

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 2018-112

Adopting a Population Emergency Release Plan for the Multnomah County Sheriff's Office Jail Facilities to be Implemented in Accordance with ORS § 169.044 (2) 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 2017 budget resulted in the closure of one jail housing area, reducing the Multnomah County Jail System funded capacity by 59 beds;
- c. Based on the recommendations of the Sheriff, the Office of County Attorney, the Multnomah County District Attorney, and other public safety system partners it is desirable to amend the "forced release" criteria and scoring mechanisms used in resolving jail population emergencies in order to further public safety and ensure to the extent practicable that individuals subject to "forced release" appear at subsequent court proceedings as required.

The Multnomah County Board of Commissioners Resolves:

1. The population limit for the Multnomah County jail system consisting of the Multnomah County Detention center and the Multnomah County Inverness Jail is set at 1192;
2. If the number of inmates housed within the Multnomah County jail system reaches 95% of the population limit, a county jail population emergency will exist;
3. The attached Population Emergency Release Plan (Plan) is adopted and will be implemented by the Sheriff or the Sheriff's designee in accordance with ORS §§ 169.044-046 in the event of a county jail population emergency;
4. If the number of inmates housed within the Multnomah County jail system exceeds 90% of the population limit, and the Sheriff believes that the inmate population will remain at or above that threshold for more than a 24 hour period, the Sheriff's Office may provide an early warning to the entities set forth in ORS §§ 169.046 (1) that the system is approaching a population emergency;
5. The Board may issue additional orders or resolutions to carry out the functions and authority granted to Multnomah County under ORS §§ 169.042-046.
6. This resolution take effect on November 15, 2018.

ADOPTED this 15 day of November 2018.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury

Deborah Kafoury, Chair

REVIEWED:
JENNY MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Carlos Calandriello*
Carlos J. Calandriello, Assistant County Attorney

SUBMITTED BY: Michael Reese, Multnomah County Sheriff

POPULATION EMERGENCY RELEASE PLAN

1. This Population Emergency Release (“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 ninety-five percent (95%) of the jail population capacity as established in Resolution No. 2018-112. In the event of a County jail population emergency, the Multnomah County Sheriff’s Office (MCSO) will implement this Plan.
2. The intent of this Plan is to resolve a jail population emergency consistent with state law and the best interests of the citizens of Multnomah County, by holding in jail those deemed 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 policy considerations relating to public safety, and objective criteria reasonably calculated to:
 - A. Resolve the jail population emergency;
 - B. Ensure public and victim safety, as well as the inmate’s later appearance in court consistent with pretrial release criteria under ORS § 135.245 (3); and
 - C. Comply with prevailing constitutional and Oregon Jail Standards, relating to conditions of incarceration.
3. Definitions:
 - A. Criminal Charge(s): Charge(s) that resulted in the arrest and current booking of an inmate into jail.
 - B. Criminal History: Prior arrests or convictions within ten (10) years of the current booking, unless otherwise specified within this Plan; performance while on supervised program, and history of making court appearances.
 - C. Forced Release: Temporary freedom of an inmate from lawful custody before judgment of conviction due to a County jail population emergency under ORS § 169.005(2).
 - D. Special Consideration: A designation placed upon an inmate based upon criminal history or behaviors listed in Section Six (6) below, which 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 an Emergency Population Release Score of less than 100 calculated, as set forth in Exhibit A.
 - 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 Four (4) and Six (6) of this Plan.
 - F. Population Emergency Release Plan Review Committee: A group representing the Courts, Defense Bar, Department of Community Justice, Sheriff’s Office, County Attorney’s Office, and the District Attorney’s Office, convened to make a recommendation to the Board of County Commissioners, of specific standards for determining a County jail population emergency and a specific plan for resolving the emergency. (ORS § 169.044).
 - G. Ballot Measure 11 Crimes: Those crimes listed in ORS § 137.700 and committed after April 1, 1995.
 - H. Domestic Violence Crimes: Crimes involving the “Abuse” of “Family or household Members” as those terms are defined in ORS § 135.230, including attempts to commit those crimes.
4. The Population Emergency Release Plan Review Committee has agreed to an Emergency Population Release scoring mechanism that shall be used to create an Emergency Population Release score for every person in the

custody of MCSO, who is eligible for forced release pursuant to state law and this Plan. The Emergency Population Release 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" illustrates the added factors affecting the population score based on the following criteria:

- A. Risk to self or other persons;
 - B. Propensity for violence as in the subject's criminal history;
 - C. Criminal Charge score as specified on Attachment A;
 - D. Prior failures to follow court orders [or failures to appear for court dates];
 - E. Parole, probation, or post-prison revocation history; and
5. Persons whose current charge(s) includes any Ballot Measure 11 Crimes or "Domestic Violence Crimes" are not eligible for forced release.
 6. 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 latest category of inmates eligible for forced release.
 - A. A sex crime or failure to register as a sex offender charge AND if the defendant is identified as a "Level Three Sex Offender under ORS § 163A.100;"
 - 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. A history of Driving Under the Influence of Intoxicants (DUI) of three (3) or more DUI charges (including the current charge) in the last two (2) years, including the current charge or two (2) or more convictions for DUI in the last five (5) years.
 - H. The individual has a conviction for Unauthorized Use of a Motor Vehicle under ORS § 164.135 (UUMV) or Possession of a Stolen Vehicle under ORS § 819.300 (PSV) in the last five years; the individual has two prior UUMV/PSV convictions in their lifetime; or the individual is currently charged with three or more UUMV or PSVs.
 7. Inmates who are identified by Corrections Health, as being at a substantial risk of harm if released as a result of their medical needs.
 8. In the event multiple charges are pending against a single inmate, the most serious charge will determine the inmate's eligibility and primary charge category on Attachment A.

9. MCSO may release one gender on forced release, if releasing the other gender would only make available beds that would not be filled because there are no gender appropriate inmates waiting to be housed or no gender appropriate inmates classified for housing the available bed(s).
10. 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 6 are present, until a release score over 100 is reached;
 - B. Inmates who have not been arraigned, when none of the special considerations listed are present.
11. MCSO policies will ensure compliance with ORS § 169.046, regarding notice of a jail population emergency.
12. MCSO may require inmates to execute a "Forced Release Agreement" as set forth in ORS § 169.046(4). If a Forced Release Agreement is used it must contain the following the information:
 - (a) The date of the inmate's next court appearance;
 - (b) A statement that the inmate is required to appear at the next court appearance; and
 - (c) A statement that failure of the inmate to appear at the next court appearance is subject to prosecution under ORS § 162.195 (Failure to Appear in the Second Degree) or ORS § 162.205 (Failure to Appear in the First Degree);
 - (d) The inmate's signature.
13. The Sheriff may adopt, amend, and/or rescind MCSO policies and procedures as necessary to implement this Plan.

POPULATION MITIGATION STRATEGIES

Before declaration of a population emergency, MCSO may implement appropriate strategies to mitigate the population emergency. These strategies will be set in place by Special Order, and will be modified as necessary. Strategies to mitigate the inmate population level prior to declaring a population emergency may include, but are not limited to:

- A. Housing all appropriate inmates scheduled for transport the following day in processing at Multnomah County Inverness Jail, removing these inmates from the facility population, and filling behind any beds created by the process.
- B. When a weekend population emergency can be reasonably anticipated for the coming weekend, work in cooperation with the Department of Community Justice, to arrange for release of local control inmates in advance of their previously scheduled release dates.
- C. Temporarily changing allowable booking criteria to limit bookable offenses to felonies, mandatory arrest crimes, and DUI charges.
- D. As a last resort, and once all other population mitigation strategies have been employed, temporarily closing the booking facility at the Multnomah County Detention Center, and only allowing individuals to be booked on a case by case basis until the population emergency is resolved. If the booking facility is closed, MCSO will provide arresting agencies within the County with at least 1 hour prior notice that the booking facility will be temporarily closed.

ATTACHMENT A – POPULATION EMERGENCY RELEASE PLAN

CHARGE LEVEL ⁱ	PERSON ⁱⁱ	NON PERSON
• Restrain Order Vio	170	
Measure 11	Not Eligible for Release	Not Eligible For Release
Class A Felony (Non – Measure 11)	135	100
Exceptions	100 <ul style="list-style-type: none"> • Burglary 1 	35 <ul style="list-style-type: none"> • All MCS I and DCS I charges, excluding DCS to a Minor or Using a Minor in a Drug Offense.
Class B Felony	80	35
Exceptions	135 <ul style="list-style-type: none"> • Escape 1 	50 <ul style="list-style-type: none"> • MCS II, Possession of Precursor 20 <ul style="list-style-type: none"> • PCS I
Class C Felony	50	20
Exceptions	80 <ul style="list-style-type: none"> • Attempt Escape 1 • Negligent Homicide • Stalking • Violation of a Court Protective Order • Unlawful Use of a Weapon • Felony DUII 	35 <ul style="list-style-type: none"> • Identity Theft • Forgery • UUMV 50 <ul style="list-style-type: none"> • Tampering with a Witness • Riot • Attempted Theft by Extortion • FTA 1
Class A Misdemeanor	25	14
Exceptions	50 <ul style="list-style-type: none"> • DUII • Strangulation 80 <ul style="list-style-type: none"> • Stalking • Violation of a Court Protective Order 	35 <ul style="list-style-type: none"> • Mail Theft
Class B Misdemeanor	14	7
Class C Misdemeanor	N/A	7
Unclassified Misd/Ord	7	7
Violation	N/A	7

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

ⁱⁱ Person crimes are those defined by the Oregon Criminal Justice Commission, all child abuse and crimes relating to children, including delivering a 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 – POPULATION EMERGENCY RELEASE 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	
• Person Misdemeanor	2
• Non-Person Misdemeanor	1
• Person Felony	5
• Non-Person Felony	3
Charge “Modifiers”	
• Current Charge is an FTA	2
• Current Charge is a “Revoked Recog”	2
Arrest /Conviction & Supervision History (within 10 years)	
• Person Misdemeanor Arrest	2
• Person Misdemeanor Conviction	5
• Person Felony Arrest	4
• Person Felony Conviction	10
• Probation Violations	3
• Parole Violations	5
Classification	
• (AS/AI) Assault on Staff or Inmate within 5 years	10
• (E1) Escape or attempt to escape from secure custody (within 10 years)	10