application will most likely follow. In observations of staff made by JSP, staff were consistent in the forms used with defendants, but inconsistent in the directions provided to and the reporting requirements of the defendants on their caseloads. Responses to noncompliance behavior and violations were inconsistent with one staff indicating they would not file an affidavit in support of revocation of release orders for a missed schedule report to the office and another staff indicating they would. Without a clear policy for the operations of the PRS unit, staff have no guidance regarding the required steps to perform the job of monitoring pretrial defendants, and there will be no means of measuring staff performance.

5. **Consideration should be given to either updating and validating the MVPRAI risk assessment currently in use or moving to a non-interview-based risk assessment instrument.** The current pretrial risk assessment instrument in Multnomah County is the Virginia Pretrial Risk Assessment Instrument which is an interview-based tool. In order to score the tool, an interview is required with the defendant. This is, at times, not possible as defendants can refuse to participate in an interview with the Recog Unit staff. Therefore, not all defendants are assessed for risk. The MVPRAI has not been validated since its implementation in 2015. DCJ is currently using the original MVPRAI assessment tool and has not yet updated to the newer MVPRAI modified version which increases available scores



to 14 maximum points. If Multnomah County decides to continue to use the MVPRAI, we recommend the newer version be implemented and data tracked to validate the tool.

The other option is to move to a non-interview-based assessment instrument which would provide a risk score on all pretrial defendants, regardless if they volunteer for an interview with Recog Unit staff. This policy change would also eliminate, or significantly reduce, the need for the release application currently completed during full interviews with defendants. If the release application does remain, consideration should be given to dramatically reducing the information collected. The Public Safety Assessment (PSA) risk instrument developed by Arnold Ventures uses official record information such as criminal history, age, booking information and failure to appear information to calculate the risk for failure to appear, new criminal activity and new violent criminal activity. Whether DCJ's Recog Unit continues to interview defendants or not, risk information will be available to set release conditions. The PSA is now a public domain instrument available to any jurisdiction interested in implementing the tool. Additional information regarding the instrument or how to implement can be found at [www.psapretrial.org](http://www.psapretrial.org).

6. **DCJ, the Courts and Sheriff's Office should adjust the way pretrial defendants are assigned to monitoring and supervision and establish risk-informed decision criteria on the assignment of cases to PSP and Close Street Supervision.** Currently the assignment of supervision and monitoring is purely based on charge, with no regard to risk. This results in Close Street, a resource rich, community-based supervision program spending its efforts and staffing in supervising low risk defendants. In a 2016 analysis provided by DCJ, 78% of Close Street's caseload were assessed as low risk compared to 37% of PSP's caseload. In JSP's analysis 53% of the cases assigned to Close Street were low risk (scores of 0-3).
7. **Multnomah County Sheriff's Close Street Supervision Program is a respected, and highly utilized pretrial supervision program that should revise its internal policies and procedures to eliminate concerns of over-supervision of pretrial defendants.** These would include eliminating the ability to add conditions of release to those ordered by the court and shifting to accepting high risk defendants and not relying on the charge. In addition, it is recommended that a non-compliance response policy be developed with Multnomah County stakeholders to add responses short of requesting a warrant for defendants that are not complying with program release conditions but are showing up for court events and not engaging in new criminal activities.

Close Street policy revisions should extract human resource related policies such as work week, vacations, judicial holidays and sick leave and unit equipment from their operational program policies. Program policies should focus on supporting success of defendants on release and providing clear limits on responses for non-compliance.

8. **Establish a cross-system workgroup responsible for review and improvement of pretrial data across agencies that deliver pretrial services.** The pretrial system is a complex process within the overall criminal justice system that spans many different agencies. A key to understanding how the system operates is being able to review data to better understand



the decisions that are made, how long they take and what the outcomes of those decisions are. In order to effectively review and understand the data, information needs to be obtained and reviewed from multiple agencies.

As noted in the data methodology section of this report, data for this assessment was obtained from multiple agencies who each maintain data on information relative to their role in the system in their own database, or information management system. Pretrial supervision data was not obtained from the Pretrial Supervision Program of DCJ or from the Close Street program of the MCSO because of concerns about the quality of the data in Ce Pretrial system (used by both programs). One of the reasons for concern raised by staff was that consistent policies and procedures were not in place related to data entry. Since the preliminary conversations that took place as part of the pretrial system assessment, DCJ has created detailed data entry protocols to identify required fields and created user guides and trained staff. The intent was to implement the new protocols mid-November 2019. Going forward, this should allow more detailed information about the impact of pretrial supervision to be assessed.

One of the greatest challenges to reviewing data that spans across multiple agencies within a system is that each system relies on its own primary identifiers. While some commonalities can be identified across systems, the lack of a shared, unique, person identifier that exists across information systems makes it more challenging to merge data from different systems to obtain a complete picture of how individuals and cases move through the pretrial system. Another challenge to reviewing data across the pretrial system is the complexity of the data. While it is often of greatest interest to understand what happens to an **individual** who is going through the pretrial process, an individual may have multiple cases that are open and in various stages of the criminal justice process. Understanding how all of the cases influence decisions can be a complicated process. However, merging data from multiple information systems, and engaging in analysis of data across agencies is critical to understanding the overall pretrial system.<sup>31</sup>

As Multnomah County moves forward with any pretrial system reforms, data analysis will be critical to understanding the impact of the reforms. It is important that this analysis be done as a **system**, and not by individual agencies. The agencies within Multnomah County engaged in the pretrial system have the expertise needed to analyze and interpret this complex data. JSP recommends that a data committee specific to pretrial issues be developed. The committee should include individuals that understand the complexities of the data and can help identify an appropriate methodology for merging data across systems. The committee should also provide routine analysis of data to understand the impact of any changes that are made to policies and practices across the pretrial system and how they

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<sup>31</sup> While one of the deliverables for this report was to provide outcome data around FTA and new criminal behavior, the complexity of the data did not allow for this level of analyses within the available time period. JSP will continue to work with Multnomah County to refine the data and support further efforts to better understand the FTA and new arrest rate for those released on pretrial supervision.



impact release decisions, length of stay in custody, case processing times and pretrial outcomes.

The Local Public Safety Coordinating Council (LPSCC) could help organize and facilitate this committee.

**9. JSP recommends several areas should be further explored and analyzed to better understand why certain circumstances exist in the system and how to better address inefficiencies that delay the processing of criminal cases.** These areas are listed below:

- A. Cases excluded (46%) from the Recog Unit process: explore this in more depth to understand why they are not processed in either expedited or full interviews. Many of these defendants end up with a release to PSP, which may have unnecessarily been delayed.
- B. Administrative holds: These holds make up 19% of the cases interviewed by the Recog Unit but are not released. Examine these cases to identify possible steps to include these cases if appropriate and prevent further delay in releases.
- C. Cases interviewed by the Recog Unit but not released:
  - i) 2,056 of these cases were either released for “time served” or for “court ordered release.” Understanding why this occurs will provide more information for improving the process.
  - ii) Of the 2,155 people not released by the Recog Unit due to a PJO hold and who were subsequently released from jail pretrial, 807 (37%) were released by posting money bail, with no supervision regardless of risk score. Stakeholders should consider providing supervision services to higher scoring individuals rather than allowing straight money bail.

## Conclusion

The Multnomah County pretrial system is a unique, progressive system that released almost 9,271<sup>32</sup> defendants within the first day of being booked in 2018. That represents 58% of the defendants that were not excluded from the Recog Unit process within that period. This remarkable achievement is accomplished via the Presiding Judge delegating release authority to the Recog Unit staff. The Recog Unit is limited in who can be released on non-financial conditions by the Presiding Judge Order which identifies charges that prevent Recog Unit staff from releasing on non-financial conditions. With a revised PJO guided by the template JSP has provided and with a clearer, revised policy and procedure manual that limits the recommendations offered while providing a guide to Recog Unit staff; additional efficiencies and fewer delayed releases can be achieved.

The pretrial system in Multnomah County is predominately a charge-based system, that only uses a defendant’s risk to determine additional limits for release. Security amounts are ordered on all new arrestees based on the PJO that sets those amounts. These security release schedules have repeatedly been found by state and federal courts to be unconstitutional and in fact,

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<sup>32</sup> 14 of the 9,271 cases were not released within one day of booking.



Multnomah County may be facing a similar challenge to its security release practices from local defense agencies and non-profit civil rights groups. JSP recommends limiting the pretrial detention in Multnomah County to those statutes that require it or define how courts can use it. Releasing all other defendants with release conditions that mitigate the risk the defendant poses provides a more effective and efficient system.

Pretrial Supervision Program provides the monitoring of defendants released pretrial with supervision and takes an office-based approach to monitoring of defendants. This program is in desperate need of a policy and procedures manual to guide staff in operations and responses to non-compliance behavior. With no PSP data available to analyze, JSP can only assume that the inconsistency in PSP's responses to behavior and in not having a policy to mitigate defendants contributes to pretrial failures.

Close Street Supervision Program remains a well-respected program in Multnomah County. Addressing the over-supervision of pretrial defendants, especially low risk defendants that make up 53% of their court ordered population, will improve the program and save resources to potentially accept more cases. CS and Sheriff's office management are requesting assistance in using risk to assign cases and are interested in standards and performance measures to track the success of their program.

The potential for greater efficiency and effectiveness in Multnomah County's Pretrial System is evident with a structure of early release delegation and supervision and monitoring resources. However, this potential will be dramatically limited unless the system in Multnomah County commits to developing a means of analyzing system data that originates in multiple agencies. Complex merging of data and lack of quality data hampered this JSP team in providing meaningful analysis such as pretrial outcomes, pretrial non-compliance, monitoring and supervision effects. Availability of quality data and analysis will provide for more informed decisions, better solutions to problems, and better lives for the community.

The JSP team is honored to have conducted this assessment and is greatly appreciative of the many individuals who provided information and participated in discussions regarding Multnomah County's pretrial system and data. We look forward to responding to your questions and continuing to support the County's work in the Safety and Justice Challenge.

Zach Dal Pra, Principal  
Justice System Partners  
[zach@justicesystempartners.org](mailto:zach@justicesystempartners.org)

Lore Joplin, Principal  
Justice System Partners  
[lore@justicesystempartners.org](mailto:lore@justicesystempartners.org)

Brian Lovins, Principal  
Justice System Partners  
[Brian@justicesystempartners.org](mailto:Brian@justicesystempartners.org)

Jennifer Ferguson, Associate  
Justice System Partners  
[Jennifer@justicesystempartners.org](mailto:Jennifer@justicesystempartners.org)

Claire Brooker, Associate  
Justice System Partners  
[cmb.brooker@gmail.com](mailto:cmb.brooker@gmail.com)



## **Attachment A: Data Appendix**

**Attachment A: Data Appendix****Demographic Breakouts for number of bookings for an individual****Unique Individuals Booked\* Grouped by Number of Bookings and Age - CY 2018**

<b>Number of Bookings &amp; Age</b>	<b>Count of Unique Individuals</b>
<b>1 Booking</b>	<b>10,391</b>
< 18 years	7
Ages 18-21	708
Ages 22-25	1,243
Ages 26-30	1,838
Ages 31-35	1,681
Ages 36-40	1,435
Ages 41-45	1,042
Ages 46-50	884
Ages 51-55	710
Ages 56-60	508
Ages 61-65	192
Over 65	143
<b>2 Bookings</b>	<b>2,649</b>
< 18 years	1
Ages 18-21	167
Ages 22-25	300
Ages 26-30	506
Ages 31-35	459
Ages 36-40	399
Ages 41-45	261
Ages 46-50	207
Ages 51-55	153
Ages 56-60	131
Ages 61-65	39
Over 65	26
<b>3 Bookings</b>	<b>1,268</b>
Ages 18-21	83
Ages 22-25	153
Ages 26-30	239
Ages 31-35	225
Ages 36-40	178
Ages 41-45	107
Ages 46-50	117
Ages 51-55	86
Ages 56-60	54
Ages 61-65	21

<b>Number of Bookings &amp; Age</b>	<b>Count of Unique Individuals</b>
Over 65	5
<b>4 Bookings</b>	<b>655</b>
Ages 18-21	46
Ages 22-25	75
Ages 26-30	143
Ages 31-35	116
Ages 36-40	119
Ages 41-45	58
Ages 46-50	46
Ages 51-55	27
Ages 56-60	18
Ages 61-65	5
Over 65	2
<b>5 Bookings</b>	<b>372</b>
Ages 18-21	27
Ages 22-25	50
Ages 26-30	76
Ages 31-35	61
Ages 36-40	60
Ages 41-45	26
Ages 46-50	31
Ages 51-55	23
Ages 56-60	14
Ages 61-65	3
Over 65	1
<b>6 Bookings</b>	<b>205</b>
Ages 18-21	18
Ages 22-25	16
Ages 26-30	52
Ages 31-35	31
Ages 36-40	30
Ages 41-45	22
Ages 46-50	17
Ages 51-55	7
Ages 56-60	8
Ages 61-65	4
<b>7 Bookings</b>	<b>144</b>
Ages 18-21	8
Ages 22-25	22
Ages 26-30	32

<b>Number of Bookings &amp; Age</b>	<b>Count of Unique Individuals</b>
Ages 31-35	29
Ages 36-40	15
Ages 41-45	15
Ages 46-50	11
Ages 51-55	8
Ages 56-60	4
<b>8 Bookings</b>	<b>91</b>
Ages 18-21	5
Ages 22-25	12
Ages 26-30	13
Ages 31-35	16
Ages 36-40	17
Ages 41-45	9
Ages 46-50	8
Ages 51-55	3
Ages 56-60	7
Over 65	1
<b>9 Bookings</b>	<b>57</b>
Ages 18-21	5
Ages 22-25	8
Ages 26-30	9
Ages 31-35	12
Ages 36-40	8
Ages 41-45	6
Ages 46-50	2
Ages 51-55	2
Ages 56-60	2
Ages 61-65	3
<b>10 Bookings</b>	<b>26</b>
Ages 22-25	1
Ages 26-30	8
Ages 31-35	7
Ages 36-40	4
Ages 41-45	2
Ages 46-50	2
Ages 51-55	1
Ages 56-60	1
<b>11-15 Bookings</b>	<b>96</b>
Ages 18-21	5
Ages 22-25	11

<b>Number of Bookings &amp; Age</b>	<b>Count of Unique Individuals</b>
Ages 26-30	19
Ages 31-35	13
Ages 36-40	15
Ages 41-45	13
Ages 46-50	5
Ages 51-55	7
Ages 56-60	3
Ages 61-65	4
Over 65	1
<b>16-20 Bookings</b>	<b>23</b>
Ages 22-25	3
Ages 26-30	5
Ages 31-35	5
Ages 36-40	5
Ages 41-45	1
Ages 46-50	3
Ages 51-55	1
<b>&gt; 21 Bookings</b>	<b>8</b>
Ages 26-30	3
Ages 36-40	2
Ages 41-45	2
Ages 51-55	1
<b>Total</b>	<b>15,985</b>

\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

#### Unique Individuals Booked\* Grouped by Number of Bookings and Gender - CY 2018

<b>Number of Bookings</b>	<b>Count of Unique Individuals</b>		
	<b>Female</b>	<b>Male</b>	<b>Total</b>
1 Booking	2,588	7,803	10,391
2 Bookings	618	2,031	2,649
3 Bookings	297	971	1,268
4 Bookings	160	495	655
5 Bookings	77	295	372
6 Bookings	48	157	205
7 Bookings	23	121	144
8 Bookings	17	74	91
9 Bookings	5	52	57
10 Bookings	3	23	26

11-15 Bookings	18	78	96
16-20 Bookings	3	20	23
> 21 Bookings	2	6	8
<b>Total</b>	<b>3,859</b>	<b>12,126</b>	<b>15,985</b>

\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

**Unique Individuals Booked\* Grouped by Number of Bookings and Race - CY 2018**

Number of Bookings	Count of Unique Individuals							Total
	African-American	American Indian or Alaskan	Asian	Hispanic	Native Hawaiian or Pacific Islander	Unknown	White	
1 Booking	1,910	176	308	1,121	43	9	6,824	10,391
2 Bookings	563	58	64	232	15	3	1,714	2,649
3 Bookings	257	23	28	128	7	1	824	1,268
4 Bookings	150	21	10	51	2	1	420	655
5 Bookings	87	9	4	34	3		235	372
6 Bookings	62	7	1	16	1		118	205
7 Bookings	37	5	3	14	1		84	144
8 Bookings	23	2	2	8			56	91
9 Bookings	12	1	1	1			42	57
10 Bookings	6		2	3			15	26
11-15 Bookings	38	2	3	3			50	96
16-20 Bookings	6			3			14	23
> 21 Bookings	5						3	8
<b>Total</b>	<b>3,156</b>	<b>304</b>	<b>426</b>	<b>1,614</b>	<b>72</b>	<b>14</b>	<b>10,399</b>	<b>15,985</b>

\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

**Funnel Chart Level 1**

All Bookings\* CY 2018: Primary Booking Charge Level and Class

Primary Charge Level and Class	Count of Booking Number
<b>Felony</b>	<b>10,905</b>
A	795
B	899
C	4,421
U	4,790
<b>Misdemeanor</b>	<b>12,425</b>
A	7,696
B	1,755

C	2,336
U	638
<b>Unknown</b>	<b>6,161</b>
*	14
U	6,147
<b>Violation</b>	<b>1</b>
*	1
<b>Total</b>	<b>29,492</b>

\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

All Bookings\* CY 2018: Primary Booking Charge Level and Description

<b>Primary Charge Level and Description</b>	<b>Count of Booking Number</b>
<b>Felony</b>	<b>10,905</b>
Agg Harassment	23
Aggravated Identity Theft	6
Aggravated Murder	26
Aggravated Theft In The First Degree	50
Arson In The First Degree	29
Arson In The Second Degree	12
Assault In The First Degree	59
Assault In The Second Degree	253
Assault In The Third Degree	181
Bribe Giving	2
Burglary In The First Degree	336
Burglary In The Second Degree	148
C Non Viol	2
Certain Felons Forbidden To Possess Firearm	579
Child Neglect In The First Degree	1
Coercion	106
Compelling Prostitution	4
Criminal Impersonation Of Peace Officer	1
Criminal Mischief In The First Degree	140
Criminal Mistreatment In The First Degree	28
Criminal Possession Of A Forged Instr In The First Degree	11
Criminal Possession Of A Forgery Device	1
Criminally Negligent Homicide	1
Custodial Interference In The Second Degree	5
Deliver Marijuana w/i 1000 ft of School	2
Deliver MDM	6
Deliver Meth w/i 1000 ft of School	9

Discharge Of A Weapon	29
Encouraging Child Sexual Abuse In The First Degree	24
Encouraging Child Sexual Abuse In The Second Degree	3
Escape Dept Of Corrections	6
Escape In The Second Degree	17
Failure To Appear In The First Degree	11
Failure To Perform Duties Of A Driver To Injured Persons	27
Felony driving under the influence of intoxicants	108
Forgery In The First Degree	52
Forgery Of Title	2
Fraudulent Use Of A Credit Card	32
Fugitive	761
Hindering Prosecution	8
Identity Theft	114
Inst Leave Violator	94
Invasion of personal privacy in the first degree	3
Kidnapping In The First Degree	4
Kidnapping In The Second Degree	13
Laundering Monetary Instrument	9
Luring a Minor	3
Making A False Claim For Health Care Payment	5
Manslaughter In The First Degree	6
Manslaughter In The Second Degree	4
Manufacture Cocaine	2
Murder	30
Parole Violation	3,551
Possess MDM	4
Possession Of A Stolen Motor Vehicle	39
Possession of Cocaine	214
Purchasing Sex with Minor	1
Rape In The First Degree	31
Rape In The Second Degree	2
Rape In The Third Degree	8
Riot	8
Robbery In The First Degree	110
Robbery In The Second Degree	99
Robbery In The Third Degree	250
Sexual Abuse In The First Degree	40
Sexual Abuse In The Second Degree	7
Sodomy In The First Degree	22
Sodomy In The Second Degree	1

Sodomy In The Third Degree	1
Supplying Contraband	2
Tampering With A Witness	6
Theft By Extortion	2
Theft In The First Degree	281
Throwing An Object Off An Overpass In The First Degree	1
To Commit Promoting Prostitution	9
Unauthorized Use Of A Vehicle	939
Unlawful Delivery of Cocaine	96
Unlawful Delivery of Cocaine w/i 1000 ft of School	22
Unlawful Delivery of Heroin	143
Unlawful Delivery of Heroin w/i 1000 ft of School	4
Unlawful Delivery of Marijuana	3
Unlawful Delivery of Methamphetamine	175
Unlawful Delivery of Oxycodone	2
Unlawful Manufacture Of A Destructive Device	1
Unlawful Manufacture of Methamphetamine	4
Unlawful Poss/Manufact/Delivery Of A Controlled Substance	49
Unlawful Possession of a Personal Identification Device	1
Unlawful Possession of Heroin	366
Unlawful Possession of Marijuana	6
Unlawful Possession of Methadone	2
Unlawful Possession of Methamphetamine	996
Unlawful Possession of Oxycodone	5
Unlawful Possession Short-Barrel Shotgun	2
Unlawful Racketeering Activity	1
Unlawful Sexual Penetration In The First Degree	5
Using A Child In A Display Of Sexually Explicit Conduct	6
<b>Misdemeanor</b>	<b>12,425</b>
Acting As A Vehicle Dealer With No License	1
Advertising And Decorative Devices	6
Animal Abuse In The First Degree	1
Animal Abuse In The Second Degree	1
Animal Neglect In The First Degree	1
Animal Neglect In The Second Degree	1
Assault In The Fourth Degree	1,625
Assault Of A Public Safety Officer	88
Carrying A Concealed Weapon	30
Child Neglect In The Second Degree	3
Computer Crime	5
Contempt Court	233

Contributing To The Sexual Delinquency Of A Minor	1
Criminal Mischief In The Second Degree	388
Criminal Mischief In The Third Degree	86
Criminal Mistreatment In The Second Degree	1
Criminal Possession Of A Forged Inst In The Second Degree	13
Criminal Trespass at Sports Event	1
Criminal Trespass In The First Degree	468
Criminal Trespass In The Second Degree	1,358
Criminal Trespass While In Possession Of A Firearm	1
Deliver Imitation Controlled Substance	3
Discharging A Firearm In The City	1
Disorderly Conduct in the First Degree	7
Disorderly Conduct in the Second Degree	555
Driving Under Influence Intoxicants	1,666
Endangering The Welfare Of A Minor	2
Erecting Structure on Public Right-of-Way	8
Escape In The Third Degree	66
Failure To Appear In The Second Degree	1
Failure To Appear On A Citation	1
Failure To Carry Or Present A License	10
Failure To Perform Duties Of A Driver To Property	88
Failure to report as sex offender	278
Fleeing Or Attempting To Elude A Police Officer	97
Forgery In The Second Degree	14
Giving False Information To A Police Officer	28
Giving False Information To An Officer For A Citation	131
Harassment	918
Improper Use Of 9-1-1	8
Indecent Exposure	111
Initiating A False Report	6
Interference With Making A Report	11
Interfering With A Peace Officer	384
Interfering With Public Transportation	77
Intimidation In The Second Degree	8
Invasion Of Personal Privacy	3
Mail Theft; Receipt Of Stolen Mail	15
Menacing	454
Misuse Of Public Restroom	1
Negotiating A Bad Check	3
No Massage License	1
Obstructing Governmental Or Judicial Administration	3

Obtain Controlled Substance Unlawfully	2
Of A False Law Enforcement Identification Card	1
Offensive Littering	67
Offensive Physical Contact Prohibited	1
Open Alcoholic Container	12
Patronizing a Prostitute	4
Placing Rubbish In Park	6
Pointing At Another	1
Poss or Use Inhalent	1
Possess Loaded Firearm In Public	7
Possess Loaded Firearm in Public Place	3
Possession Of Alcohol In Park	1
Possession Of Burglar Tools	8
Possession of Tear Gas	1
Private Indecency	1
Provide False Information With A Handgun Transfer	1
Public Indecency	40
Reckless Burning	39
Reckless Driving	86
Recklessly Endangering Another Person	53
Resisting Arrest	264
Restraining Order Violation	477
Sexual Abuse In The Third Degree	33
Sexual Assault Of An Animal	1
Stalking	25
Strangulation	47
Tampering With Physical Evidence	21
Telephonic Harassment	9
Theft In The Second Degree	813
Theft In The Third Degree	809
To Commit Prostitution	24
Unlawful Entry Into A Motor Vehicle	132
Unlawful Possession Of A Firearms	101
Unlawful Possession of Hydrocodone	1
Unlawful Prostitution Procurement Activity	2
Unlawful Purchasing Of A Firearm	2
Unlawful Use Of A Deleterious Agent In The Second Degree	3
Violating A Court Stalking Protective Order	55
<b>Unknown</b>	<b>6,161</b>
Contempt Violate NCO	31
County Hold	4,372

Criminal Driving While Suspended	425
Deliver Controlled Subst to Minor	3
Facility Hold	288
Material Witness	5
No Entry	14
Not Defined in DSSJ	2
Theft By Deception	7
Theft By Receiving	11
Theft Of Services	70
USM Hold	933
<b>Violation</b>	<b>1</b>
Purchase Or Possession Of Liquor By Minor	1
<b>Total</b>	<b>29,492</b>

\*Refers to all bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

**Funnel Level 2B:** Excluded from the Recog Unit Process

Excluded from Recognizance Unit Process: ALOS and Location Summary for “Other Institution” Release from Jail Reason CY 2018

Released to Location Summary	Count of Booking Number	Average Length of Stay - Booking to Release
Out of County	3,557	6
Out of State	592	14
US Marshall	686	51
ODOC	598	36
OYA	63	19
Multnomah County Juvenile Detention	10	10
<b>Total</b>	<b>5,506</b>	<b>16</b>

For bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

Excluded from Recognizance Unit Process: ALOS and Location Detail for “Other Institution” Release from Jail Reason CY 2018

Released to Location	Count of Booking Number	Average Length of Stay - Booking to Release
Alabama	2	16
Arizona	3	10
Arkansas	2	9
Baker County	1	1
Benton County	14	13
California	32	31
Clackamas County	1,324	6
Clatsop County	47	17
Coffee Creek Correctional Inst	446	38
Colorado	4	25
Columbia River Correctional Inst	10	7
Columbia County	134	4
Coos County	14	2
Crook County	8	4
Curry County	1	3
Deschutes County	61	5
Douglas County	13	5
Eastern Oregon Correctional Inst	14	75
Florida	3	21
Gilliam County	1	6
Grant County	3	2

Harney County	1	6
Hood River County	28	10
Idaho	14	37
Illinois	1	10
Jackson County	32	5
Jefferson County	13	5
Josephine County	21	8
Juvenile Detention	10	10
Kansas	1	5
Kentucky	2	19
Klamath County	20	9
Lane County	58	5
Lincoln County	35	5
Linn County	31	6
Louisiana	1	7
Maclaren School	7	9
Malheur County	2	10
Marion County	147	7
Minnesota	1	16
Missouri	1	10
Montana	4	10
Morrow County	3	3
Nevada	1	15
New York	3	16
Ohio	2	50
Oklahoma	3	16
Oregon State Correctional Inst	19	16
Oregon Youth Authority	56	20
Osp Oregon State Penitentiary	51	18
Pennsylvania	2	13
Polk County	47	24
Powder River Corr Inst	1	7
Santiam Corr Inst	6	18
Sherman County	1	3
Shutter Creek Corr Inst	1	7
Snake River Corr Inst	25	49
Texas	7	29
Tillamook County	31	8
Trans Deer Ridge Corr Inst	7	25
Trans To Beaverton Pd	187	5
Transferred To Federal Corrections Inst	1	19

Two Rivers Correctional Inst	17	36
Umatilla County	27	5
Union County	7	4
Us Marshall	685	51
Utah	2	14
Vermont	1	27
Virginia	2	17
Wallowa County	1	6
Warner Creek Corr Facility	1	23
Wasco County	52	6
Washington	494	12
Washington County	1,139	4
Wisconsin	2	44
Wyoming	2	13
Yamhill County	53	7
<b>Total</b>	<b>5,506</b>	<b>16</b>

For bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

**Funnel Level 4B:** People Included in the Recog Process but Not Released by Recog Unit

**PJO Charge Holds by Primary Booking Charge Level and Description**

<b>Primary Charge Level and Description</b>	<b>Count of Booking Number</b>
<b>Felony</b>	<b>1,434</b>
Agg Harassment	2
Aggravated Murder	21
Arson In The First Degree	16
Arson In The Second Degree	2
Assault In The First Degree	34
Assault In The Second Degree	142
Assault In The Third Degree	43
Burglary In The First Degree	158
Burglary In The Second Degree	2
C Non Viol	2
Certain Felons Forbidden To Possess Firearm	263
Coercion	60
Compelling Prostitution	3
Criminal Mischief In The First Degree	4
Criminal Mistreatment In The First Degree	7
Deliver Meth w/i 1000 ft of School	2
Discharge Of A Weapon	5
Encouraging Child Sexual Abuse In The First Degree	4

Encouraging Child Sexual Abuse In The Second Degree	2
Escape In The Second Degree	1
Failure To Perform Duties Of A Driver To Injured Persons	3
Felony driving under the influence of intoxicants	36
Fugitive	14
Identity Theft	2
Inst Leave Violator	1
Kidnapping In The First Degree	4
Kidnapping In The Second Degree	8
Manslaughter In The First Degree	1
Manslaughter In The Second Degree	3
Murder	25
Parole Violation	171
Possession of Cocaine	2
Rape In The First Degree	24
Rape In The Second Degree	1
Rape In The Third Degree	3
Riot	1
Robbery In The First Degree	89
Robbery In The Second Degree	33
Robbery In The Third Degree	37
Sexual Abuse In The First Degree	24
Sexual Abuse In The Second Degree	1
Sodomy In The First Degree	15
Tampering With A Witness	2
Theft In The First Degree	6
Throwing An Object Off An Overpass In The First Degree	1
Unauthorized Use Of A Vehicle	28
Unlawful Delivery of Cocaine	6
Unlawful Delivery of Cocaine w/i 1000 ft of School	1
Unlawful Delivery of Heroin	6
Unlawful Delivery of Methamphetamine	91
Unlawful Manufacture of Methamphetamine	4
Unlawful Poss/Manufact/Delivery Of A Controlled Substance	2
Unlawful Possession of Heroin	1
Unlawful Possession of Marijuana	1
Unlawful Possession of Methamphetamine	6
Unlawful Possession Short-Barrel Shotgun	1
Unlawful Sexual Penetration In The First Degree	3
Using A Child In A Display Of Sexually Explicit Conduct	4
<b>Misdemeanor</b>	<b>2,433</b>

Assault In The Fourth Degree	914
Assault Of A Public Safety Officer	3
Contempt Court	10
Criminal Mischief In The Second Degree	20
Criminal Mischief In The Third Degree	1
Criminal Trespass In The First Degree	4
Criminal Trespass In The Second Degree	1
Criminal Trespass While In Possession Of A Firearm	1
Disorderly Conduct in the Second Degree	1
Driving Under Influence Intoxicants	124
Escape In The Third Degree	1
Failure to report as sex offender	159
Fleeing Or Attempting To Elude A Police Officer	2
Giving False Information To An Officer For A Citation	1
Harassment	390
Indecent Exposure	5
Interference With Making A Report	6
Interfering With A Peace Officer	1
Menacing	195
Public Indecency	1
Reckless Driving	2
Recklessly Endangering Another Person	12
Resisting Arrest	25
Restraining Order Violation	386
Sexual Abuse In The Third Degree	5
Stalking	12
Strangulation	33
Telephonic Harassment	1
Theft In The Second Degree	1
Theft In The Third Degree	1
Unlawful Possession Of A Firearms	77
Violating A Court Stalking Protective Order	38
<b>Unknown</b>	<b>172</b>
Contempt Violate NCO	21
County Hold	127
Criminal Driving While Suspended	1
Deliver Controlled Subst to Minor	1
Facility Hold	5
USM Hold	17
<b>Total</b>	<b>4,039</b>

For bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

PJO Charge Holds by MVPRAI Score

Row Labels	Count of Booking Number
MVPRAI Score 0-3	2,188
MVPRAI Score 4-5	1,101
MVPRAI Score 6-9	750
<b>Total</b>	<b>4,039</b>

For bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

**PJO Charge Holds by Release from Jail Reason and ALOS**

Row Labels	Count of Booking Number	Average Length of Stay - Booking to Release
Bail	807	7
Close Street	246	15
Court Ordered Release	826	15
Expiration of Detainer	6	5
In-Patient Treatment Prog or Other Hospital Release	49	159
Matrix Release	61	25
No Release Date Listed	55	NA
Other	3	31
Other Institution	459	134
PRS	809	4
ROR	293	11
Time Served On A Sentence	425	52
<b>Total</b>	<b>4039</b>	<b>NA</b>

For bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

MVPRAI Breakouts for the specific types of pretrial release for those not released by the Recog Unit.

**MVPRAI Score and ALOS for People Posting \$ Bail CY - 2018**

MVPRAI Score	Count of Booking Number	Average Length of Stay - Booking to Release
MVPRAI Score 0-3	675	5
MVPRAI Score 4-5	182	15
MVPRAI Score 6-9	74	16
Unknown	335	6
<b>Total</b>	<b>1,266</b>	<b>7</b>

Refers to all bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

**MVPRAI Score and ALOS for People Released to Close Street - CY 2018**

MVPRAI Score	Count of Booking Number	Average Length of Stay - Booking to Release
MVPRAI Score 0-3	169	15
MVPRAI Score 4-5	65	18
MVPRAI Score 6-9	29	14
Unknown	53	29
<b>Total</b>	<b>316</b>	<b>18</b>

Refers to all bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

**MVPRAI Score and ALOS for People Released to Pretrial Services not by the Recognizance Unit - CY 2018**

MVPRAI Score	Count of Booking Number	Average Length of Stay - Booking to Release
MVPRAI Score 0-3	506	3
MVPRAI Score 4-5	352	5
MVPRAI Score 6-9	517	6
Unknown	609	6
<b>Total</b>	<b>1,984</b>	<b>5</b>

Refers to all bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

**MVPRAI Score and ALOS for People Released on Own Recognizance not by the Recognizance Unit - CY 2018**

MVPRAI Score	Count of Booking Number	Average Length of Stay - Booking to Release
MVPRAI Score 0-3	201	9
MVPRAI Score 4-5	169	9
MVPRAI Score 6-9	320	8
Unknown	1,642	4
<b>Total</b>	<b>2,332</b>	<b>5</b>

Refers to all bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

**Funnel Level NA:** People Not Released by Recog Unit (both Excluded and Included in the Recog Unit Process) but posted money bail.

**People Not Released by Recognizance Unit who were Released on Money Bail, Grouped by ALOS - CY 2018**

Average Length of Stay	Count of Booking Number
15+ days	133
2-7 days	250
8-14 days	83
Within 1 day or less	800

<b>Total</b>	<b>1,266</b>
--------------	--------------

For bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

**People not Released by Recog Unit who were Released on Money Bail Grouped by MVPRAI Score with ALOS**

<b>MVPRAI Score Categories</b>	<b>Count of Booking Number</b>	<b>Average Length of Stay - Booking to Release</b>
MVPRAI Score 0-3	675	5
MVPRAI Score 4-5	182	15
MVPRAI Score 6-9	74	16
Unknown	335	6
<b>Total</b>	<b>1,266</b>	<b>7</b>

For bookings included in this analysis.  
Source: DCJ Recog Unit data and MCSO Jail data

**People Not Released by Recognizance Unit who were Released on Money Bail Within 1 Day or Less Sorted by Primary Booking Charge Level and Description - CY 2018**

<b>Primary Booking Charge Level and Description</b>	<b>Count of Booking Number</b>
<b>Felony</b>	<b>121</b>
Aggravated Theft In The First Degree	2
Assault In The First Degree	2
Assault In The Second Degree	4
Assault In The Third Degree	5
Burglary In The First Degree	4
Certain Felons Forbidden To Possess Firearm	26
Coercion	6
Criminal Mischief In The First Degree	2
Criminal Mistreatment In The First Degree	4
Discharge Of A Weapon	1
Encouraging Child Sexual Abuse In The First Degree	3
Escape In The Second Degree	1
Failure To Perform Duties Of A Driver To Injured Persons	1
Felony driving under the influence of intoxicants	6
Fraudulent Use Of A Credit Card	1
Fugitive	2
Identity Theft	3
Luring a Minor	1
Manslaughter In The First Degree	1

Manslaughter In The Second Degree	1
Possession of Cocaine	1
Purchasing Sex with Minor	1
Rape In The First Degree	1
Rape In The Third Degree	2
Robbery In The First Degree	1
Robbery In The Second Degree	1
Sexual Abuse In The First Degree	2
Sodomy In The First Degree	2
Theft In The First Degree	4
To Commit Promoting Prostitution	1
Unauthorized Use Of A Vehicle	6
Unlawful Delivery of Cocaine	2
Unlawful Delivery of Heroin	1
Unlawful Delivery of Methamphetamine	7
Unlawful Possession of Heroin	3
Unlawful Possession of Methamphetamine	10
<b>Misdemeanor</b>	<b>555</b>
Assault In The Fourth Degree	220
Assault Of A Public Safety Officer	4
Contempt Court	7
Criminal Mischief In The Second Degree	3
Criminal Trespass In The First Degree	2
Criminal Trespass In The Second Degree	1
Driving Under Influence Intoxicants	73
Escape In The Third Degree	1
Failure To Perform Duties Of A Driver To Property	2
Failure to report as sex offender	6
Fleeing Or Attempting To Elude A Police Officer	3
Harassment	77
Interference With Making A Report	1
Interfering With A Peace Officer	1
Menacing	29
No Massage License	1
Possess Loaded Firearm in Public Place	1
Public Indecency	2
Reckless Driving	2
Recklessly Endangering Another Person	2
Resisting Arrest	1
Restraining Order Violation	62
Sexual Abuse In The Third Degree	1

Stalking	2
Strangulation	14
Theft In The Second Degree	2
Unlawful Possession Of A Firearms	33
Violating A Court Stalking Protective Order	2
<b>Unknown</b>	<b>124</b>
Contempt Violate NCO	2
County Hold	117
Criminal Driving While Suspended	2
No Entry	2
USM Hold	1
<b>Total</b>	<b>800</b>

For bookings included in this analysis.

Source: DCJ Recog Unit data and MCSO Jail data

**People Not Released by Recognizance Unit who were Released on Money Bail within 1 day or Less  
Sorted by Recog Unit Release Process Categorization - CY 2018**

<b>Not Released by Recog Unit Category</b>	<b>Count of Booking Number</b>
Administrative Hold	12
Court Review: Override	46
Court Review: PJO Charge	526
Court Review: Risk Score	9
Excluded from Recog Unit Process	207
<b>Total</b>	<b>800</b>

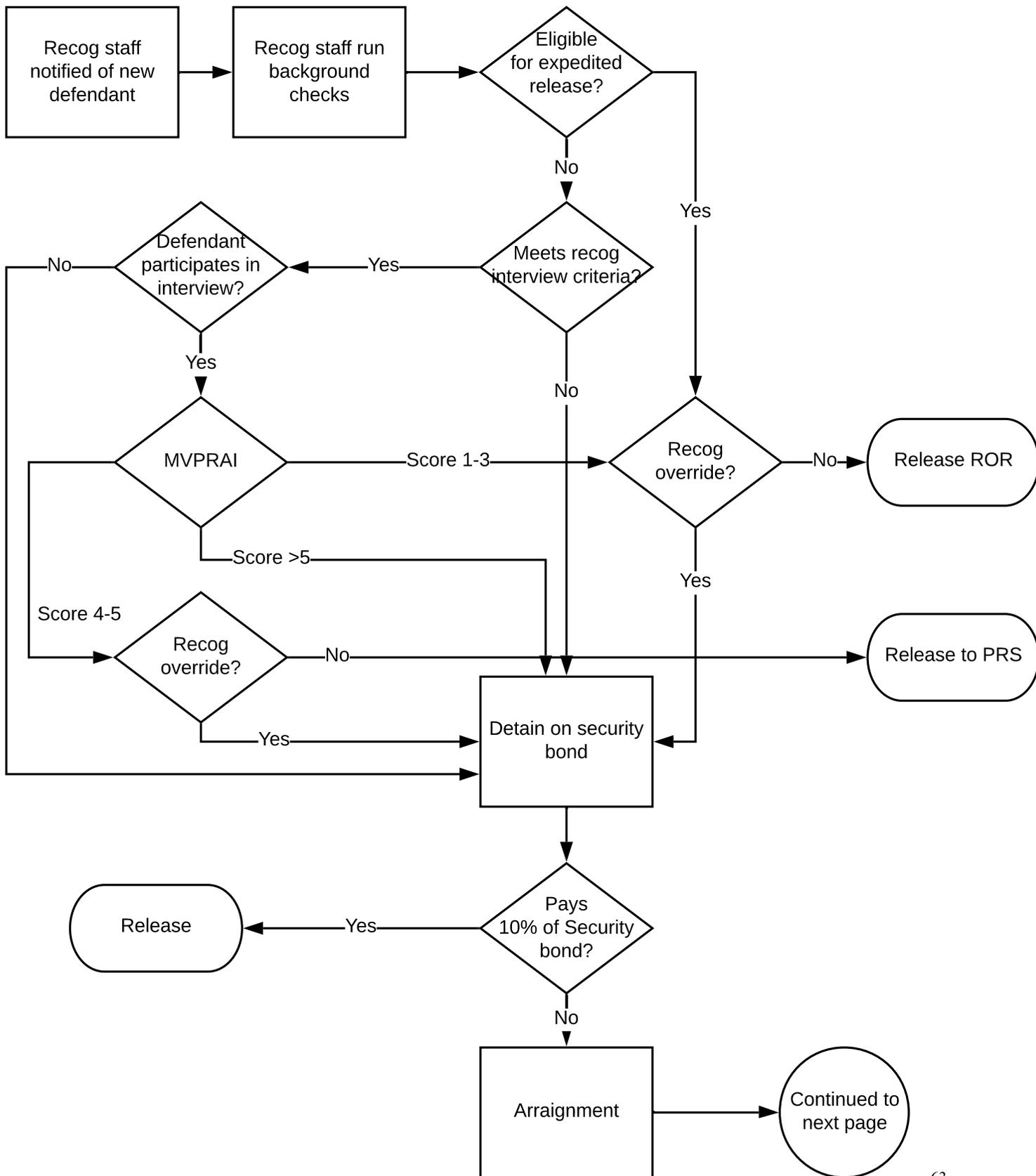
For bookings included in this analysis.

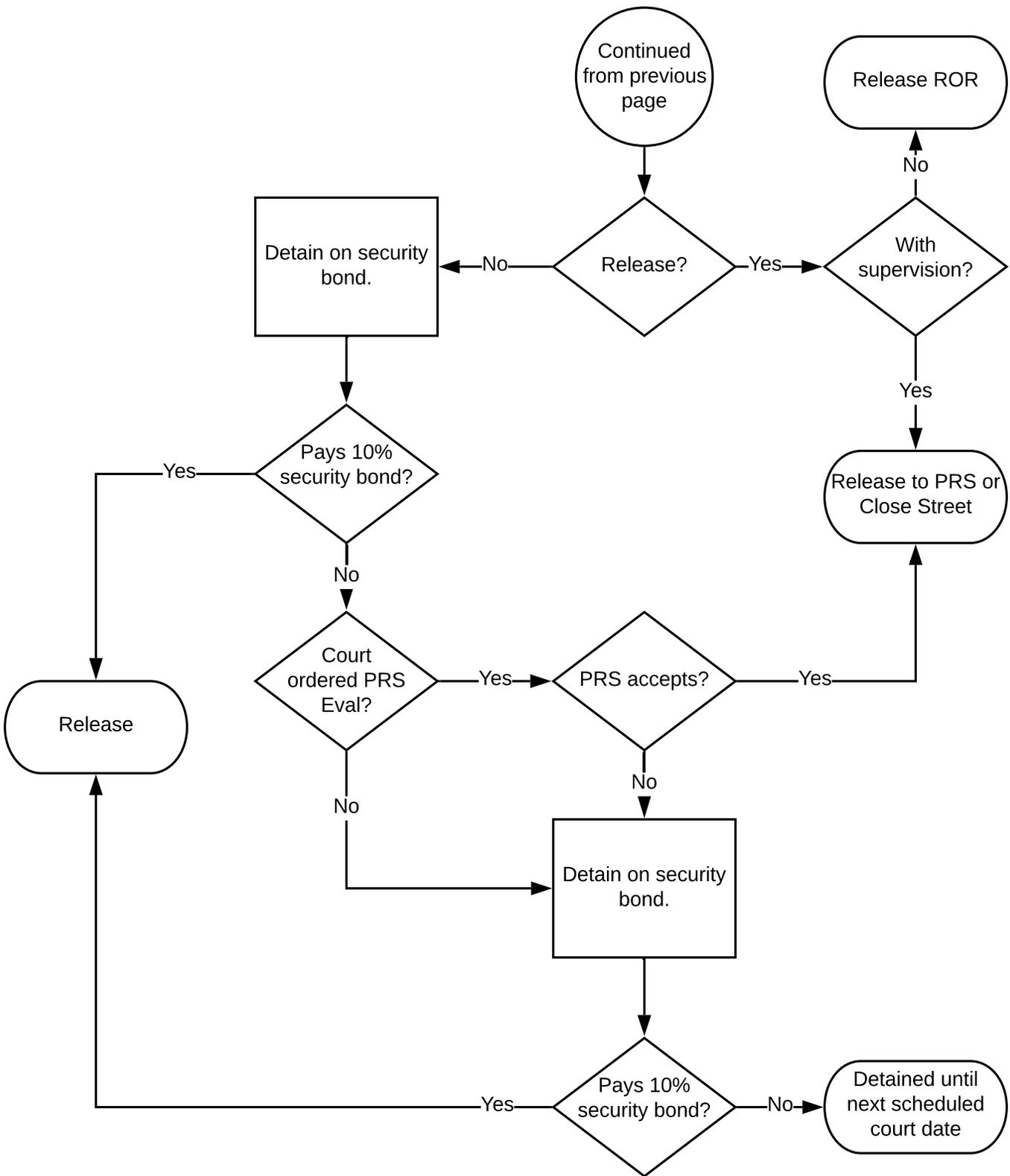
Source: DCJ Recog Unit data and MCSO Jail data



## **Attachment B: Multnomah County Pretrial System Map**

## Attachment B Multnomah County Pretrial System Map







## **Attachment C: PRS Assignment List**

**Attachment C PRS Assignment List**

**PRETRIAL RELEASE SERVICES (PRS) – CHARGES LIST**

**Revised (12/4/18)**

<b>CHARGES</b>	<b>IC/OO C</b>	<b>CHARGES</b>	<b>IC/O OC</b>
<b>Adult Measure 11 (ALL)</b>	<b>CSS</b>	<b>ID Theft</b>	<b>PSP</b>
<b>Juvenile Measure 11 (ALL)</b>	<b>PSP</b>	<b>Impersonating Police Officer</b>	<b>PSP</b>
<b>Animal Abuse Neglect</b>	<b>PSP</b>	<b>Indecent Exposure</b>	<b>PSP</b>
<b>Arson I &amp; II</b>	<b>CSS</b>	<b>Interfere Report-DV</b>	<b>PSP</b>
<b>Assault I, II, &amp; III</b>	<b>CSS</b>	<b>Intimidation</b>	<b>PSP</b>
<b>Assault IV-DV (ATT, MISD, and FEL)</b>	<b>CSS</b>	<b>Laundering Monetary Instrument</b>	<b>PSP</b>
<b>Assault IV</b>	<b>PSP</b>	<b>Luring a Minor</b>	<b>PSP</b>
<b>Assault Police Officer</b>	<b>PSP</b>	<b>Material Witness *Staff w/ Lead/CJM*</b>	<b>PSP</b>
<b>Body Armor Possession of</b>	<b>PSP</b>	<b>Menacing</b>	<b>PSP</b>
<b>Burglary I</b>	<b>CSS</b>	<b>Menacing DV</b>	<b>PSP</b>
<b>Burglary II</b>	<b>PSP</b>	<b>Negligent Homicide</b>	<b>PSP</b>
<b>Coercion</b>	<b>PSP</b>	<b>Online Sex Corrupt Child</b>	<b>PSP</b>
<b>Coercion DV</b>	<b>PSP</b>	<b>Prostitution/Procurement</b>	<b>PSP</b>

Conceal Weapon/Firearm	PSP	Prostitution/Promoting	PSP
Conceal Weapon/No Firearm	PSP	Public Indecency	PSP
Child Neglect	PSP	Rape III	PSP
Criminal Mischief	PSP	Reckless Endanger	PSP
Criminal Mistreatment I & II	CSS	Resist Arrest	PSP
Custodial Interference	PSP	Riot	PSP
Drugs (ALL)	PSP	Robbery I & II	CSS
DUII (FEL/M73) <b>**High Risk DUII Conditions to CSS**</b>	PSP	Robbery III	PSP
DUII (MISD) <b>**High Risk DUII Conditions to CSS**</b>	PSP	Sex Abuse I & II	CSS
DV Weapon(s) Charge including FA	CSS	Sex Abuse III	PSP
Endangering Welfare Minor	PSP	Sexual Misconduct	PSP
Encouraging Child Sex Abuse I & II	CSS	Sodomy III	PSP
Escape II	PSP	Strangulation	PSP
Ex-Con Weapon	PSP	Tamper w/ Witness (including DV)	PSP
FA Charges (except DV)	PSP	Telephonic Harassment (ALL)	PSP
Fail to Register (ALL)	PSP	Theft (ALL)	PSP

<b>Fugitive</b>	<b>PSP</b>	<b>Unlawful ESG, T Gas, Mace</b>	<b>PSP</b>
<b>Harassment</b>	<b>PSP</b>	<b>Unlawful Use/Possession Firearm</b>	<b>PSP</b>
<b>Harassment-DV</b>	<b>PSP</b>	<b>UUMV</b>	<b>PSP</b>
<b>Aggravated Harassment</b>	<b>PSP</b>	<b>Viol Restraining Order</b>	<b>PSP</b>
<b>Hinder Prosecution</b>	<b>PSP</b>	<b>Viol Stalking Order/Stalking Order</b>	<b>PSP</b>
<b>Unlawful Dissemination of Intimate Images</b>	<b>PSP</b>	<b>Impersonating a Police Officer</b>	<b>PSP</b>



## **Attachment D: PSP Monitoring Matrix and Expectations**

## Attachment D PSP Monitoring Levels and Supervision Conditions

### RISK BASED MONITORING LEVELS-

Pretrial Risk Category	Non-person charges	Person-to-person charges
Low (VPRAI 0-3)	Recognizance Release with Basic Monitoring	Recognizance Release with Enhanced Monitoring
Moderate (VPRAI 4-5)	Recognizance Release with Enhanced Monitoring	Recognizance Release with Intensive Monitoring
High (VPRAI 6+)	Recognizance Release with Enhanced Monitoring	Recognizance Release with Intensive Monitoring

### CONDITIONS/EXPECTATIONS

Monitoring Level	Monitoring Conditions/Expectations
Basic Monitoring	<ul style="list-style-type: none"> <li>*Weekly Phone Calls</li> <li>*Text Message Reminders</li> <li>*Monthly Warrant Checks</li> <li>*EIP Monitoring</li> </ul>
Enhanced Monitoring	<ul style="list-style-type: none"> <li>*Weekly Phone Calls</li> <li>*Text Message Reminders</li> <li>*Monthly Warrant Checks</li> <li>*EIP Monitoring</li> <li>*Monthly in-person reporting (<b>once a month</b>)</li> <li>*Roles and responsibilities and court compliance plan (Building Success)</li> </ul>
Intensive Monitoring	<ul style="list-style-type: none"> <li>*Weekly Phone Calls</li> <li>*Text Message Reminders</li> <li>*Monthly Warrant Checks</li> <li>*EIP Monitoring</li> <li>*Monthly in-person reporting (<b>twice a month</b>)</li> <li>*Roles and responsibilities and court compliance plan with risk mitigation (Building Success)</li> <li>*SCRAM/Remote Breath if ordered and DUII case</li> <li>*EM if ordered and DV case</li> </ul>
**** JII's can work their way down to or up monitoring levels. See Step down process	



## **Attachment E: Close Street Release Conditions**



**Attachment E: Conditions of Release for Close Street  
MULTNOMAH COUNTY SHERIFF'S OFFICE**

**CLOSE STREET SUPERVISION**

1120 SW 3<sup>rd</sup> AVE • ROOM 209 • PORTLAND, OR 27204

PHONE: 503-988-3714 FAX: 503-988-6649

*"Exemplary service for a safe, livable community"*

**CONDITIONS OF RELEASE**

NAME: \_\_\_\_\_ DOB: \_\_\_\_\_ ESWIS: \_\_\_\_\_

CHARGES: \_\_\_\_\_

CASE #: \_\_\_\_\_ JUDGE: \_\_\_\_\_

I, the defendant named above, understand and agree to the following conditions:

**IN PERSON CONTACT:** At the Close Street Supervision office on the day(s) marked below or as directed.

WEEKLY MON TUE WED THUR FRI **and after every court appearance.** \_\_\_\_\_

**TELEPHONE CONTACT: 503-988-3714** (Between 8:00 a.m. & 4:00 p.m.)

DAILY MON TUE WED THUR FRI \_\_\_\_\_

**GENERAL CONDITIONS:**

- 1) Obey ALL laws and notify CSS of all police contact.
  - 2) No use or possession of drugs, unless prescribed by a licensed physician, **including alcohol and marijuana.** Submit to random UA/Breathalyzer testing.
  - 3) Keep in contact with your attorney and your probation/parole officer if on formal supervision.
  - 4) Be aware of and attend all court dates.
  - 5) Maintain or seek full time work/school or a combination of both.
  - 6) No direct or indirect contact with victims, any of the state's witnesses, or co-defendants.
- 
- 7) Do not leave the TRI-COUNTY AREA without prior written permission from CSS, PO and/or the Court.
  - 8) Maintain access to a telephone and notify CSS prior to any changes of:  
Address, telephone number, living situation, employment and when I receive notice of court appearances.
  - 9) Be subject to search of person, vehicle, and premise while under CSS.
  - 10) Cooperate and comply with Home/Office Visits while under CSS.
  - 11) Not possess any weapons or ammunition.
  - 12) Not enter any establishments that sell alcohol as the primary source of revenue.
  - 13) Not drive without a valid driver's license, insurance or registration.

**SPECIAL CONDITIONS:**

- Enroll and participate in any counseling/treatment program as ordered by the Court or CSS.
- Enroll in electronic monitoring/GPS and/or alcohol monitoring as ordered by the Court or CSS.
- No contact with minors, not to frequent locations where minors congregate, and not to possess pornography.
- Abide by curfew \_\_\_\_\_
- Abide by geographical restrictions \_\_\_\_\_
- Other \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

I understand failure to comply with these conditions will constitute grounds for violation, which will be reported to the court and may result in the revocation of release.

\_\_\_\_\_  
Defendant / Date

\_\_\_\_\_  
CSS Representative / Date

PS-656 REV 04/17



## **Attachment F: Presiding Judge Orders**



7. Any convicted person serving a sentence of incarceration or a sanction imposed by a court or agency;
8. Any offense of Failure to Register/Report as a Sex Offender (ORS 181.599);
9. Any probable cause arrest under ORS 133.310 (6) if the no contact order in the underlying case is for any felony offense, any person misdemeanor, any misdemeanor charge of harassment or menacing, or a punitive contempt proceeding for violating any abuse prevention act restraining order or for violating a stalking order;
10. Each of the following methamphetamine offenses:
  - (a) Manufacture of methamphetamine under ORS 475.886;
  - (b) Manufacture of methamphetamine within 1,000 feet of a school under ORS 475.888;
  - (c) Delivery of methamphetamine within 1,000 feet of a school under ORS 475.892;
  - (d) Delivery of methamphetamine under ORS 475.890;
  - (e) Delivery of methamphetamine to a minor under ORS 475.906;
11. Burglary in the first degree, ORS 164.225, and the burglary was of a dwelling.

The court further orders:

1. The release assistance officers continuously shall review the jail population and may make releases, subject to the restrictions set out in this order, up to the start of trial in those instances when an initial release was not possible due (1) to the refusal of the person to cooperate or incapacity to engage in the interview process, or (2) ineligibility for release due to sentences, sanctions or holds, from this court or other jurisdictions, in which circumstances have subsequently changed.
2. The release assistance officers may release individuals held in Multnomah County who are subject to holds from other state or local courts of this state to the same extent that a circuit court judge has authority to authorize release of such individuals except as limited by this order. Such a release shall be subject to a requirement that the person released appear before the court from which the warrant or hold was issued at a date and time certain set out in the release agreement, and notice shall be provided to the jurisdiction of the release and the date and time set for appearance of the defendant in the release agreement.
3. As required by ORS 135.247, release assistance officers appointed under this order shall issue to each defendant who is booked on a charge that is a sex crime or a crime constituting domestic violence an order that the defendant is prohibited from contacting the victim while the defendant is in custody. The no-contact order shall be issued by the release assistance officer over the name of the presiding judge to the named defendant in the name provided by the defendant on that booking into the Multnomah County Detention Center. The no-contact order shall be signed

by the release assistance officer pursuant to the authority granted under ORS 135.247 and shall be fully effective as an order of this court and continue in effect until its expiration or termination as provided under that section.

4. Release assistance officers may override any release score or decision to hold in custody until the next court appearance any person identified as a “risk to self” by a medical evaluation performed by Correction Health staff and the person is placed on “suicide watch” by the Multnomah County Sheriff’s staff. This specific override authority is subject to the following conditions: 1) a mental health evaluation will be completed on the person prior to court appearance on the next judicial day; 2) a system is put in place to assure that the release assistance officers are informed when a person is given a risk to self medical evaluation and is placed on suicide watch; and 3) a system is put in place to assure the court is informed of the suicide watch and the mental health assessment at or prior to the court appearance at which the release of the person will be next before the court. The purpose of this specific override condition is to hold the person to the person’s next court appearance to permit a judge to be informed of all factors relevant to the release of the person from custody.

The court further orders that a release assistance officer may, subject to review by a magistrate at a release hearing, increase or reduce the security amount on any charges for which security release is permitted under law.

On its effective date, this order replaces all provisions in any earlier orders of a presiding judge or chief criminal judge which conflict with this order.

This order shall be effective for releases on bookings on or after July 20, 2015.

Signed July 17, 2015

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Nan G. Waller, Presiding Judge

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

In the Matter of the Adoption of a  
Security Release Schedule

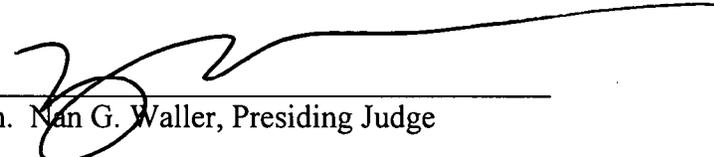
PRESIDING JUDGE  
AMENDED ORDER

IT IS HEREBY ORDERED that the security release schedule below be used in the circuit court effective for bookings after 12:01 am, on November 14, 2016:

<u>Classification</u>	<u>Security Amount</u>
Murder, Treason	To be determined by judge if released Pursuant to ORS 135.240 (3) hearing
Any Felony Offense Included in ORS 137.700 and 137.707	\$250,000
The following methamphetamine offenses:	\$50,000
(a) Manufacture of methamphetamine under ORS 475.886	
(b) Manufacture of methamphetamine within 1,000 feet of a school under ORS 475.888	
(c) Delivery of methamphetamine within 1,000 feet of a school under ORS 475.892	
(d) Delivery of methamphetamine under ORS 475.890	
(e) Delivery of methamphetamine to a minor under ORS 475.906	
Class A Felony Except ORS 137.700, 137.708 and Methamphetamine Offenses	\$50,000
Class B Felony Escape I ORS 162.165	\$75,000
Class B Felony Except ORS 137.700, 137.707, Escape I or Meth Offenses	\$20,000
Class C Felony Escape II ORS 162.155	\$50,000
Class C Felony DUII, ORS 813.010 (5)	\$20,000
Class C Felony With Domestic Violence as defined by ORS 135.230 (3)	\$10,000
Class C Felony or Unclassified Felony Except Domestic Violence, DUII Or Escape II	\$5,000
Any Misdemeanor With Domestic Violence as defined by ORS 135.230 (3)	\$5,000
Any Contempt Allegation Involving Domestic Violence or a Sex Crime ORS 181.594	\$5,000
Class A Misdemeanor Escape III ORS 162.145	\$25,000
Class A Misdemeanor or Unclassified Misdemeanor Except Domestic Violence or Escape III	\$2,500
Class B Misdemeanor Except Domestic Violence	\$1,500
Class C Misdemeanor Except Domestic Violence	\$1,000
Any Probable Cause Arrest ORS 133.310 (6)	\$25,000
(Pending charge and the person is on court ordered release or security release and violates no contact provision of the release agreement under ORS 135.230 to 135.290	

In any individual case, a judge may impose a security amount higher or lower than set forth in this schedule, if the circumstances justify it.

Signed this day 17<sup>th</sup> of November

  
Hon. Nan G. Waller, Presiding Judge



## **Attachment G: Federal Case Law Pretrial Bail**

## Attachment G

### Federal Caselaw – Pretrial Bail Practices

#### *Pretrial Release and Detain Decision: Detention Due to Indigency<sup>1</sup>*

Updated November 18, 2019

Beginning in 2015, various class action lawsuits were filed in several federal courts across the country seeking declaratory relief and preliminary/permanent injunctions for violations of the Sixth,<sup>2</sup> Eighth,<sup>3</sup> and Fourteenth Amendments<sup>4</sup> of the U.S. Constitution regarding the relevant jurisdiction's bail practices and bail schedules, specifically targeting those practices on people who are indigent. Procedural details of these cases and each case's current status are below.

**Summary of Rulings:** Courts have generally ruled that ***within 48 hours of arrest*** if an individual is still detained, a judicial officer must make an ***individual consideration of a defendant's ability to pay***. If indigent, the judge must make findings that ***no alternative conditions would assure future court appearance or the safety of others*** (preventative detention).

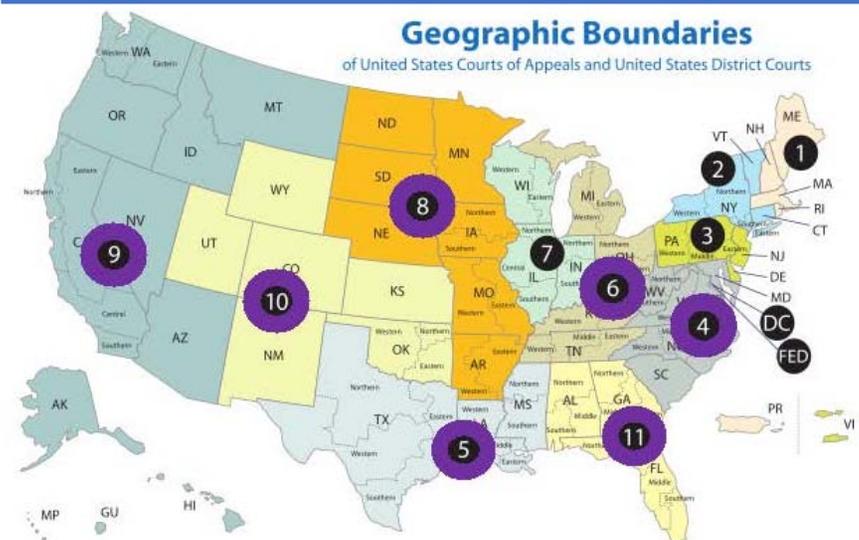
**Variance amongst Rulings:** Some jurisdictions and settlement arrangements have gone farther to have a ***presumption of release***, unless certain conditions are met (prior failure to appear, violent crime, and others). Other jurisdictions are continuing with ***bail schedules*** for the setting of the amount, but the individual consideration as described above takes effect if an individual is still detained after 48 hours. The procedures for the bail hearing, who bears the burden of proof and what standard still vary among the federal cases. Some cases also included the right to counsel as being important at first appearance.

**Federal Circuits:** 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>

**U.S. Supreme Court:** 1 writ of certiorari; Court did not take the case.

**Appellate Level:** 6 Cases (4 pending)

**District Level:** 13 cases (7 pending)



<sup>1</sup> There are also three federal cases dealing with fees being charged to defendants inappropriately. These are not included in this analysis. Those cases are: McNeil v. Community Probation Services, No. 1:18-cv-00033 (M.D. of Tenn. filed April 23, 2018), Egana v Blair's Bail Bonds, Inc., No. 2:17-cv-05899 (E.D., La. filed June 16, 2017), Mitchell v. First Call Bail and Surety, Inc., No. 9:19-cv-00067 (D.Mont. filed April 17, 2019).

<sup>2</sup> Sixth Amendment: In all criminal prosecutions, the accused shall . . . have the assistance of counsel for his defense.

<sup>3</sup> Eighth Amendment: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

<sup>4</sup> Fourteenth Amendment, Section 1: . . . No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**Pretrial Release and Detain Decision: Detention Due to Indigency**

Case Name	Court	Judicial Decision Date
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**Fourth Circuit**

<b>Allison v. Allen</b>	U.S. District Court, Middle District of North Carolina	<i>Pending</i>
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On November 12, 2019, a class action complaint was filed in the U.S. District Court, Middle District of North Carolina against the district (limited jurisdiction) and superior (general jurisdiction) courts as well as the magistrates who make the initial appearance decisions and the sheriff. Plaintiffs are seeking injunction relief to enjoin Alamance County from continuing its unconstitutional bail practices violating the Fourteenth Amendment and violating plaintiffs’ Sixth Amendment right to counsel.

**Current Status:** The court has accepted the filing of the case and a summons has been issued.

**Fifth Circuit**

<b>ODonnell v. Harris County</b> <sup>5</sup>	U.S. Court of Appeals, Fifth Circuit	June 1, 2018
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On June 1, 2018, the Fifth Circuit partially affirmed the ruling of the lower court and partially amended the ruling. The Fifth Circuit affirmed that there were constitutional violations, it held that the preliminary injunction was overbroad. Specifically, the court stated that the lower court’s ruling would amount “to the outright elimination of secured bail for indigent misdemeanor arrestees.” Rather, the court put forth a revised injunction that would be narrowly tailored and remanded the case to the district court to revise its ruling according to the opinion.

On remand, the district court added four additional provisions to the preliminary injunction that were appealed as well. The Fifth Circuit found that these additional provisions were beyond the scope of the original case and overturned their additions.<sup>6</sup>

**Ruling:** The Fifth Circuit held that the preliminary injunction was overbroad but indicated that if it was crafted as follows it would be narrowly tailored and be within the guidance of the court. The court held that due process requires: (1) **notice that the financial information collected is to determine release or detention**; (2) **an evidentiary hearing**; (3) **an impartial decisionmaker**; (4) **oral or written statement of findings indicating detention is necessary**; and (5) **timely proceedings within 48 hours of arrest**.

<b>Caliste v. Cantrell</b> <sup>7</sup>	U.S. District Court, Eastern District of Louisiana	August 6, 2018
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On August 6, 2018, the court ruled that the defendant’s bail practices violated the Fourteenth Amendment and held that the defendant must conduct a hearing to determine pretrial detention that includes: “1) an inquiry into the arrestee’s ability to pay, including notice of the importance of this issue and the ability to be heard on this issue; 2) consideration of alternative conditions of release, including findings on the record applying the clear and convincing standard and explaining why an arrestee does not qualify for alternative conditions of release; and 3) representative counsel.”

On June 13, 2019, the parties entered a Consent Judgment outlining the future bail practices of the court.

<sup>5</sup> ODonnell v. Harris County, 892 F.3d 147 (5<sup>th</sup> Cir. 2018) (“ODonnell I”).

<sup>6</sup> ODonnell v. Goodhart, 900 F.3d 220 (5<sup>th</sup> Cir. 2019) (“ODonnell II”).

<sup>7</sup> Caliste v. Cantrell, 329 F.Supp.3d 296 (D. La. 2018).



**Pretrial Release and Detain Decision: Detention Due to Indigency**

The second issue that was litigated was the defendant’s practice of taking a percentage of the money from the bail fees to support the operations of the court. The court ruled that this constitutes a conflict of interest. The defendant appealed to the Fifth Circuit and the ruling was affirmed on August 29, 2019.<sup>8</sup>

**Ruling:** The District Court ruled that the defendant must use bail practices that inquiry into *the arrestee’s ability to pay, consider alternative conditions of release using a clear and convincing standard* and arrestees should be *represented by counsel*.

Case Name	Court	Judicial Decision Date
<b>Thompson v. Moss Point</b> <sup>9</sup>	U.S. District Court, Southern District of Mississippi	November 6, 2015
<b>Ruling:</b> On November 6, 2015, the court entered a declaratory judgment ruling “no person may, consistent with the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, be held in custody after an arrest because the person is too poor to post a monetary bond. If the government generally offers prompt release from custody after arrest upon posting a bond pursuant to a schedule, it cannot deny prompt release from custody to a person because the person is financially incapable of posting such a bond.”		
<b>Snow v. Lambert</b> <sup>10</sup>	U.S. District Court, Middle District of Louisiana	September 3, 2015
<b>Ruling:</b> On, September 3, 2015, the Court issued an order supporting the settlement agreement between the parties. The settlement agreement calls for all misdemeanor arrestees to be released on their own recognizance after booking except for in the case of people arrested under 11 specified charges. In those cases, the sheriff will call the judge to make a case-by-case determination. Those who are detained will appear in front of a judge by the next business day for a bail hearing. The bail hearing will meet the requirements of due process under the Fourteenth Amendment and no one will be held if the individual is unable to pay the bond.		
<b>Daves v. Dallas County</b>	U.S. Circuit Court of Appeals, Fifth Circuit	<i>Pending</i>
On September 20, 2018, the district court issued a preliminary injunction enjoining defendants from continuing the current bail practices instead requiring that the county pretrial staff must determine each individual’s ability to pay a financial bond through an affidavit process with each arrestee. The verification and affidavit must be completed within 24 hours. Within 48 hours the arrestee is entitled to a hearing at which the magistrate must make an individual determination about bail and conditions needed in each particular case. If the magistrate does not lower the bail amount, he must make written factual findings about the decision. There are various additional procedural and process requirements in the preliminary injunction as well. In its memorandum and order the court held that this case should follow the binding precedent laid out in ODonnell and its model injunction.		
<b>Current Status:</b> Defendants have appealed the ruling and oral arguments occurred on November 4, 2019.		

<sup>8</sup> Caliste v. Cantrell, 882 F.3d 528 (5<sup>th</sup> Cir. 2019).

<sup>9</sup> Thompson v. Moss Point, 2015 WL 10322003 (S.D. Miss. 2015).

<sup>10</sup> Snow v. Lambert, 2015 WL 5071981 (M.D. La. 2015).



**Pretrial Release and Detain Decision: Detention Due to Indigency**

Case Name	Court	Judicial Decision Date
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<b>Booth v. Galveston County</b>	U.S. Circuit Court of Appeals, Fifth Circuit	<i>Pending</i>
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On September 11, 2019, the district court issued an order adopting the magistrate judge’s memorandum and recommendations and preliminary injunction. The memorandum denied plaintiff’s motion for preliminary injunction regarding bail practices but granted plaintiff’s motion for preliminary injunction for appointment of counsel. The magistrate judge relied on ODonnell and the current bail practices of Galveston County which are modeled after the Fifth Circuit ruling in ODonnell to deny the preliminary injunction regarding bail practices. The court did find that indigent defendants are entitled to appointed counsel at the initial hearing.

**Current Status:** Defendants have appealed the ruling. The Fifth Circuit has set a briefing schedule. Appellant’s brief is due on December 11, 2019.

<b>Little v. Frederick</b>	U.S. District Court, Western District of Louisiana	<i>Pending</i>
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Plaintiffs are seeking injunctive and declaratory relief and an order enjoining defendants from continuing its bail practices where money bail is set without inquiry of defendants ability to pay. A non-jury trial was held on August 6, 2019. The final deadline for post-trial memoranda is December 16, 2019 with the court’s decision pending until review of the parties’ memoranda.

**Current Status:** Post-trial memoranda are due from the parties to the court. The final deadline is December 16, 2019.

<b>Russell v. Harris County</b>	U.S. District Court, Southern District of Texas	<i>Pending</i>
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On January 21, 2019, plaintiffs filed a complaint against Harris County and its bail practices. This case differs from ODonnell as it pertains to the bail practices in the district courts (felony cases) whereas ODonnell dealt with the bail practices in the county court at law (misdemeanor cases).

**Current Status:** The parties have stayed the case while they discuss settlement. The docket of the case lists July 25, 2019 as the last status conference in the case with a minute entry that cannot be downloaded.

**Sixth Circuit**

<b>Ross v. Blount</b>	U.S. District Court, Eastern District of Michigan	<i>Pending</i>
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On April 14, 2019, plaintiffs filed this complaint against the Chief Judge of Michigan’s 36th District Court because of the court’s bail practices which disproportionately impact indigent individuals.

**Current Status:** On August 23, 2019, the court entered a stipulated order staying the case while the parties negotiate a settlement.

**Eighth Circuit**

<b>Pierce v. City of Velda</b>	U.S. District Court, Eastern District of Missouri	June 3, 2015
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On June 3, 2019, the court entered its order supporting the settlement agreement between plaintiffs and defendants. The order and settlement agreement defined future bail practices which included that the defendant will no longer use secured money bail. Defendants are expected to be



**Pretrial Release and Detain Decision: Detention Due to Indigency**

released except if the case involves “intentionally assaultive or threatening conduct.” In those cases, defendant may impose conditions for release or make a determination that “release must be denied to prevent danger to a victim, the community, or any other person under applicable constitutional standards.”

**Ruling:** The court entered an order accepting the settlement agreement with revised bail practices.

Case Name	Court	Judicial Decision Date
<b>Dixon v. City of St. Louis</b>	U.S. Circuit Court of Appeals, Eighth Circuit	<i>Pending</i>

On June 11, 2019, the court issued its memorandum and order which denied defendant’s motion to dismiss and granted plaintiff’s motion for preliminary injunction which required defendants to discontinue the practice of “enforcing monetary condition of release that results in detention solely by virtue of an arrestee’s inability to pay, unless the order is accompanied by a finding that detention is necessary because there are no less restrictive alternatives to ensure the arrestee’s appearance or the public’s safety. The order must reflect that: (1) a hearing was held on the record **within 48 hours of arrest** or, for those currently detained, within seven days of this order; (2) the arrestee had an opportunity to present and rebut **evidence as to whether detention is necessary**, with the **government bearing the burden of proof**; and (3) if financial conditions of release are imposed, the court made **specific findings regarding the arrestee’s ability to pay** and found, by **clear and convincing evidence**, that no alternative conditions would reasonably assure the arrestee’s future court appearance or the safety of others.”

The State of Missouri also amended its **Supreme Court Rule 33.01** which took effect on July 1, 2019. It requires release of defendants without conditions pretrial unless the court finds that conditions are necessary and, if so, it must seek non-monetary conditions first. If the court finds that there are no conditions that will ensure that the defendant will return to court and ensure the safety of the community, under clear and convincing evidence, the court can detain the defendant.

**Current Status:** Defendants appealed the ruling and the preliminary injunction has been stayed until the court rules. Briefs have been filed and the parties are waiting for the date for oral argument.

**Ninth Circuit**

<b>Buffin v. City and County of San Francisco</b>	U.S. District Court, Northern District of California	<i>Pending</i>
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On March 4, 2019, the district court issued an order granting Plaintiffs’ Motion for Summary Judgment holding that the use of the bail schedule to determine pretrial release violates the Due Process and Equal Protection Clauses of the Constitution. The parties then reached a settlement on most issues on August 30, 2019. However, on September 3, 2019, the district court filed a final judgment and injunction to resolve the issues that remained outstanding. Under the stipulated judgment, the sheriff is prohibited from using a bail schedule and is required to release certain arrestees within 18 hours from the time of booking unless certain conditions are met. The San Francisco Board for Supervisors have memorialized the stipulated judgment as an ordinance along with two additional ordinances that provide financial and personnel support for the changes.

**Current Status:** The court has retained jurisdiction to monitor implementation and a compliance hearing is set for May 1, 2020. The San Francisco Board of Supervisors’ second vote on the ordinances is set for November 19, 2019.

**Pretrial Release and Detain Decision: Detention Due to Indigency**

Case Name	Court	Judicial Decision Date
<b>Tenth Circuit</b>		

<b>Parga v. Tulsa County</b>	U.S. District Court, Northern District of Oklahoma	<i>Pending</i>
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The defendants filed a motion to dismiss which was granted on November 19, 2018. Plaintiffs amended their complaint and the court issued an opinion dismissing portions of the complaint and staying other portions as the Oklahoma Legislature had proposed legislation (Senate Bill 252) that would put for a process for determining bail based on an **individualized determination** of the person and, if detention is requested, then **by clear and convincing evidence** the state must show that it is **necessary for public safety and/or to ensure that the defendant will appear in court**. The purpose of the stay was to wait until the end of the current legislative session or until Senate Bill 252 is signed into law, whichever occurs first. Senate Bill 252 passed in the Senate, but it did not pass in the House.

Besides seeking relief under the Fourteenth Amendment’s Due Process Clause, plaintiffs are claiming a Sixth Amendment Right to Counsel violation due to the amount of time it takes to obtain a public defender.

**Current Status:** The stay has been lifted and on November 8, 2019 the case was referred to a magistrate judge for a settlement conference. Settlement conference statements are due November 15, 2019.

<b>Eleventh Circuit</b>		
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<b>Walker v. City of Calhoun<sup>11</sup></b>	U.S. Court of Appeals, Eleventh Circuit	April 1, 2019
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While litigation was pending, the City of Calhoun revised its bail practices and issued a Standing Bail Order which adopted a bail schedule where the bail amounts were aligned with the fines and fees a defendant would receive if found guilty of the charge. If a defendant is unable to pay the bail amount, he or she must be seen by a judge within 48 hours. At initial appearance, the defendant may claim indigency and the judge must make an individualized determination of indigency and, if indigent, the defendant must be released on recognizance. If the initial appearance occurs after more than 48 hours, the defendant must be released on his or her own recognizance. If the charge is a city charge (low level charge) only, the defendant is released on an unsecured bond. The Eleventh Circuit vacated the district court preliminary injunction and remanded the case back to the district court.

**Ruling:** The Eleventh Circuit held that indigency is not an equal protection class requiring heightened scrutiny, but rather a due process analysis is the correct analysis. The Eleventh Circuit held that the Standing Bail Order is constitutional with requiring an **appearance within 48 hours** and having a **judicial determination of indigency**. The Eleventh Circuit remanded the case to district court to correct the district court’s ruling. Petitioner filed a writ of certiorari with the U.S. Supreme Court that was **denied** on April 1, 2019.

<sup>11</sup> Walker v. City of Calhoun, 901 F.3d 1245 (11th Cir. 2018).



**Pretrial Release and Detain Decision: Detention Due to Indigency**

Case Name	Court	Judicial Decision Date
<b>Cooper v. City of Dothan</b> <sup>12</sup>	U.S. District Court, Middle District of Alabama	June 26, 2015
<p>The case was dismissed on June 26, 2015 as the parties have reached a settlement in the case. On April 13, 2016, the parties entered a Consent Decree which included a Standing Order signed by the Municipal Court Judge for the City of Dothan. The Standing Order allows for release of defendants on an unsecured bond if an individual does not have any prior failures to appear. If there are prior failures to appear, then money bail is requested according to a bail schedule. If after 48 hours, the defendant is unable to pay the money bail, he is entitled to a bail hearing for indigency consideration.</p> <p><b>Ruling:</b> The case was dismissed and a consent decree was entered which included new bail practices. New bail practices include <b>release on unsecured bond</b> unless there are <b>prior failures to appear. If so, money bail is set.</b> If the defendant cannot pay the money bail, a <b>hearing is held within 48 hours to determine indigency.</b></p>		
<b>Mock v. Glynn County</b>	U.S. District Court, Southern District of Georgia Brunswick Division	July 2, 2019
<p>On July 2, 2019, this case was dismissed as the parties reached a settlement. The settlement included Judge Altman, state court judge of Glynn County, entering an Amended Standing Bail Order that complies with the settlement. The order states that those who are not able to make bond, should timely <b>have the bond reduced, have an unsecured bond, or be released on own recognizance.</b> This decision is based on an <b>affidavit of ability to pay</b> completed by the arrestee and <b>occurs within 48 hours</b> of arrest at initial appearance. There are certain exceptions laid out in the order as well including state and federal holds as well as holds because of intoxication or mental health reasons.</p>		
<b>Hester v. Gentry (Schultz v. Alabama)</b> <sup>13</sup>	U.S. Court of Appeals, Eleventh Circuit	<i>Pending</i>
<p>While litigation was pending, judicial defendants drafted a standing order to amend bail procedures. However, the court still granted the preliminary injunction as the revised bail procedures were not being followed. The opinion of the court also indicated that the bail procedures of Cullman County are unconstitutional. The preliminary injunction requires the defendants to release arrestees with unsecured bond with some exceptions. For the excepted cases, <b>initial appearance must occur within 48 hours.</b> During the initial appearance, the <b>judge must determine, by clear and convincing evidence, that “the defendant poses a significant risk of flight or danger to the community.”</b> Those detained must complete a questionnaire about flight or dangerousness and an affidavit about financial means.</p> <p>Besides seeking relief for pretrial practices, this case also sought relief for those detained for post-sentence collection of court costs, fines, and restitution.</p> <p><b>Current Status:</b> Court found bail practices unconstitutional and issued a preliminary injunction with procedures to correct practices. Defendants have appealed the case. Briefs have been submitted to the Court.</p>		

<sup>12</sup> Cooper v. City of Dothan, 2015 WL 10013003 (M.D. Ala. 2015).

<sup>13</sup> Schultz v. State of Alabama, 330 F.Supp.3d 1344 (N.D. Ala. 2018).



**Pretrial Release and Detain Decision: Detention Due to Indigency**

Case Name	Court	Judicial Decision Date
<b>Edwards v. Cofield</b>	U.S. District Court, Middle District of Alabama	<i>Pending</i>

On November 11, 2018, defendant filed a motion to stay in order to await the outcome of the Hester v. Gentry case as the issues in that appellate case are similar to this case.

**Current Status:** On July 26, 2019, defendant’s motion to stay was granted and the case will be stayed pending the Eleventh Circuit's decision in Hester.

**Other relevant state cases:**

**New Mexico: State v. Brown<sup>14</sup>** is a case from 2014 where the Supreme Court of New Mexico held that the district court erred in setting bail at \$250,000 and not considering the least restrictive conditions of pretrial release. Under New Mexico’s Constitution, a defendant has a right to bail except for in certain capital cases and repeat offenders. The New Mexico Rules of Criminal Procedure provides a list of factors a judge must consider when determining bail. In this case, the trial judge only considered one factor, the charge. However, the Supreme Court held that the trial judge must consider all the factors. The Supreme Court further held that judges are not permitted “to set high bail for the purpose of preventing a defendant’s pretrial release. . . . Intentionally setting bail so high as to be unattainable is simply a less honest method of unlawfully denying bail altogether.”<sup>15</sup>

**Illinois: Robinson v. Martin** is a case from 2016 that was filed in the Circuit Court of Cook County, Illinois seeking a preliminary injunction because of Cook County’s bail practices. In April 2017, the defendants filed a motion to dismiss because the lawsuit was moot after Chief Judge Timothy Evans issued a General Order for bail practices. The General Order took effect September 2017 for felonies and January 2018 for all other cases. In June 2018, the court granted a **motion to dismiss** due to the implementation of the General Order.

**Nevada: Valdez-Jimenez v. Clark County** is a case from 2019 filed with the Nevada Supreme Court seeking to find the bail system in Clark County, Nevada unconstitutional on Eighth Amendment and Fourteenth Amendment grounds. Oral arguments were held September 4, 2019. The ruling is **pending**.

**California: In re Kenneth Humphrey** is a habeas case out of California from 2018. The First District Court of Appeal in California ruled in January 2018 that the superior court judge violated due process and equal protection clauses of the Fourteenth Amendment by imprisoning the defendant prior to trial solely because he could not afford to pay bail. The ruling required Superior Court judges to **consider both a defendant’s ability to pay** the bail and, if not, **whether less restrictive conditions of bail are adequate to serve the government’s interests**. The appellate court found that the trial court failed to make either of these findings. The Supreme Court of California has agreed to hear the case. A date for oral arguments has not yet been set.

<sup>14</sup> State v. Brown, 338 P.3d 1276 (N.M. 2014).

<sup>15</sup> Id., 1292 (N.M. 2014).





## **Attachment H: DRAFT Presiding Judge Order Template**

## Attachment H

### DRAFT: Template for Judicial Order – 11/24/2019

#### Purpose Statement

1. Intentionally detain and release pretrial defendants in accordance with the law.
2. Outline those defendants that are releasable, and with what conditions, via delegated release authority at booking.

#### Section 1: Defendants that May Be Detained

- A. Defendants with the following charges may not be released via delegated release authority and must have a judicial officer determine release conditions, if any.
- i. Murder, aggravated murder, treason, or other violent felonies.<sup>1</sup>
    - i. Violent felonies are defined as:
      1. List violent felonies here. Footnote justification.
  - ii. New criminal offense violation while on pretrial release for a violent felony.<sup>2</sup>
  - iii. Add any other charges/scenarios that are listed in the law as eligible for pretrial detention. Footnote statutory/constitutional reference.

#### Section 1.1: Limiting Process for Defendants that are Eligible for Detention

- A. A judge must follow the due process set forth in the law to determine whether such defendants shall remain incarcerated pretrial with no bail or whether they shall be released.
- i. “Murder, aggravated murder and treason shall not be bailable when the proof is evident or the presumption strong that the person is guilty. Other violent felonies shall not be bailable when a court has determined there is probable cause to believe the criminal defendant committed the crime, and the court finds, by clear and convincing evidence, that there is danger of physical injury or sexual victimization to the victim or members of the public by the criminal defendant while on release.” Article 1 Section 43 (1) (b) of the Oregon Constitution.
  - ii. For defendants charged with a violent felony, “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.” ORS 135.240 (4)(a)(B)(f).

<sup>1</sup> Article 1 Section 43 (1) (b) of the Oregon Constitution.

<sup>2</sup> ORS 135.240 (4)(a)(B)(f)

- iii. Add any other due process instructions listed in the law for those eligible for pretrial detention listed above including the statutory/constitutional citation.

**Note:** The detention eligibility net is charge based. Note that violent felonies can only be detained for public safety threat, not for flight risk. The judicial officer must then swiftly move to have a hearing to either make the necessary findings to hold the person without bail, or, set appropriate release conditions that result in release. American Bar Association standards suggest an initial judicial review of pretrial defendants should occur within six hours of arrest and no later than twenty-four hours.

## Section 2: Defendants that Must Have Security Bond Set

- A. Defendants with the following charges may not be released on recognizance or to pretrial services by release assistance officers and must have a security bond amount set at booking.
  - i. List out the statutory references with charges requiring a security amount be set.

### Section 2.1: Setting Secured Bond for Defendants that Must Have Security Bond Set

- A. When security bond is required for defendants with charges listed in Section 2, the following amounts will be set:
  - i. List specific bond amounts (with statutory references) that must be set on the above listed charges. Or, direct staff to determine the defendant's ability to pay and set the security amount that can be posted to gain immediate release.
- B. If a defendant is not able to post the security amount set at booking, a judge must review bond at arraignment and determine appropriate release conditions that result in release.

## Section 3: Releasable Defendants

- A. All defendants with charges not listed in Sections 1 and 2 above, shall be released through delegated release authority at booking.

### Section 3.1: Release Conditions for Releasable Defendants

- A. Release assistance officers shall use the following release conditions matrix to determine release conditions for releasable defendants.

- i. Develop a non-monetary release conditions matrix that is based on the risk principle of least restrictive conditions to reasonably assure court appearance and public safety. Ensure that the release conditions set result in release. This can be based on risk only, charge only when risk scores are not available,<sup>3</sup> or a combination of charge and risk.
  - 1. Non-monetary release condition options to populate the matrix include:
    - a. ROR
    - b. Pretrial Release Services (PRS)
      - i. Levels of support services
    - c. Close Street Supervision
      - i. Levels of support services
    - d. Other (e.g., no-contact orders)

**Notes:**

- 1. The existence of any other sentence, sanction, or holds on an individual should not impede the release of a releasable defendant on the present charge (i.e., if there is no authority to hold the defendant on the current Multnomah County pretrial charge (see above delineated criteria, the defendant should be released from that charge and transferred to the agency that has authority to hold them).

**Overall Note:** Probable cause should be found promptly in accordance with the law and should not be waived as a matter of course. The government should not, under any circumstances, persuade incarcerated defendants to waive their right to have probable cause found in a timely manner.

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<sup>3</sup>Current risk assessment requires an interview which is a barrier to a defendant's right to release if a person refuses to be interviewed. Interview refusal should not prevent a person from being released. To ensure proper release condition placement for all released defendants, consider moving to a no interview risk tool.



## Addendum to Multnomah County Pretrial Assessment Report: Pretrial Outcomes

### Overview

This report is provided to Multnomah County as a supplement to the Pretrial System Assessment Report completed by Justice System Partners (JSP) in January 2020. The initial report provided a review of the pretrial system, reviewed strengths and limitations, examined numbers of people served in which programs, and provided feedback regarding the overall process. This report is designed to provide Multnomah County with a better understanding of the impact that the pretrial system has on individuals released from jail on pretrial status. Specifically, this report offers a review of the overall new case filing rates and failure to appear rates associated with individuals released from jail on a pretrial status. Measuring the failure rates of a system can be challenging. A person can have multiple charges, multiple cases, and multiple pretrial release statuses (probation violation, parole violation, concurrent court cases) at the same time.

To best understand the current new case filing rates and failure to appear rates associated with Multnomah's pretrial release process, JSP drew a sample of defendants from the entire pretrial release population from calendar year 2018. To start, JSP received a list of the people who were processed through the recog unit in 2018. This was combined with the jail booking data and the court data to create a combined data set that was comprised of person and case data. From there, we removed all people who were processed through the recog unit for a probation or parole violation.<sup>33</sup> Second, we removed all people whose cases were not closed by 12/3/2019.<sup>34</sup> Third, we selected people based on their first appearance in the recog unit. If a person had multiple appearances in the recog unit during 2018 we only used their first appearance and tracked the success of that pretrial release.

To calculate the new case rate, we flagged any person who had a new case filed between their initial pretrial release date and the closure date associated with that release period. To calculate the failure to appear rate, we examined any instance in which the person failed to appear between their initial release date and the closure date associated with that release period. A third measure, failure for any reason, was calculated by combining the failure to appear and new case outcomes.

### Demographics

Table 1 provides the demographics for the overall sample. As noted, 75.9 percent of the sample was male. The majority of the individuals in the sample were Caucasian (62%) with 20.6 percent Black and 11.9 percent Hispanic. The sample was split equally between 18 to 30 years old and 31 to 40 with 30.5 and 31.4 percent respectively. The overall failure to appear rate for the group was 21.2 percent and new case rate was 14.5 percent. Twenty-seven percent of the sample failed to appear or had a new case.

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<sup>33</sup> While we considered keeping probation and violation cases in the data since the RECOG unit does process these cases and they can be released on a "pretrial" status, the scope of this project was to determine the new case filing rates and failure to appear rates for individuals who were released from jail on a pretrial status. Being on probation and parole has its own unique barriers and should be examined separately.

<sup>34</sup> Using only closed cases allowed for us to calculate rates on terminations and not on pending cases.



<b>Table 1</b>			
<b>Demographics of Sample (N = 4,078)</b>			
		N	%
Gender	Male	3,096	75.9
	Female	982	24.1
		4078	100
Race/Ethnicity	Asian	171	4.2
	Black/Non-Hispanic	841	20.6
	Hispanic	486	11.9
	Native American	53	1.3
	Caucasian/Non-Hispanic	2527	62.0
		4078	100
Age	18 to 30	1245	30.5
	31 to 40	1281	31.4
	41 to 50	785	19.2
	51 to 60	545	13.4
	61+	222	5.4
		4078	100
Base Rates for Total Sample			
	Failure to Appear	865	21.2
	New Case	593	14.5
	Failure Any Reason	1104	27.1
		4078	100

Table 2 provides more substantive detail regarding the risk level of the sample, the most serious crime they were booked into jail for, and the type of release recommended upon progressing through the recog unit. As noted, nearly 69 percent of the individuals who received a MVPRAI assessment scored low risk, slightly over 20 percent moderate risk, and just under 11 percent scored high risk. There were 1,240 individuals who went through the recog unit process and were expedited or were excluded from the assessment process because of their offense.

As noted in the release recommendation recog section, 1,525 individuals, or 37.4 percent of the sample, were interviewed and the release decision was deferred to the judge. Another 26.5 percent were recommended to be released on their own recognizance and 5.7 percent were recommended to be released to pretrial services. Of those that were not interviewed through the recog process, 1,053 or 25.8 percent were expedited based on their charge and 187 were excluded from the process.<sup>35</sup> Not surprising, 69 percent of the people that were processed through the recog unit had a misdemeanor as their highest charge.

<sup>35</sup> It should be noted that these percentages do not reflect the typical population that enters the RECOG process. There were proportionally more people that fell in the excluded category but were not captured in this sample because a majority of them were for probation and parole violations or their case had not been closed yet.



		N	%
MVPRAI Score			
Low Risk	0	550	19.4
	1	552	19.5
	2	484	17.1
	3	361	12.7
	4	333	11.7
Moderate Risk	5	251	8.8
	6	181	6.4
High Risk	7	96	3.4
	8	24	.8
	9	6	.2
No VPRAI Score		1240	30.4
		4078	100
Release Recommendation Recog			
Release Decision Deferred to Judge		1525	37.4
Release on Recognizance		1079	26.5
Release to PRS		234	5.7
Expedited		1053	25.8
Excluded		187	4.6
		4078	100
Offense Level			
Felony		981	24.1
Misdemeanor		2814	69.0
Unknown/Missing		283	6.9
		4078	100

While the previous table provided information as to the recog unit's recommendation, Table 3 shows the proportion of people that were released by type. As noted, almost 65 percent of the people in the sample were released on their own recognizance. From there, 20.1 percent were released to Pretrial Services, 10.8 percent posted money bail, and 4.2 percent were released to Close Street Supervision.

	N	%
Money Bail	417	10.8
Close Street Supervision	163	4.2
Released on Own Recognizance	2502	64.8
Pretrial Services	777	20.1
	3859	100

<sup>1</sup> 219 individuals were released from custody via Court Ordered Release. These individuals were not placed on supervision and did not generally have a follow up court hearing so they were eliminated from the subsequent samples.



## Findings

The following series of tables will examine the specific rates of new case filings, failure to appear, and any failure by release type, risk level, race and ethnicity, and gender. Table 4 provides a high-level review of the new case rates by each of these factors. It should be noted while 14.5 percent of the overall sample had a new case, 19.3 percent of those with an initial charge of a felony had a new case, while 10.9 percent of those with an initial misdemeanor charge had a new case.

In examining the new case rates by type of release, 6.0 percent of those released on money bail had a new case while 9.2 percent who were released to Close Street Supervision had a new case, 15.4 percent for those released on their own recognizance, and 18 percent for those released to Pretrial Services. It should be noted that while the percentages with new cases are significantly different across release type, these numbers do not control for individual differences of participants and should not be used to compare effectiveness across programs.

As noted in the second section of Table 4, men were slightly more likely to have a new case filed than females while Native Americans had the highest new case rate (20.8%), followed by Black, non-Hispanics (18.4%), Hispanics (16.0%) and then Asians and Caucasian, non-Hispanics both had 13.1 percent new case rates.

	No New Case	New Case	% with New Case
Type of Offense (Original Charge)			
Felony	695	167	19.3
Misdemeanor	2370	356	13.1
Unknown/Null	229	42	15.8
	3294	565	14.5
New Case Filed by Release Type			
Money Bail	392	25	6.0
Close Street Supervision	148	15	9.2
Released on Own Recognizance	2117	385	15.4
Pretrial Services	637	140	18.0
	3294	565	14.5
New Case Filed by Gender			
Males	2474	451	15.4
Females	820	114	12.2
	3294	565	14.5
New Case Filed by Race/Ethnicity			
Asian	146	22	13.1
Black/Non-Hispanic	638	144	18.4
Hispanic	388	74	16.0
Native American	38	10	20.8
Caucasian/Non-Hispanic	2084	315	13.1
	3294	565	14.5



Table 5 provides the new case rates by risk level. Multnomah County provides a MVPRAI to all individuals who receive an interview through the recog unit. As noted previously, 1,240 individuals in this sample did not receive a MVPRAI because they were either expedited through the process or were excluded because of their offense. As a group, the individuals who did not receive a MVPRAI had a 22.1 percent new case filing rate suggesting that this group is comprised generally of higher risk individuals. For those that did receive a MVPRAI, the instrument was predictive of having a new case with 6.5 percent of those individuals identified as low risk, 20.3 percent of the moderate risk, and 27.7 percent of the high-risk group had a new case. The instrument was found to be predictive of having a new case and the area under the curve (AUC) was in an acceptable range suggesting that the instrument is a valid measure of risk to have a new case.<sup>36</sup>

**Table 5<sup>a</sup>**  
**New Case by MVPRAI Risk<sup>1</sup> (N = 3,859)**

	No New Case	New Case	% with New Case
Low (0-3)	1758	123	6.5
Moderate (4-5)	421	107	20.3
High (6-9)	185	71	27.7
No MVPRAI Score	930	264	22.1
	3294	565	14.5

<sup>a</sup> See appendix for alternative cutoffs; 1 r = .238; AUC = .675

While Table 4 provided the overall new case rates for each of the release types, Tables 6 through 8 provide the new case rates separated by risk level. As noted in Table 6, those individuals that were identified as low risk on the MVPRAI and released on money bail had a new case at a 4 percent rate, while those that were released on their own recognizance had a new case at a 5.6 percent rate. Individuals released to Close Street for supervision had a new case at a 7.1 percent rate and Pretrial Services had a new case at a 11.9 percent rate.

**Table 6**  
**New Case for Low Risk Defendants by Release Type (N = 1,881)**

	No New Case	New Case	% with New Case
Money Bail	286	12	4.0
Close Street Supervision	104	8	7.1
Released on Own Recognizance	1079	64	5.6
Pretrial Services	289	39	11.9
	1758	123	6.5

Table 7 provides a review of the new case rates for moderate risk individuals. As noted, moderate risk individuals released on money bail or to Close Street for supervision had a new case at 8.9 and 8.6 percent respectively. For those moderate risk individuals released on ROR, 28.4 percent had a new case and 21.6 percent of those released to Pretrial Services had a new case.

<sup>36</sup> While the instrument was a valid measure of a new case being filed, there were some anomalies in the outcomes. For example, the difference between moderate and high risk populations was not substantively different. In addition, the current cutoffs did not fit females well. Appendix A provides a brief review of these findings including suggested cutoffs.



**Table 7**  
**New Case Rates for Moderate Risk Defendants by Release Type (N = 528)**

	No New Case	New Case	% with New Case
Money Bail	72	7	8.9
Close Street Supervision	32	3	8.6
Released on Own	78	31	28.4
Recognizance			
Pretrial Services	239	66	21.6
	421	107	20.3

Table 8 provides the new case rates for high risk individuals by release type. The new case rates for individuals released on money bail was 25 percent, Close Street 21.4 percent, and Pretrial Services 25.2 percent. For those released on their own recognizance 33.3 percent had a new case.

**Table 8**  
**New Case Rates for High Risk Defendants by Release Type (N = 256)**

	No New Case	New Case	% with New Case
Money Bail	18	6	25.0
Close Street Supervision	11	3	21.4
Released on Own	58	29	33.3
Recognizance			
Pretrial Services	98	33	25.2
	185	71	27.7

Figure 1 provides a summary of Tables 6 through 8 providing a review of each release type by new case rates. As noted, money bail and released on own recognizance do well with low risk individuals while money bail and Close Street Supervision do similarly well with moderate risk individuals. For high risk individuals, Close Street Supervision and Pretrial Services provide the most effective supervision with money bail providing similar outcomes.



**Figure 1: New Case Rates by Risk and Release Type**

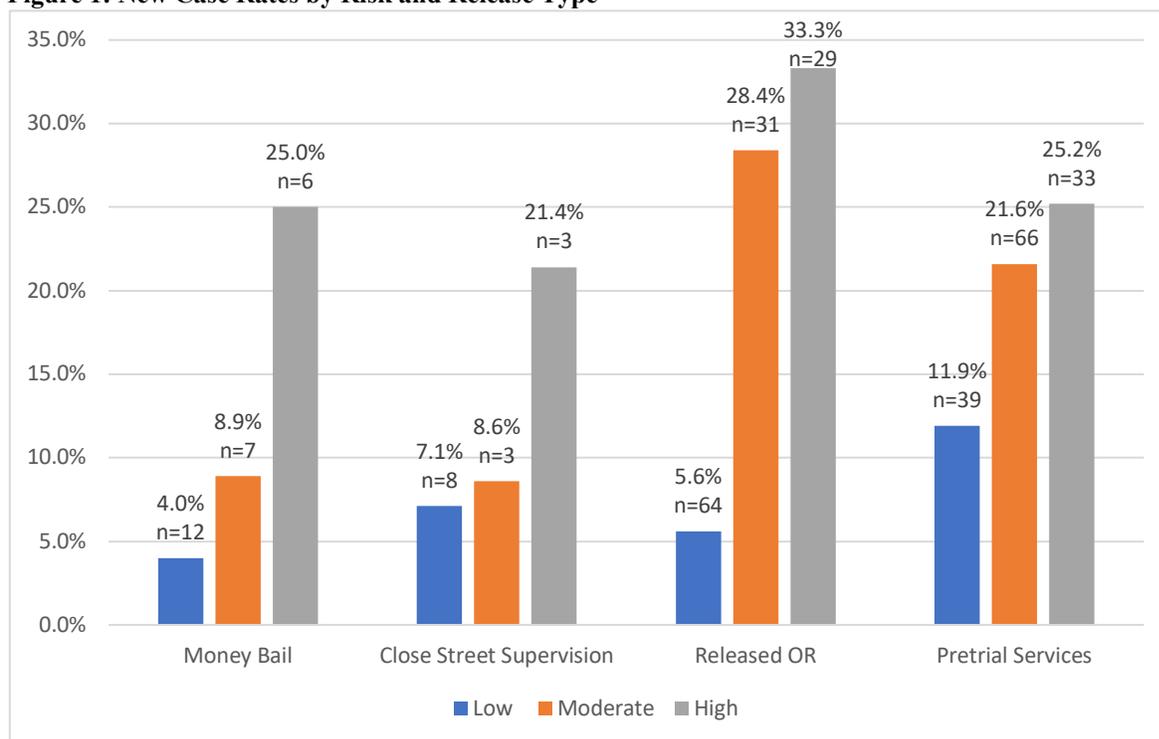


Table 9 through 11 will provide new case rates by risk level for each racial and ethnic group in the sample. Table 9 provides the new case rates for low risk individuals by race and ethnicity. As noted, low risk Caucasian, non-Hispanics had a new case at 5.2 percent, Asians at 6.5 percent, Black, non-Hispanics at 8.2 percent, Hispanics at 9.9 percent, and Native Americans at 12.5 percent.

**Table 9  
New Case Rates for Low Risk Defendants by Race/Ethnicity (N =1,881)**

	No New Case	New Case	% with New Case
Asian	101	7	6.5
Black/Non-Hispanic	292	26	8.2
Hispanic	265	29	9.9
Native American	14	2	12.5
Caucasian/Non-Hispanic	1086	59	5.2
	1758	123	6.5

Table 10 shows the new case rates for moderate risk individuals by race and ethnicity. Black, non-Hispanics had a new case at 16.2 percent, Hispanics had a new case at 17.6 percent, Native Americans at 20.0 percent and Caucasian, non-Hispanics had a new case at 21.7 percent. Asians had the highest new case rate at 38.5 percent but should be noted there were only 13 individuals identified as Asian in the sample.



**Table 10**  
**New Case Rates for Mod Risk Defendants by Race/Ethnicity (N = 528)**

	No New Case	New Case	% with New Case
Asian	8	5	38.5
Black/Non-Hispanic	124	24	16.2
Hispanic	28	6	17.6
Native American	8	2	20.0
Caucasian/Non-Hispanic	253	70	21.7
	421	107	20.3

Table 11 provides the new case rates for high risk individuals by race and ethnicity. As noted in the table, there were very few Asian and Native Americans who were identified as high risk. For Caucasian, non-Hispanics the new case rate was 24.0 percent, Hispanics 33.3 percent, and Black, non-Hispanics 36.9 percent.

**Table 11**  
**New Case Rates for High Risk Defendants by Race/Ethnicity (N = 256)**

	No New Case	New Case	% with New Case
Asian	1	0	--
Black/Non-Hispanic	41	24	36.9
Hispanic	12	6	33.3
Native American	4	1	--
Caucasian/Non-Hispanic	127	40	24.0
	185	71	27.7

The next set of tables provide the overall failure rate of the sample as well as separated by risk, race and ethnicity, and release type. Table 12 provides the failure to appear rate for the entire sample. Similar to the overall new case rates, these rates do not control for individual differences in the groups and therefore should not be used to compare across subgroups. Overall, those released on money bail failed to appear 7.4 percent of the time, while individuals on Close Street Supervision failed to appear 4.9 percent. For those release on Pretrial Services, 22.1 percent failed to appear, and 24.5 percent failed to appear who were released on their own recognizance.

Interestingly, females were slightly more likely to fail to appear (24.0%) to males (20.5%). As for race and ethnicity, Asians failed to appear at 11.3 percent, Hispanics at 16.7 percent, Black, non-Hispanics at 21.9 percent, Caucasian, non-Hispanics at 22.1 percent and Native Americans at 39.6 percent.



**Table 12**  
**Failure To Appear Descriptives (N = 3,589)**

		No FTA	FTA	%
FTA by Release Type				
	Bail	386	31	7.4
	Close Street Supervision	155	8	4.9
	Released on Own Recognizance	1889	613	24.5
	Pretrial Services	605	172	22.1
		3035	824	21.3
FTA by Gender				
	Males	2325	600	20.5
	Females	710	224	24.0
		3035	824	21.3
FTA by Race/Ethnicity				
	Asian	149	19	11.3
	Black/Non-Hispanic	611	171	21.9
	Hispanic	385	77	16.7
	Native American	29	19	39.6
	Caucasian/Non-Hispanic	1861	538	22.4
		3035	824	21.3

Table 13 provides an overview of the effectiveness of the MVPRAI to predict failure to appear. As noted, low risk individuals fail to appear at 6.4 percent, moderate risk individuals at 29.0 percent, and high risk individuals at 34.4 percent. Interestingly, individuals processed and released from the jail without an assessment fail to appear 39.7 percent of the time.

**Table 13<sup>a</sup>**  
**FTA by MVPRAI Risk (N = 3,589)<sup>1</sup>**

	No FTA	FTA	% FTA
Low	1760	121	6.4
Moderate	375	153	29.0
High	168	88	34.4
No VPRAI Score	732	462	38.7
	3035	824	21.3

<sup>a</sup> See appendix for alternative cutoffs; <sup>1</sup>  $r = .316$ ;  $AUC = .719$ ;

Tables 14 through 16 provide the failure rates by release type separated by risk level. As noted in Table 14, low risk individuals placed on supervision with Close Street have a 1.8 percent failure rate. For those low risk individuals released on money bail, 2.7 percent fail to appear while 7.2 percent fail to appear who were released on their own recognizance. For low risk individuals released to Pretrial Services, 8.8 percent failed to appear.



**Table 14**  
**FTA Rates for Low Risk Defendants by Release Type (N = 1,881)**

	No FTA	FTA	% FTA
Money Bail	290	8	2.7
Close Street Supervision	110	2	1.8
Released on Own Recognizance	1061	82	7.2
Pretrial Services	299	29	8.8
	1760	121	6.4

Table 15 provides the failure to appear rate for moderate risk defendants. As noted, 8.6 percent fail to appear who are placed in Close Street while 19 percent failed to appear who were released on money bail. For those individuals released on Pretrial Services, 31.1 percent failed to appear while 36.7 percent failed to appear who were released on their own recognizance.

**Table 15**  
**FTA Rates for Moderate Risk Defendants by Release Type (N = 528)**

	No FTA	FTA	% FTA
Money Bail	64	15	19.0
Close Street Supervision	32	3	8.6
Released on Own Recognizance	69	40	36.7
Pretrial Services	210	95	31.1
	375	153	29.0

Table 16 provides the failure to appear rates for high risk defendants. High risk individuals released to Close Street failed to appear 14.3 percent of the time, while those released on money bail failed to appear 29.2 percent. Individuals released on Pretrial Services failed to appear 32.8 percent of the time and those released on ROR failed to appear 41.4 percent of the time.

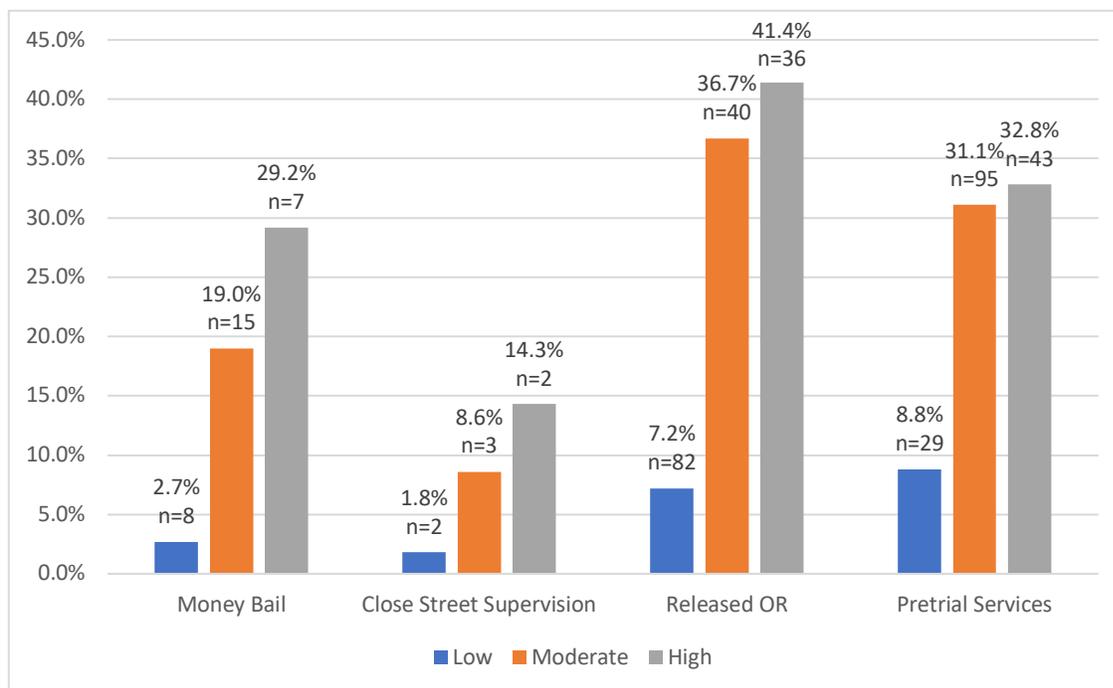
**Table 16**  
**FTA Rates for High Risk Defendants by Release Type (N = 256)**

	No FTA	FTA	% FTA
Money Bail	17	7	29.2
Close Street Supervision	12	2	14.3
Released on Own Recognizance	51	36	41.4
Pretrial Services	88	43	32.8
	168	88	34.4



Figure 2 provides a summary of Tables 14 to 16 providing a visual of how failure to appear rates are impacted by release type. As noted, failure to appear rates are low for all four release types with the lowest rates associated with money bail and Close Street Supervision. For high risk individuals, the Close Street Supervision program has the best impact on failure to appear rates across any of the release types.

**Figure 2: FTA Rates by Risk and Release Type**



The next 4 tables will provide the failure to appear rates overall by race and ethnicity and then separated by risk levels. Table 17 provides the overall failure to appear rate by race and ethnicity. As noted, Asians failed to appear 2.8 percent of the time, with Caucasian, non-Hispanic and non-Hispanic Blacks failed to appear 6.5 percent and 6.6 percent of the time respectively. Hispanics failed to appear 7.1 percent of the time and Native Americans 12.5 percent.

**Table 17**  
**FTA Rates for Low Risk Defendants by Race/Ethnicity (N = 1,881)**

	No FTA	FTA	% FTA
Asian	105	3	2.8
Black/Non-Hispanic	297	21	6.6
Hispanic	273	21	7.1
Native American	14	2	12.5
Caucasian/Non-Hispanic	1071	74	6.5
	1760	121	6.4



Table 18 provides the failure to appear rates for moderate risk defendants by race and ethnicity. As noted, 17.6 percent of moderate risk non-Hispanics Blacks fail to appear. Non-Hispanic Caucasians failed to appear at 32.5 percent of the time, Asians 38.5 percent, Hispanics 38.2 percent, and Native Americans 40 percent.

	No FTA	FTA	% FTA
Asian	8	5	38.5
Black/Non-Hispanic	122	26	17.6
Hispanic	21	14	38.2
Native American	6	4	40.0
Caucasian/Non-Hispanic	218	105	32.5
	375	153	29.0

Table 19 shows the failure rates for high risk individuals separated by race and ethnicity. As noted, there were too few Asians and Native Americans to calculate an accurate failure rate. For non-Hispanic Caucasians, 32.3 percent failed to appear, Hispanics had a 33.3 percent failure to appear rate and non-Hispanic Blacks a 36.9 percent failure to appear rate.

	No FTA	FTA	% FTA
Asian	1	0	--
Black/Non-Hispanic	41	24	36.9
Hispanic	12	6	33.3
Native American	1	4	--
Caucasian/Non-Hispanic	113	54	32.3
	168	88	34.4

The next series of tables examine the failure rates of individuals for either a failure to appear or a new case. Table 20 provides the failure rates for the overall sample. As noted, individuals released on money bail had a 11.3 percent failure rate for any reason while Close Street participants failed at 12.3 percent. Those released on ROR failed 29.5 percent of the time and individuals released to Pretrial Services failed 32.0 percent.

Males and females failed at similar rates, 27.4 percent and 27.1 percent respectively. As for race and ethnicity, 17.9 percent of Asians failed for any reason, with 24.7 percent Hispanics, 27.3 non-Hispanic Caucasians, 29.7 percent non-Hispanic Blacks, and 43.8 percent of the Native Americans.



**Table 20**  
**Failure for Any Reason Descriptives (3,859)**

	No Failure	Any Failure	% Failure
<b>Any Reason by Release Type</b>			
Money Bail	370	47	11.3
Close Street Supervision	143	20	12.3
Released on Own Recognizance	1765	737	29.5
Pretrial Services	528	249	32.0
	2806	1053	27.3
<b>Any Reason by Gender</b>			
Males	2125	800	27.4
Females	681	253	27.1
	2806	1053	27.3
<b>Any Reason by Race/Ethnicity</b>			
Asian	138	30	17.9
Black/Non-Hispanic	550	232	29.7
Hispanic	348	114	24.7
Native American	27	21	43.8
Caucasian/Non-Hispanic	1743	656	27.3
	2806	1053	27.3

Table 21 provides the failure rates by risk level. As noted, the MVPRAI is effective in separating failure rates by risk level. Low risk individuals fail for any reason 11 percent of the time, while moderate risk defendants failed for any reason 38.1 percent of the time and high risk failed 46.5 percent. For those individuals who did not receive a MVPRAI assessment, 44.1 percent failed for any reason.

**Table 21**  
**Failure for Any Reason by MVPRAI Risk (N = 3,859)**

	No Failure	Any Failure	% Failure
Low	1675	206	11.0
Moderate	327	201	38.1
High	137	119	46.5
No MVPRAI Score	667	527	44.1
	2806	1053	27.3

<sup>a</sup> See appendix for alternative cutoffs; <sup>1</sup>  $r = .336$ ;  $AUC = .701$ ;

Table 22 examines the failure rate for low risk individuals by release type. As noted, low risk individuals released on money bail failed 5.7 percent of the time. For those released to Close Street, 8.9 percent of the low risk defendants fail, 10.8 percent for those released on ROR, and 16.8 percent failed on Pretrial Services.



**Table 22**  
**Failure for Any Reason Rates for Low Risk Defendants by Release Type (N =1,881)**

	No Failure	Any Failure	% Failure
Money Bail	281	17	5.7
Close Street Supervision	102	10	8.9
Released on Own	1018	124	10.8
Recognizance			
Pretrial Services	273	55	16.8
	1674	206	11.0

Table 23 provides the failure rate for moderate risk defendants. For those placed with Close Street, 17.1 percent fail for any reason, while 24.1 percent of those moderate risk released on money bail failed for any reason. The failure rates for Pretrial Services was 41.6 percent and those released on ROR were 45.0 percent.

**Table 23**  
**Failure for Any Reason Rates for Moderate Risk Defendants by Release Type (N = 528)**

	No Failure	Any Failure	% Failure
Mail Bail	60	19	24.1
Close Street Supervision	29	6	17.1
Released on Own	60	49	45.0
Recognizance			
Pretrial Services	178	127	41.6
	327	201	38.1

Table 24 provides the failure rate for high risk defendants by release type. As noted, 21.4 percent of those placed with Close Street failed for any reason, with 41.7 percent of high risk defendants failed on money bail. Those released to Pretrial Services failed 47.3 percent while those released on their own recognizance failed just over 50 percent.

**Table 24**  
**Failure for Any Reason Rates for High Risk Defendants by Release Type (N = 256)**

	No Failure	Any Failure	% Failure
Money Bail	14	10	41.7
Close Street Supervision	11	3	21.4
Released on Own	43	44	50.6
Recognizance			
Pretrial Services	69	62	47.3
	137	119	46.5

Figure 3 provides a summary of Tables 22 through 24 providing a visual review of the rates of any failure for release type by risk level. As noted, low risk defendants do relatively well across all release types except pretrial services. As for moderate risk defendants, those that were released through Close Street had the lowest failure rates. For those high risk defendants, Close Street Supervision had the lowest failure rates with those released on their own recognizance failing at the highest rate.



**Figure 3: Failure for Any Reason Rates by Risk and Release Type**

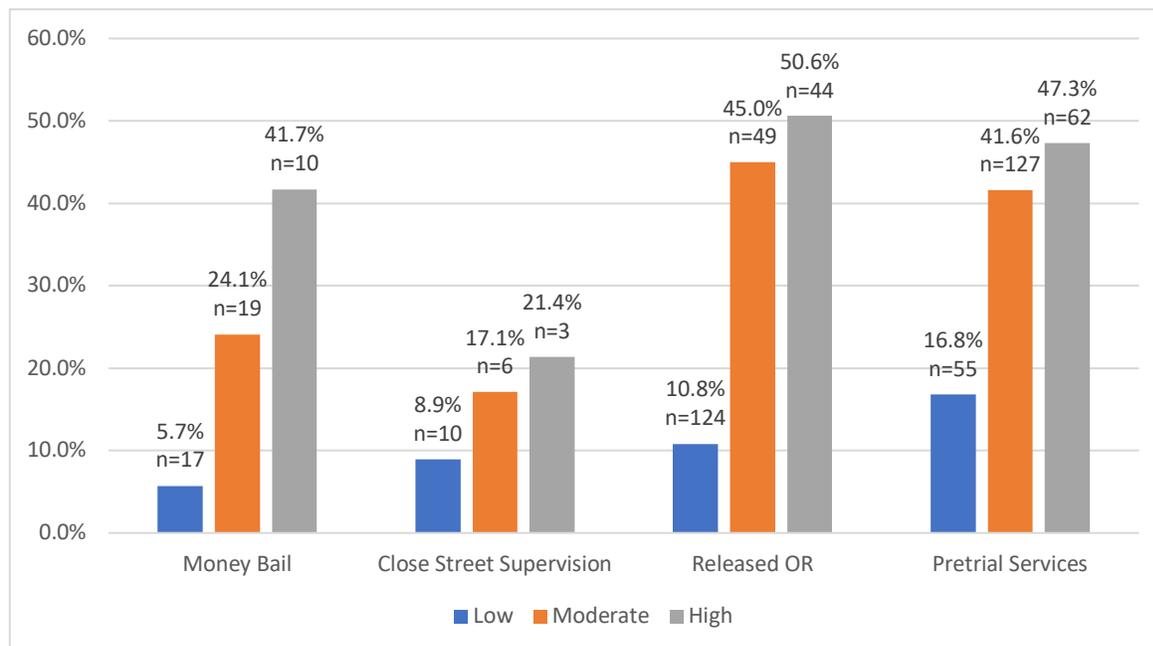


Table 25 provides the failure rates by race and ethnicity. For Asians, 9.3 percent of low risk defendants failed for any reason, non-Hispanic Caucasians failed 9.8 percent of the time, and 12.6 percent of non-Hispanic Blacks failed. For Hispanics 13.9 percent failed for any reason and 18.8 percent of Native Americans failed.

**Table 25**  
**Failure for Any Reason Rates for Low Risk Defendants by Race/Ethnicity (N = 1,881)**

	No Failure	Any Failure	% Failure
Asian	98	10	9.3
Black/Non-Hispanic	278	40	12.6
Hispanic	253	41	13.9
Native American	13	3	18.8
Caucasian/Non-Hispanic	1033	112	9.8
	1674	206	11.0

Table 26 provides the results for moderate risk defendants by race and ethnicity. As noted, there were very few Asians and Native Americans in the sample and the results should be reviewed with caution. For non-Hispanic, Caucasian moderate risk defendants, 41.5 percent failed. Compared to 26.4 percent of the non-Hispanic, Black defendants while 50 percent of moderate risk Hispanics failed.



**Table 26**  
**Failure for Any Reasons for Mod Risk Defendants by Race/Ethnicity (N = 528)**

	No Failure	Any Failure	% Failure
Asian	7	6	46.2
Black/Non-Hispanic	109	39	26.4
Hispanic	17	17	50.0
Native American	5	5	50.0
Caucasian/Non-Hispanic	189	134	41.5
	327	201	38.1

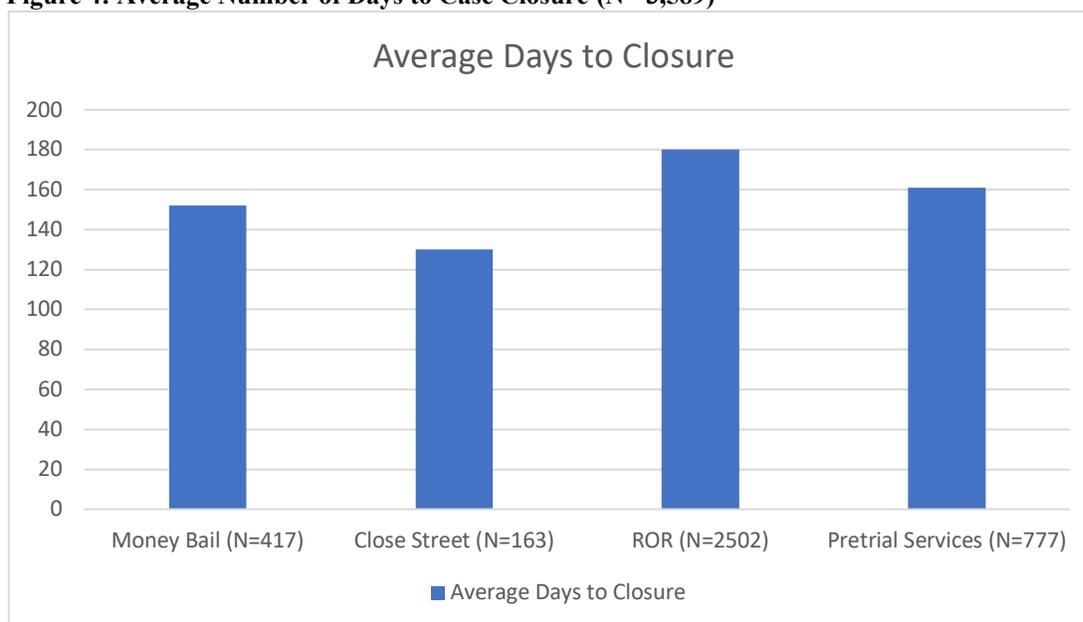
As for high risk defendants, Table 27 provides the failure rates by race and ethnicity. Non-Hispanic, Caucasians failed at 42.5 percent, while non-Hispanic Blacks failed at 52.3 percent and 56.6 percent of high risk Hispanics failed for any reason.

**Table 27**  
**Failure for Any Reason Rates for High Risk Defendants by Race/Ethnicity (N = 256)**

	No Failure	Any Failure	% Failure
Asian	1	0	--
Black/Non-Hispanic	31	34	52.3
Hispanic	8	10	56.6
Native American	1	4	--
Caucasian/Non-Hispanic	96	71	42.5
	137	119	46.5

One of the limitations of examining bivariate relationships is the inability to control for variables like time at risk. In this context, time at risk is the amount of time a person is out on pretrial release before their case is closed. Ultimately, the longer time a person is on pretrial status, the more time they are at risk to fail. Figure 4 provides the average time it took for cases to close by release type. As noted, those individuals on Close Street averaged 130 days for their case to be closed while those released on ROR averaged almost two months longer (180 days).

**Figure 4: Average Number of Days to Case Closure (N =3,589)**





To best understand if there were differences between programs, it is important to control for individual differences of participants. To do this, we conducted a series of logistic regression models to examine the impact of each of the release types by new case rates, failure to appear rates, and any failure. Table 28 provides the result of regression model that examines the new case rates by release type controlling for time at risk, risk level, gender, age, and race/ethnicity. Based on the findings, those individuals who spent more time at risk had a new case at higher rates and those that were identified as higher risk were significantly more likely to have a new case than lower risk individuals. Females were no more likely to have a new case than men and there were no significant differences across race and ethnicity compared to non-Hispanic Caucasians. Younger defendants were found to have a new case at higher rates than those that were 41 years of age or older. Controlling for time at risk, risk level, gender, race and age, those individuals released on money bond did significantly better than individuals released on ROR or pretrial services.

	b	S.E.	Exp(B)
Time at Risk	.003	.00	1.003*
Risk Level <sup>2</sup>			
Moderate Risk	1.366	.167	3.919*
High Risk	1.841	.189	6.305*
Female <sup>3</sup>	.303	.170	1.354
Race <sup>4</sup>			
Asian	.291	.333	1.388
Black, Non-Hispanic	.305	.160	1.357
Hispanic	.371	3.091	1.420
Native American	.148	.531	1.160
Age <sup>5</sup>			
31 to 40	-.276	.161	.759
41 to 50	-.472	.192	.623*
51 to 60	-.838	.231	.433*
61 and older	-1.554	.447	.211*
Type of Release <sup>6</sup>			
Close Street	.462	.359	1.587
ROR	.521	.240	1.683*
Pretrial Services	.850	.238	2.339*

<sup>1</sup> Only includes individuals with a risk score; \*p ≤ .05; Reference category: <sup>2</sup> Low risk; <sup>3</sup> Males; <sup>4</sup> Caucasian, non-Hispanic; <sup>5</sup> 18 to 30; <sup>6</sup> Money Bail



## Highlights

There are several findings that should be highlighted that will provide insight into future conversations regarding pretrial release.

First, low risk defendants do relatively well in unsupervised settings. The individuals who were released under their own recognizance failed at similar rates as to those individuals who were on money bail. Low risk individuals that were supervised through Pretrial Services failed at significantly higher rates than any of the other types of release suggesting that more intensive release programs should be limited to higher risk individuals.

Second, individuals released on expedited release have significantly higher rates of failure than those on any other type of release. Since they move in and out of the system quickly, they are also the population in which the system has the least amount of information.

Third, the pretrial system has done well to dissipate any disparate responses felt across race, ethnicity, and gender. As noted in Table 28, controlling for risk and time of risk, being part of a specific race, ethnic group, or gender did not predict the likelihood of having a new case filed.

Fourth, the MVPRAI fails to separate out moderate from high risk individuals well. In review of the data, it appears that re-norming the cutoffs would provide a more valid risk assessment instrument. See initial findings of adjusted cutoffs in Appendix A.

## Recommendations

1. Reconfigure the booking process to allow for assessment of all defendants. The analysis indicates that the expedited population has a high new case rate and therefore it would be expected has a significant portion of moderate to high risk individuals who would benefit from more targeted pretrial supervision. Assessing those people who are currently released through the expedited process will allow for more appropriate assignment of conditions and result in better outcomes.
2. Implement an assessment tool that does not require an interview to allow for more efficient use of staffing resources and for the expansion of the assessed population. This will allow for Multnomah County to continue to expedite releases for low level misdemeanants but will also provide an opportunity to provide the necessary supervision for those that fail at higher rates.
3. Better match supervision level with assessed risk. The analysis suggests that low risk defendants supervised in more intensive services (e.g., Pretrial Services) have higher failure rates. Moreover, higher risk individuals who need greater services are not receiving adequate support. If placements were driven by risk, Multnomah County could develop a range of services from ROR for the low risk individuals to intensive support services and supervision for higher risk individuals.
4. Develop a more comprehensive differential supervision structure that incorporates PSP and CSS and clearly assigns supervision and conditions based on risk.



5. If the county continues to use the MVPRAI assessment tool, re-norm it to the population, with special consideration of females. The current cut off scores are not in alignment with the failure rates, especially for the moderate risk defendants. As noted in Appendix A, the tool is significantly stronger with the adjusted cutoffs. While these cutoffs provide better fit for the sample, it is recommended that Multnomah County conduct a study specific to validating the MVPRAI. It would also be appropriate to use these adjusted cutoffs until a study can be conducted.
6. Conduct subsequent analysis around the releases on money bail that controls for housing, employment and other relevant factors. The analysis indicates a relatively low failure rate for people released on money bail. While this analysis did not explore this population in depth, it would be helpful to better understand the characteristics of the population and the associated bond amounts.
7. Conduct an analysis to explore how these changes will impact workload for PSP and CSS.



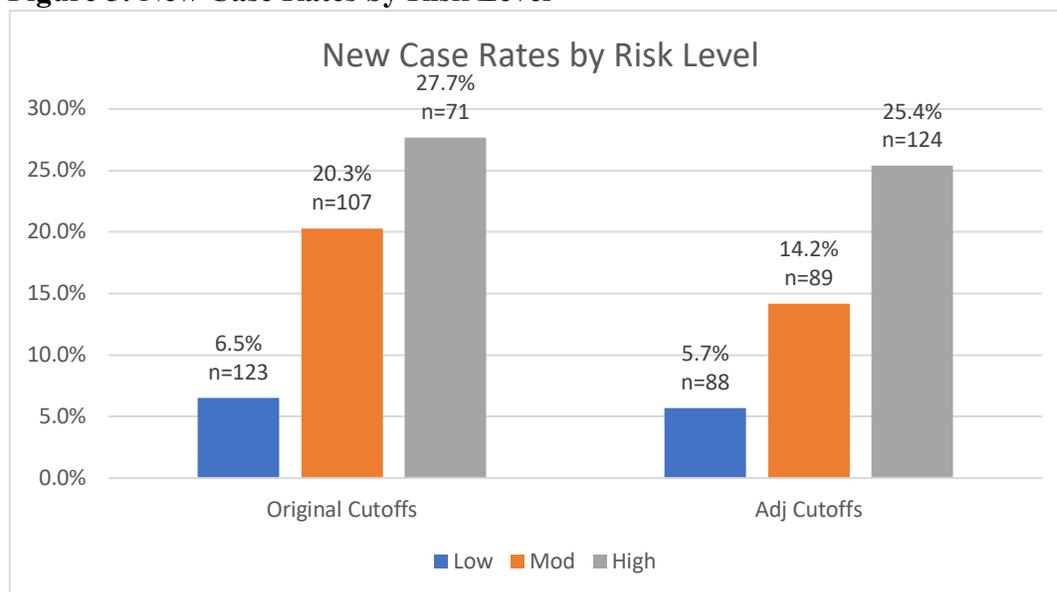
## Addendum Report Appendix A: Alternative Cutoff Points for the MVPRAI

In reviewing the correlations and Area Under the Curve (AUC) through ROC analyses, it is recommended that Multnomah County consider conducting a revalidation and normative study on the MVPRAI. The instrument is valid for the current population and does well overall, but this study suggest there may be several improvements to the assessment that could significantly benefit the county. First, as seen in Tables 29 through 31, the MVPRAI adjusted cutoffs do better for all three outcomes. While the new case correlations are the same, the new cutoffs improve the area under the curve. In addition, the difference between the failure rates for moderate and high risk are more distinctive and identify a better fit to the model. Similarly, with Table 30 the adjusted cutoffs provide a better fit to the model and the AUC's improve from .719 to .736. Where the biggest improvement for the overall model is in any failure. The correlations improve as well as the AUC suggesting a significantly improved fit to the model.

	No New Case	New Case	% with New Case
Low (0-2)	1461	88	5.7
Moderate (3-4)	538	89	14.2
High (5-9)	365	124	25.4
No MVPRAI Score	930	264	22.1

Adjusted Cutoffs:  $r = .238$ ; AUC = .687; Original Cutoffs: <sup>1</sup>  $r = .238$ ; AUC = .675

**Figure 5: New Case Rates by Risk Level**



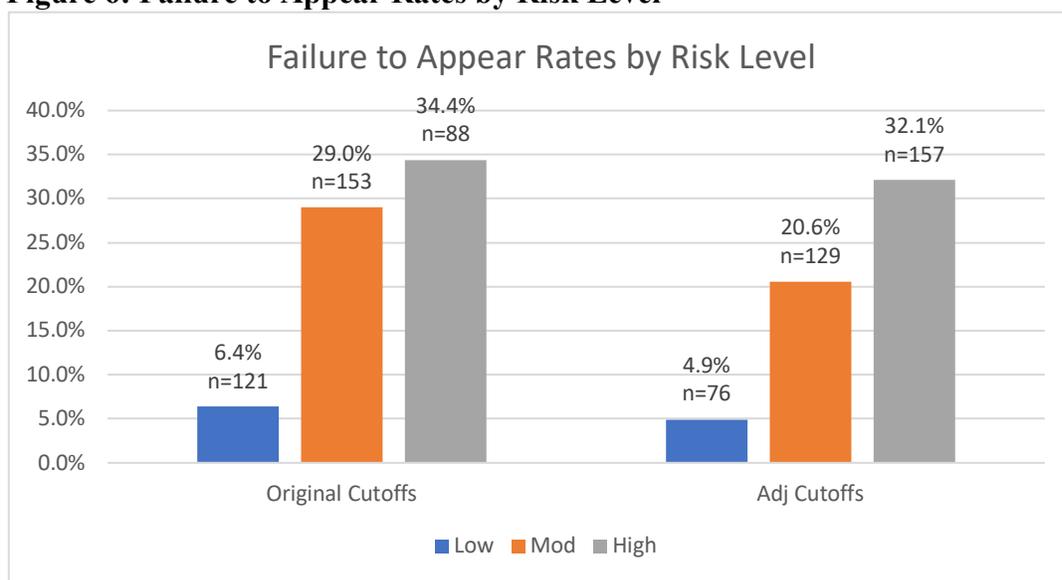


**Table 30**  
**FTA by MVPRAI Risk with adjusted cutoff scores (N = 3,589)<sup>1</sup>**

	No FTA	FTA	% FTA
Low	1473	76	4.9
Moderate	498	129	20.6
High	332	157	32.1
No VPRAI Score	732	462	38.7

Adjusted Cutoffs:  $r = .316$ ; AUC = .736; Original Cutoffs: <sup>1</sup>  $r = .316$ ; AUC = .719;

**Figure 6: Failure to Appear Rates by Risk Level**



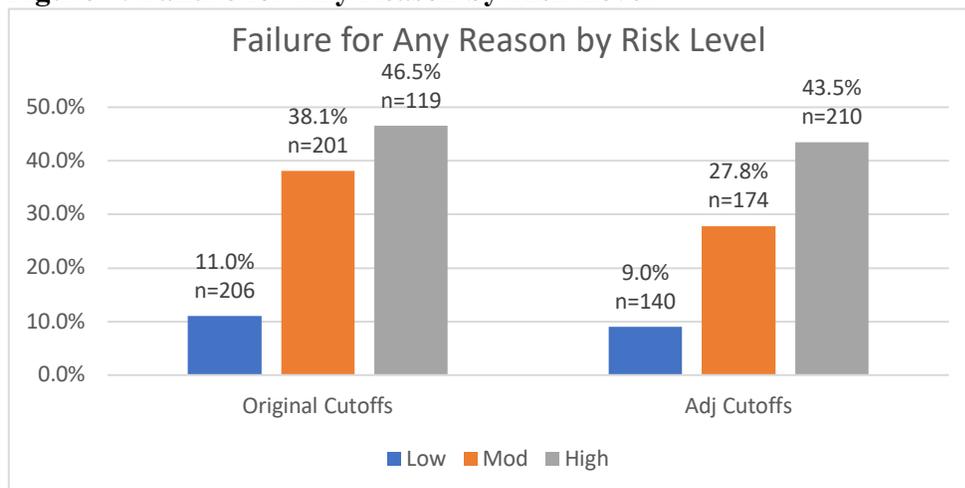
**Table 31**  
**Failure for Any Reason by MVPRAI Risk (N = 3,859) with adjusted cutoff scores**

	No Failure	Any Failure	% Failure
Low (0-2)	1409	140	9.0
Moderate (3-4)	453	174	27.8
High (5-9)	273	210	43.5
No MVPRAI Score	667	527	44.1

Adjusted Cutoffs:  $r = .341$ ; AUC = .718; Original Cutoffs:  $r = .336$ ; AUC = .701;



**Figure 7: Failure for Any Reason by Risk Level**



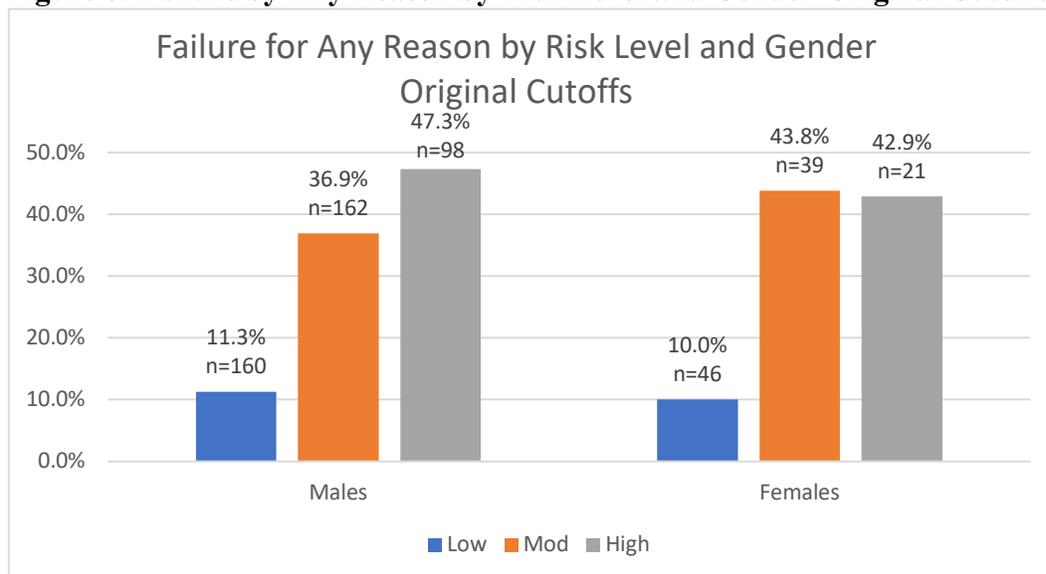
Second, and more importantly, Table 32 and Table 33 provide the results of the ROC analysis for the MVPRAI split by gender. As noted, the current cutoffs do not discern between moderate and high risk failure rates for females. Table 33 provides the analysis for men and women with the adjusted cutoffs providing a significantly better fit with the correlations (r) and improved AUC as well as better separation between failure rates for moderate and high risk categories.

**Table 32**  
**Failure for Any Reason by MVPRAI Risk by Gender with Original Cutoffs (N = 3,859)**

	Males		Females	
	N	% Failure	N	% Failure
Low (0-3)	1422	11.3	459	10.0
Moderate (4-5)	439	36.9	89	43.8
High (6-9)	207	47.3	49	42.9

Males: r = .334; AUC = .699; Females: r = .340; AUC = .703

**Figure 8: Failure by Any Reason by Risk Level and Gender-Original Cutoffs**





**Table 33**  
**Failure for Any Reason by MVPRAI Risk by Gender with Adjusted Cutoffs (N = 3,859)**

	Males		Females	
	N	% Failure	N	% Failure
Low (0-2)	1163	9.4	386	8.0
Moderate (3-4)	504	27.0	123	30.9
High (5-9)	396	43.7	87	42.5

Males:  $r = .337$ ; AUC = .714; Females:  $r = .353$ ; AUC = .728

**Figure 9: Failure for Any Reason by Risk Level and Gender-Adjusted Cutoffs**

