

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 2010-097

Adopting a Revised Capacity Management Plan for the Multnomah County Sheriff's Office Jail Facilities to be Implemented in Accordance with ORS 169.044 in the Event of a County Jail Population Emergency

The Multnomah County Board of Commissioners Finds:

- a. The Board of County Commissioners and the Sheriff are committed to operating the county's jails in a manner consistent with prevailing constitutional standards and statutory provisions regarding conditions of confinement;
- b. The adoption of the Fiscal Year 2011 budget will result in the closure of one jail housing area, reducing the Multnomah County Jail System funded capacity by 57 beds;
- c. The Board and Sheriff have an interest in reducing the amount of forced releases under the current Capacity Management Plan through the temporary occupation of a Multnomah County jail system housing area as long as funds are available to do so;
- d. The current Capacity Management Plan has been reviewed by the Sheriff, Office of County Attorney and District Attorney's Office and recommendations for a revision to the Plan to allow for the temporary occupation of a jail system housing area to avoid forced population releases has been attached to this resolution in accordance with ORS 169.142.

The Multnomah County Board of Commissioners Resolves:

1. The population limit for the Multnomah County jail system consisting of MCDC and MCIJ is set at 1310;
2. If the number of inmates housed within the Multnomah County jail system reaches 97% of the population limit, a county jail population emergency will exist;
3. The attached Capacity Management Plan (Plan) is adopted and will be implemented in accordance with ORS 169.044 in the event of a county jail population emergency;

4. The Sheriff, or his designee, in the event the Sheriff is unable to act, will implement the Plan in the event of a county jail population emergency;
5. The Board may issue additional orders or resolution to carry out the functions and authority granted to Multnomah County under ORS 169.042, 169.044 and 169.046;
6. This resolution takes effect on July 1, 2010



BOARD OF COUNTY  
COMMISSIONERS

FOR MULTNOMAH COUNTY,  
OREGON

*Diane McKeel*

Diane McKeel, Vice-Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY

FOR MULTNOMAH COUNTY, OREGON

By

*Jacqueline A. Weber*

Jacqueline A. Weber, Assistant County Attorney

SUBMITTED BY:

Daniel Staton, Multnomah County Sheriff

## **CAPACITY MANAGEMENT ACTION PLAN**

- I. This Capacity Management Action Plan (“Plan”) is adopted pursuant to ORS 169.044 to resolve a county jail population emergency. A jail population emergency exists when the total jail population exceeds 97 percent of the jail population capacity as defined by Ordinance No. XXX. In the event of a county jail population emergency, the Sheriff or his designee will implement this Plan.
  
- II. The intent of this Plan is to resolve a jail population emergency consistent with state statute and the best interests of the citizens of Multnomah County by holding in jail those that have been evaluated and found to represent the greatest threat to the safety of the community and releasing those that pose the least risk. Such evaluations will be based on objective criteria reasonably calculated to:
  - A. Resolve the jail population emergency;
  - B. Ensure public and victim safety and later appearance in court consistent with pretrial release criteria (ORS 135.245 (3)); and
  - C. Comply with prevailing constitutional and Oregon jail standards relating to conditions of incarceration.
  
- III. DEFINITIONS:
  - A. Criminal Charges: The charge or charges that resulted in the arrest and current booking of an inmate into jail.
  - B. Criminal History: Prior arrests or convictions within 10 years unless otherwise specified within this Plan, performance while on a supervised program, and history of failure to appear.
  - C. Forced Release: Temporary freedom of an inmate from lawful custody before judgment of conviction due to a county jail population emergency. (ORS 169.005)
  - D. Special Consideration: A designation placed upon an inmate based upon criminal history or behaviors listed in Section V. below that indicate the inmate poses a special risk to community safety or significant short-term conditions exist whereby it is in the community’s best interest for the inmate to be ineligible for forced release despite having a Emergency Population Release Score pursuant to Exhibit A of less than 100.
  - E. Emergency Population Release Score: A numerical score assigned to each inmate based upon their criminal charge, criminal history, housing classification, and other relevant factors as listed in Sections IV and V below.
  - F. Capacity Management Plan Review Committee: A group representing the Courts, the Defense Bar, and the Department of Community Justice, the Sheriff’s Office, County Attorney’s Office, and the District Attorney’s Office convened to make a recommendation to the Board on specific standards for determining a county jail population emergency and a specific plan for resolving the emergency. (ORS169.044)

- IV. The Capacity Management Plan Review Committee has agreed to an Emergency Population Release scoring mechanism that shall be used to create an EPR score for every person in custody of the Sheriff who is eligible for forced release pursuant to state statute and this Plan. The EPR scoring mechanism evaluates each eligible inmate using the criteria set forth below, with input from the Recognizance Officers based upon their interviews with the inmates, and automatic updates based on the inmate's classification. Attachment "B" sets forth the added factors affecting the population score based on the following criteria
  - A. Risk to self or other persons;
  - B. Propensity for violence as documented or illustrated in Criminal History;
  - C. Criminal Charge score as specified on Attachment A;
  - D. Prior failures to appear;
  - E. Parole, probation, or post-prison violations history; and
  - F. Institutional behavior or Classification.
  
- V. Persons whose current charge relates to or who have a criminal history involving any of the following will be identified for special consideration and will be the last category of inmates eligible for forced release.
  - A. A sex crime, or failure to register as a sex offender charge AND if defendant is identified as a "predatory sex offender" as defined in ORS 181.585;
  - B. Child abuse or crimes relating to children;
  - C. Risk to a known victim;
  - D. Exceptional danger to the community;
  - E. Pretrial Release Program Failure
  - F. Violation of Stalking Order;
  - G. Subject to periodic review, when specifically ordered by a Judge, or as requested in writing for compelling reasons by a Parole/Probation Supervisor, Senior Deputy District Attorney, Law Enforcement or Corrections Supervisor, or County Health Officer; or,
  - H. A history of Driving Under the Influence of Intoxicants as follows: three or more DUUI charges in the last two years, including the current charge, or two or more convictions for DUUI in the last five years.
  - I. Any Domestic Violence charge.
  
- VI. Inmates who are identified by Corrections Health as being at a substantial risk if released due to serious medical condition shall be excluded from forced release.
  
- VII. In the event of multiple charges pending against a single inmate, the most serious charge will determine the inmate's primary charge category on Attachment A.
  
- VIII. The Sheriff may institute gender specific forced releases on occasions in which gender-neutral releases will not alleviate the population emergency.

- IX. Forced releases under the provisions of this Plan will occur in the following order:
  - A. Inmates who have been arraigned, when none of the special considerations listed in Section IV are present, until a release score over 100 is reached;
  - B. Inmates who have not been arraigned, when none of the special considerations listed in Section IV are present, until a release score over 100 is reached; then,
  - C. Post or Pre-Arrest inmates regardless of whether special considerations are present, excepting those inmates with a judicial order specifying no forced release.
- X. MCSO policies will ensure compliance with ORS 169.046 regarding notice of a county jail population emergency.
- XI. The Sheriff may adopt, amend, and rescind MCSO policies and procedures as necessary to ensure compliance with the intent of this Plan.

### **POPULATION MANAGEMENT STRATEGIES**

- I. Before declaring a population emergency the Sheriff will implement strategies to manage the population and avoid forced releases. These strategies will be set in place by Special Order issued by the Sheriff and will be modified as necessary. Strategies to manage population prior to declaring a population emergency will include, but are not limited to:
  - A. Housing all appropriate inmates scheduled for transport the following day in Processing at MCIJ, removing these inmates from the facility population, and filling behind any beds created by this process.
  - B. When feasible, releasing inmates, who are scheduled to be released that day from their sentences, sometime after midnight on that day.
  - C. When MCSO has information of law enforcement activities or other circumstances from which it can be reasonably anticipated that a population emergency will occur for the coming weekend, work in cooperation with Department of Community Justice to arrange for release of local control inmates in advance of their previously scheduled release date.

## ATTACHMENT “A” – CAPACITY MANAGEMENT PLAN

CHARGE LEVEL <sup>1</sup>	PERSON <sup>2</sup>	NON PERSON
<ul style="list-style-type: none"> <li>• Restrain Order Vio</li> <li>• DV Charges – “A” Misd and above</li> <li>• DV Att Assault 4</li> <li>• DV Att Strangulation</li> <li>• DV Att Sex Abuse 3</li> </ul>	<b>170</b>	
<b>Measure 11</b>	<b>150</b>	<b>150</b>
<b>Class A Felony</b>	<b>135</b>	<b>100</b>
Exceptions	100 <ul style="list-style-type: none"> <li>• Burglary I</li> </ul>	35 <ul style="list-style-type: none"> <li>• All MCS I and DCS I charges, excluding DCS to a Minor or Using a Minor in a Drug Offense.</li> </ul>
<b>Class B Felony</b>	<b>80</b>	<b>35</b>
Exceptions	135 <ul style="list-style-type: none"> <li>• Escape I</li> </ul>	50 <ul style="list-style-type: none"> <li>• MCS II, Possession of Precursor</li> </ul> 20 <ul style="list-style-type: none"> <li>• PCS I</li> </ul>
<b>Class C Felony</b>	<b>50</b>	<b>20</b>
Exceptions	80 <ul style="list-style-type: none"> <li>• Attempt Escape I</li> <li>• Negligent Homicide</li> <li>• Stalking</li> <li>• Violation of a Court Protective Order</li> <li>• Unlawful Use of a Weapon</li> <li>• Felony DUII</li> </ul>	35 <ul style="list-style-type: none"> <li>• Identity Theft</li> <li>• Forgery</li> <li>• UUMV</li> </ul> 50 <ul style="list-style-type: none"> <li>• Tampering with a Witness</li> <li>• Riot</li> <li>• Attempted Theft by Extortion</li> <li>• FTA I</li> </ul>
<b>Class A Misdemeanor</b>	<b>25</b>	<b>14</b>
Exceptions	50 <ul style="list-style-type: none"> <li>• DUII</li> <li>• Strangulation</li> </ul> 80 <ul style="list-style-type: none"> <li>• Stalking</li> <li>• Violation of a Court Protective Order</li> </ul>	35 <ul style="list-style-type: none"> <li>• Mail Theft</li> </ul>
<b>Class B Misdemeanor</b>	<b>14</b>	<b>7</b>
<b>Class C Misdemeanor</b>	<b>NA</b>	<b>7</b>
<b>Unclassified Misd/Ord</b>	<b>7</b>	<b>7</b>
<b>Violation</b>	<b>NA</b>	<b>7</b>

<sup>1</sup> The charge of Conspiring to Commit a crime is scored the same as the charge itself (i.e., “Conspiring to Commit Burglary 1” is the same score as “Burglary 1”.)

<sup>2</sup> Person crimes are those defined by the Oregon Criminal Justice Commission, all child abuse and crimes relating to children, including delivering controlled substances to a child, using a child in a drug offense, all sex abuse, firearms related crimes, escape and any conspiring to commit those crimes are defined here as person crimes.

## ATTACHMENT “B” – CAPACITY MANAGEMENT PLAN

### EPR SCORING MECHANICS – POTENTIAL CUMULATIVE ELEMENTS

Scoring Element	Value
Current Primary Charge Score	Attachment A
Other Current Charge(s) in Addition to Primary Charge	
<ul style="list-style-type: none"> <li>• Person Misdemeanor</li> </ul>	2
<ul style="list-style-type: none"> <li>• Non-Person Misdemeanor</li> </ul>	1
<ul style="list-style-type: none"> <li>• Person Felony</li> </ul>	5
<ul style="list-style-type: none"> <li>• Non-Person Felony</li> </ul>	3
Charge “Modifiers”	
<ul style="list-style-type: none"> <li>• Current Charge is an FTA</li> </ul>	2
<ul style="list-style-type: none"> <li>• Current Charge is a “Revoked Recog”</li> </ul>	2
Arrest / Conviction & Supervision History (within 10 years)	
<ul style="list-style-type: none"> <li>• Person Misdemeanor Arrest</li> </ul>	2
<ul style="list-style-type: none"> <li>• Person Misdemeanor Conviction</li> </ul>	5
<ul style="list-style-type: none"> <li>• Person Felony Arrest</li> </ul>	4
<ul style="list-style-type: none"> <li>• Person Felony Conviction</li> </ul>	10
<ul style="list-style-type: none"> <li>• Probation Violations</li> </ul>	3
<ul style="list-style-type: none"> <li>• Parole Violations</li> </ul>	5
Classification	
<ul style="list-style-type: none"> <li>• Administrative Segregation</li> </ul>	20
<ul style="list-style-type: none"> <li>• Transitional Housing</li> </ul>	10
<ul style="list-style-type: none"> <li>• General Housing</li> </ul>	0
<ul style="list-style-type: none"> <li>• Acute Medical/Mental Health</li> </ul>	20
<ul style="list-style-type: none"> <li>• (AS/AI) Assault on Staff or Inmate within 5 years</li> </ul>	50
<ul style="list-style-type: none"> <li>• (E1) Escape or attempt escape from secure custody (within 10 years)</li> </ul>	50
<ul style="list-style-type: none"> <li>• Currently on Disciplinary Lockdown in Jail</li> </ul>	50