

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 2016-114

Adopting a Revised Capacity Management 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 has resulted in the closure of one jail housing area, reducing the Multnomah County Jail System funded capacity by 59 beds;
- c. As a result of the reduction in funded capacity, and based on the recommendations of the Sheriff, the Office of County Attorney, and the Multnomah County District Attorney it is desirable to establish a new jail population limit and standards for declaring a jail population emergency, and a plan for resolving such population emergencies.

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 1251;
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 Capacity Management Plan (Plan) is adopted and will be implemented in accordance with ORS §§ 169.044-046 in the event of a county jail population emergency by the Sheriff or the Sheriff's designee.
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 takes effect on November 10, 2016.

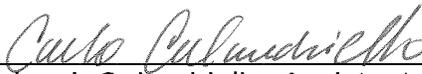
ADOPTED this 10th day of November 2016.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury, Chair

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

By 
Carlos J. Calandriello, Assistant County Attorney

SUBMITTED BY: Michael Reese, Multnomah County Sheriff.

CAPACITY MANAGEMENT PLAN

1. 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 95 percent of the jail population capacity as established in Resolution No. _____. In the event of a county jail population emergency, the Sheriff or Sheriff's designee 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 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, 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 incarcerations.
3. DEFINITIONS:
 - A. Criminal Charges: The charge(s) that resulted in the arrest and current booking of an inmate into jail.
 - B. Criminal History: Prior arrests or convictions within 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: the 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 5 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 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 4 and 5 of this plan.

- 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 of County Commissioners of specific standards for determining a county jail population emergency and a specific plan for resolving the emergency. (ORS § 169.044).
4. 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 law 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" illustrates the added factors affecting the population score based on the follow 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
 - F. Institutional behavior or Classification
5. 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;"
 - 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 requested by a Judge, Parole/Probation Officer, Assistant District Attorney, Law Enforcement/Corrections or County Health Department; or

- H. A history of Driving Under the Influence of Intoxicants of three or more DUII charges (including the current charge) in the last two years, including the current charge or two or more convictions for DUII in the last five years.
- 6. Inmates who are identified by Corrections Health as being at a substantial risk of harm if released as a result of their medical needs.
- 7. In the event multiple charges are pending against a single inmate, the most serious charge will determine the inmate's primary charge category on Attachment A.
- 8. The Sheriff 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).
- 9. 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.
- 10. MCSO policies will ensure compliance with ORS § 169.046 regarding notice of a jail populations emergency.
- 11. The Sheriff may adopt, amend, and/or rescind MCSO policies and procedures as necessary to implement this Plan.

POPULATION MITIGATION STRATEGIES

Before declaration a population emergency the Sheriff may implement appropriate strategies to mitigation the population. These strategies will be set in place by Special Order issues by the Sheriff 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 MCIJ, removing these inmates from the facility population, and filling behind any beds created by the process.
- B. Releasing inmates who are scheduled to be released that day from their sentences, sometime after midnight on that day.
- C. 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 date.

ATTACHMENT "A" – CAPACITY MANAGEMENT PLAN

CHARGE LEVEL¹	PERSON²	NON PERSON
<ul style="list-style-type: none"> • Restrain Order Vio • DV Charges – "A" Misd and above • DV Att Assault 4 • DV Att Strangulation • DV Att Sex Abuse 3 	170	
Measure 11	150	150
Class A Felony	135	100
Exceptions	100 • Burglary I	35 • 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 • Escape I	50 • MCS II, Possession of Precursor 20 • PCS I
Class C Felony	50	20
Exceptions	80 • Attempt Escape I • Negligent Homicide • Stalking • Violation of a Court Protective Order • Unlawful Use of a Weapon • Felony DUII	35 • Identity Theft • Forgery • UUMV 50 • Tampering with a Witness • Riot • Attempted Theft by Extortion • FTA I
Class A Misdemeanor	25	14
Exceptions	50 • DUII • Strangulation 80 • Stalking • Violation of a Court Protective Order	35 • Mail Theft
Class B Misdemeanor	14	7
Class C Misdemeanor	NA	7
Unclassified Misd/Ord	7	7
Violation	NA	7

¹ 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".)

² 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	
• 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	
• Administrative Segregation	20
• Transitional Housing	10
• General Housing	0
• Acute Medical/Mental Health	20
• (AS/AI) Assault on Staff or Inmate within 5 years	50
• (E1) Escape or attempt escape from secure custody (within 10 years)	50
• Currently on Disciplinary Lockdown in Jail	50