

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

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4TH JUDICIAL DIST.

In the Matter of Pretrial Release Prior to Arraignment Or First Appearance ) Presiding Judge Order No. 2201-00002  
) ORDER REGARDING PRETRIAL RELEASE  
) PRIOR TO ARRAIGNMENT OR FIRST APPEARANCE  
) IN MULTNOMAH COUNTY

WHEREAS, the 2021 Legislative assembly enacted Oregon Laws 2021, Chapter 643, initially introduced as Senate Bill 48 (2021) by the Oregon Criminal Justice Commission, to reduce the reliance on security release and provide statewide guidance for local pretrial release orders; and

WHEREAS, Section 2 of Oregon Laws 2021, Chapter 643, now codified as ORS 135.233, requires the Presiding Judge of a judicial district to enter a standing pretrial release order, specifying to the sheriff of the county, or to the entity supervising the local correctional facility responsible for pretrial incarceration within the judicial district, the persons and offenses:

1. Subject to release on recognizance;
2. Subject to release with special conditions of release; and
3. Not eligible for release until first appearance or arraignment.

And WHEREAS, the Chief Justice issued Chief Justice Order 22-010 Order Establishing Release Guidelines Governing Presiding Judge Standing Pretrial Release Orders as required under ORS 135.233(2),

**IT IS HEREBY ORDERED,**

That, beginning at 12:01 a.m. on July 1, 2022, this Presiding Judge Order be implemented to govern procedures for release of adults in custody prior to arraignment.<sup>1</sup>

**SECTION A: GENERAL CONSIDERATIONS**

1. This order supersedes the PJO "In the Matter of Delegating Release Authority for Pretrial Release Officers," and the PJO "In the Matter of the Adoption of a Security Release Schedule," and those orders are hereby rescinded. The Court will no longer utilize a bail schedule to apply immediately upon a person's arrest. This order will be used in conjunction with PJO 2201-00003, "Order re Preventative Detention Hearing Procedures in Violent Felonies."<sup>2</sup> If a person remains in custody at arraignment on a charge that is not a violent felony, or if the parties stipulate to setting security on a violent felony, the court may consider security release if the court concludes that recognizance release and conditional release are unwarranted.

<sup>1</sup> The terms of this order were developed by a workgroup of system stakeholders meeting over the course of several weeks in May and June 2022.

<sup>2</sup> PJO 2101-30000 Order Re Preventative Detention Hearing Procedures and Security Release in Violent Felonies was amended to comply with ORS 135.233 and CJO 22-010.



2. The DCJ Pretrial Release Program is the designated entity to supervise the process outlined in this order, including imposing release conditions for any offense in Release Guideline 2.<sup>3</sup> The order establishes a two-step process to determine pre-arraignment release:

**STEP I:**

Identify each offense charged, whether it falls under Release Guideline 1, 2 or 3, and for Release Guideline 2, whether any special conditions of release apply. If more than one offense is charged and different special conditions apply to each offense, all such special conditions will be included in the Release Agreement. The Pretrial Release Program may refer to the State Court Administrator's Release Guidelines Categorization List publicly available on the Oregon Judicial Department website to assist in determining the applicable Release Guideline for an offense. [Release guidelines categorization list \(oregon.gov\)](https://www.ojd.state.or.us/ReleaseGuidelines/CategorizationList.aspx)

**STEP II:**

For each offense charged, determine if the defendant meets the criteria for any of the overriding circumstances listed under Release Guideline 4, then determine how the overriding circumstance affects the release decision or release conditions.

If there are two or more overriding circumstances that apply to move the offense from its presumptive Release Guideline into a different Release Guideline, the circumstance that places the offense into the highest Release Guideline shall be the determinative circumstance.

If the Pretrial Release Program officer determines that a defendant shall be held for a first appearance on one offense out of multiple offenses charged, the officer may proceed without considering Steps I and II for each additional offense charged.

3. If a defendant has been held pending first appearance due to overriding circumstances applied in Step II, the DCJ Pretrial Release Program shall provide in writing the information concerning the circumstances before or at the time of arraignment.
4. In executing this order, the following terms and definitions apply.
  - a. Person misdemeanor means any offense listed in OAR 213-003-0001(15). Non-person misdemeanor means any misdemeanor offense not included in that list.
  - b. Person felony means any offense listed in OAR 213-003-0001(14). Non-person felony means any felony offense not included in that list.
  - c. Domestic violence means abuse between family or household members. The term "family or household members" has the same definition as that in ORS 135.230(4) (spouses, former spouses, adult persons related by blood or marriage, persons cohabiting with each other, persons who have cohabited with each other or who have been involved in a sexually intimate relationship, unmarried parents of a minor child.)

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<sup>3</sup> The Multnomah County Department of Community Justice currently operates the Pretrial Release Program that will apply the criteria and overriding circumstances contained in this order. OJD Release Assistance Officers will be governed by separate provisions.

- d. Ordinance means a provision enacted into law by a city or county governmental body. Any ordinance that carries a penalty of incarceration is classified as a non-person misdemeanor unless specified otherwise.
  - e. Risk assessment tool means a validated risk assessment tool reviewed by members of the Local Public Safety Coordinating Council and approved by the Presiding Judge. The tool shall be validated at least every five years or following significant changes to the population or to laws and polices related to arrest/citation, detention, or sentencing.
  - f. The term “known” in relation to named victims, co-defendants or locations refers to whether the information is available from a charging instrument, a probable cause document, or informational report regarding an arrest that is provided to the DCJ Pretrial Release Program.
  - g. Protective orders as mentioned in Release Guideline 4 include the following:
    - 1) FAPA: Family Abuse Prevention Act Restraining Order pursuant to ORS 107.700 to 107.735;
    - 2) EPPDAPA: Elderly Persons and Persons with Disabilities Abuse Prevention Act Restraining Order, ORS 124.005 to 124.040;
    - 3) EPO: Emergency Protective Order under ORS 133.035;
    - 4) Order prohibiting contact with victim of sex crime or domestic violence pursuant to ORS 135.247;
    - 5) SPO: Stalking Protective Order under ORS 163.730 to 163.755; or ORS 30.866;
    - 6) SAPO: Sexual Abuse Protective Order under ORS 163.760 to 163.777;
    - 7) ERPO: Extreme Risk Protection Order under ORS 166.525 to 166.543; or
    - 8) Juvenile Court Restraining Order under ORS 419B.845; or
    - 9) Any other no contact order issued by the court.
  - h. Pending offense means any charge in any court not yet adjudicated whether there is a future court date or not. Cases in which the defendant is enrolled in a diversion program that requires a plea of guilty or no contest for entry is considered pending if the defendant has not yet been sentenced. Pending cases do not include other types of cases awaiting sentencing if there has already been a plea or trial.
  - i. Supervision means pretrial release supervision (not to include release on recognizance or release on conditions that do not require supervision), probation, parole or post-prison supervision.
  - j. Specialty Courts are DISP (DUII Intensive Supervision Program), Mental Health Court, START Court, STEP Court, and Veterans Court.
5. Risk assessment tools and interviews:
- a. Pending adoption of another risk assessment tool or other processes, the DCJ Pretrial Release Program shall administer the Modified Virginia Pretrial Risk Assessment Instrument (VPRAI) on the following offenses:
    - In Release Guideline 1, non-person felonies.
    - In Release Guideline 2, all offenses except for misdemeanor DUII.
    - In Release Guideline 3, all offenses except for those that, after applying overriding circumstances, move to Release Guideline 2 with the sole special condition being the one that applies to all Release Guideline 2 offenses (See Section C(3)(a) and (b).

- b. Pending adoption of an order or personnel plan regarding OJD Release Assistance Officers, or adoption of another risk assessment tool, the DCJ Pretrial Release Program shall conduct the interviews of defendants as were being conducted prior to enactment of this order.
6. A condition requiring a defendant to report to PRS under this order is a court order to comply with all reporting conditions set by the Pretrial Services Program or Close Street Supervision.
7. People arrested on warrants issued for probation violation, failure to comply with Pretrial Services or Close Street Supervision, administrative sanctions, post-prison supervision sanctions, and warrants issued out of specialty courts other than bench warrants for failure to appear should be released, held, or released on security only as provided by the terms of the warrant. People arrested on a bench warrant issued for failure to appear at a court hearing may be treated as if arrested on a new pending charge.
8. Description and role of Attachments:
  - a. Attachment A to this order is the Step I chart of offenses and their presumptive associated Release Guidelines.
  - b. Attachment B to this order is the Step II chart of Release Guideline 4, the overriding circumstances particular to Multnomah County and how the overriding circumstance affects the Release Guideline and release conditions.
  - c. Attachment C to this order is the list of conditions that apply to all offenses in Release Guideline 2, whether placed there pursuant to Step I or Step II.
  - d. Attachment D to this order is a chart of conditions and Release Guidelines particular to Delivery of Controlled Substance offenses.

The attachments are incorporated by reference into this order; however, to the extent any item in an attachment conflicts with the text of the order, the text of the order controls. If any part of this order or an attachment conflict with the State Court Administrator's Release Guidelines Categorization List [[Release guidelines categorization list \(oregon.gov\)](https://www.oregon.gov/courts/courts-administration/Release-guidelines-categorization-list)], that list controls, unless an amendment to this order specifies that it applies notwithstanding a conflict between this order and that list.

9. Nothing in this order should be construed to interfere with Multnomah County's authority to adopt a jail capacity limit and action plan under ORS 169.044, or with the Sheriff's ability to carry out the steps of any such plan to relieve jail population emergencies.
10. Nothing in this order should be construed to interfere with the authority of Multnomah County Corrections Health to provide support resources prior to release for anyone evaluated by Corrections Health and determined to be at imminent risk of self-harm or requiring further behavior health evaluation due to a risk to self or others.

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## SECTION B: APPLICATION OF STEP I - CHARGES & PRESUMPTIVE RELEASE GUIDELINES

### RELEASE GUIDELINE 1

1. Subject to any overriding circumstances in Step II of this order, the DCJ Pretrial Release Program shall release all individuals charged with the following offenses:
  - a. Any non-person misdemeanor, except those offenses listed in Release Guideline 2 or 3, below;
  - b. Any non-person Class C felony, except those offenses listed in Release Guideline s 2 or 3, below;
  - c. Any Driving While Suspended offense defined in ORS 811.182, felony or misdemeanor, except for Aggravated Driving While Suspended as defined in ORS 163.196; and
  - d. Any other offense that is not included in Release Guideline 2 or 3, including:
    - Contempt for failure to pay child support, contempt for failing to appear at a Judgment Debtor Exam, or other contempt under ORS 33.015 to 33.155, but not including contempt for failure to obey a no-contact order.
2. Upon releasing a person subject to Release Guideline 1, the DCJ Pretrial Release Program shall, pursuant to ORS 135.255, cause to be executed a release order and agreement that complies with ORS 135.250.

### RELEASE GUIDELINE 2

1. The offenses listed below are in Release Guideline 2. The DCJ Pretrial Release Program shall release all persons in Release Guideline 2 on the following condition:
  - The defendant must keep in contact with their attorney once one is appointed or retained, including notifying the attorney's office of any updates to defendant's mailing or residential address or phone number.In addition, subject to overriding circumstances in Step II (Release Guideline 4) of this order, the Pretrial Release Program shall impose the following conditions on all defendants charged with the following offenses as specified below:
  - a. Any non-domestic violence person misdemeanor, as defined in OAR 213-003-0001(15), including any specific offenses listed below in this section that carry additional conditions:
    - If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no contact with any named victim.
  - b. Any Driving Under the Influence of Intoxicants (DUI) offense (ORS 813.010, ORS 813.011):
    - The Pretrial Release Program shall impose conditions including no driving without a valid driver's license or insurance and no use of intoxicants in connection with the operation of a motor vehicle.<sup>4</sup>

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<sup>4</sup>The State may move for High Risk DUI conditions at the time of arraignment in appropriate cases.

- c. Any non-domestic violence Class B felony and any non-domestic violence person Class C felony as defined in OAR 213-003-0001(14), including any specific offenses listed below in this section that carry additional conditions:
    - If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no contact with any named victim.
    - If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no entry into the particular location of the offense.
  - d. Of the group of people who undergo a VPRAI assessment, any person who scores 4-5:
    - The Pretrial Release Program will order the defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.
  - e. For any Release Guideline 2 offense in which there is a known co-defendant, the Pretrial Release Program will order the defendant to not communicate with any co-defendant about the facts of the case.
  - f. For the following offenses, the Pretrial Release Program, in addition to imposing any conditions based on other circumstances listed in this section, will order the defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day:
    - 1) Criminal Mistreatment under ORS 163.205 if not classified as a domestic violence case as defined by ORS 135.230;
    - 2) Arson in the Second Degree under ORS 164.315 and Arson Incident to the Manufacture of a Controlled Substance in the Second Degree under ORS 164.338;
      - In addition to any offense-specific conditions above, the Pretrial Release Program shall also order defendant to possess no accelerants.
    - 3) Any Harassment under ORS 166.065(4) not placed in Release Guideline 3 due to overriding circumstances;
    - 4) Bias Crime in the First Degree under ORS 166.165 and Bias Crime in the Second Degree under ORS 166.155, unless placed in Release Guideline 3 due to overriding circumstances;
      - For Bias Crime in the Second Degree under ORS 166.155(1)(a), if known to the Pretrial Release Program, the officer shall order no entry into location where tampering or interfering with property occurred.
    - 5) Delivery or Manufacture of a controlled substance of whatever kind that involves a “super substantial quantity” under ORS 475.925(2), or a Delivery or Manufacture that is a “commercial drug offense” under ORS 475.900.
2. Upon releasing a person subject to Release Guideline 2, the Pretrial Release Program shall, pursuant to ORS 135.255, cause to be executed a release order and agreement that complies with ORS 135.250 in addition to imposing any special conditions of release as required by this order.

### **RELEASE GUIDELINE 3**

1. Subject to any overriding circumstances in Step II of this order, the DCJ Pretrial Release Program shall hold for arraignment or first appearance all individuals charged with the following offenses:
  - a. Any violent felony, as defined in ORS 135.240;<sup>5</sup>
  - b. Any offense in ORS 137.700;
  - c. Any Class A felony;
  - d. Any sex crime, as defined in ORS 163A.005(5), including any Luring a Minor as defined in ORS 167.057, Invasion of Personal Privacy in the First Degree as defined in ORS 163.701, and Purchasing Sex with a Minor as defined in ORS 163.413, and any attempts to commit those offenses, notwithstanding that those offenses have not been designated as a sex crime in any judgment;
  - e. Any domestic violence felony or misdemeanor, as defined in ORS 135.230;
  - f. Any felony stalking as defined in in ORS 163.732, any violation of a stalking protective order as defined in ORS 163.750, and any felony strangulation as described in ORS 163.187;
  - g. Possession of a firearm or dangerous weapon in a public building or court facility, as defined in ORS 166.370; and unlawful possession of machine guns, certain short-barreled firearms, and firearm silencers, as defined in ORS 166.272;
  - h. Failure to appear, as defined in ORS 162.195 and ORS 162.205;
  - i. Felon in possession of a firearm, as defined in ORS 166.270;
  - j. Fleeing or Attempting to Elude, as defined in ORS 811.540;
  - k. Resisting arrest, as defined in ORS 162.315;
  - l. Giving false information to a peace officer, as defined in ORS 807.620 and ORS 162.385;
  - m. Escape in any degree, as defined in ORS 162.145, ORS 162.155, and ORS 162.165; and unauthorized departure as defined in ORS 162.175;
  - n. Fugitive from justice, as defined in ORS 133.747; and
  - o. Tampering with a Witness as defined in ORS 162.285.

### **SECTION C: APPLICATION OF STEP II - OVERRIDING CIRCUMSTANCES (Release Guideline 4)**

The following non-discretionary overriding circumstances, if present, will require a DCJ Pretrial Release Program officer to move a person, as specified below:

1. From Release Guideline 1 to Release Guideline 2 or 3;
2. From Release Guideline 2 to Release Guideline 3; or
3. From Release Guideline 3 to Release Guideline 2.
4. As specified in Section (C)(4) below, certain person-specific overriding circumstances will require placement into Release Guideline 3 no matter the presumptive release guideline.
5. As specified in Section (C)(5) below, some circumstances will have no effect on the presumptive release guideline placement for the person.

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<sup>5</sup> Violent felonies as defined in ORS 135.240 are listed in PJO 2201-00003 (Order Re: Preventative Detention Hearing Procedures in Violent Felonies). If the crime is not listed in that order, and if there is no signed court order declaring a charge to be a violent felony, the offense will be assigned as otherwise designated in this order.

The conditions of release are included for people subject to Release Guideline 2.

1. **Overriding circumstances for offenses in Release Guideline 1:** The following circumstances will move an offense from Release Guideline 1 to Release Guideline 2 or Release Guideline 3 as specified below.
  - a. The crimes of Theft under ORS 164.013 to 164.125, Criminal Trespass under ORS 164.243 to ORS 164.255, and Criminal Mischief under ORS 164.345 to 164.365, whether a felony or misdemeanor, will move to Release Guideline 2 if there is a known location (if not otherwise placed in a different Release Guideline):
    - If known to the Pretrial Release Program, the officer shall impose the condition that the defendant shall have no entry into the known location of the offense.
  - b. Unauthorized Use of a Motor Vehicle under ORS 164.135, Possession of a Stolen Motor Vehicle under ORS 819.300, and Burglary in the Second Degree under ORS 164.215 will move to Release Guideline 2 if the person is on probation or post-prison supervision for either UUMV, PSMV or Burglary in the Second Degree.
    - The Pretrial Release Program shall order the defendant to report to Pre-Trial Release Services by 10 a.m. the next business day.
    - If known to the Pretrial Release Program for the offense of Burglary in the Second Degree, the officer shall impose the condition that defendant shall have no entry into the location of the offense.
  - c. Unauthorized Use of a Motor Vehicle, Possession of a Stolen Motor Vehicle, or Burglary in the Second Degree will move to Release Guideline 3 if the person has three or more pending charges or convictions within the last three years for either UUMV, PSMV or Burglary in the Second Degree.
  - d. Reckless Burning under ORS 164.335 will move to Release Guideline 2 if the person is on pre-trial release or supervision for any degree of arson.
    - The Pretrial Release Program shall order defendant to report to Pretrial Release Services by 10 a.m. the next business day.
    - Defendant shall be prohibited from possessing any accelerants.
  - e. Riot under ORS 166.015 will move to Release Guideline 2 if the person is on pretrial supervision or probation for the crime of riot.
    - The Pretrial Release Program shall impose the condition that defendant must immediately disperse from any gathering within Multnomah County if the defendant reasonably knows that a law enforcement agency has declared that gathering unlawful or riotous pursuant to ORS 131.675;
    - While in any public gathering, whether lawful or unlawful, defendant shall not possess rocks, paint-filled balloons, fireworks, laser pointers, bear spray canisters, expandable batons, or incendiary devices.
  - f. Any crime in Release Guideline 1 involving a named victim will move to Release Guideline 2 if not otherwise placed in a different Release Guideline.
    - If known to the Pretrial Release Program, the officer shall impose the condition that defendant have no contact with any named victim.



- g. Any crime in Release Guideline 1 involving co-defendants, if known, will move to Release Guideline 2 if not otherwise placed in a different Release Guideline.
    - The Pretrial Release Program shall order the defendant not to communicate with any co-defendant regarding the facts of the case.
  - h. Of the group of people who undergo a VPRAI assessment, a person who scores 4-5 on the VPRAI will move to Release Guideline 2.
    - The Pretrial Release Program shall order the defendant to report to Pre-Trial Release Services by 10 a.m. the next business day.
  - i. Of the group of people who undergo a VPRAI assessment, a person who scores 6 or higher will move to Release Guideline 3.
2. **Overriding circumstances for offenses in Release Guideline 2:** The following circumstances will move an offense in Release Guideline 2 to Release Guideline 3 as specified below:
- a. A non-domestic violence person misdemeanor, non-domestic violence person C felony, or non-domestic violence B felony will move to Release Guideline 3 if it is verified that:
    - The defendant has a pending person felony or Class A person misdemeanor in any court; or
    - The defendant is on probation, parole or post-prison supervision for any person felony or Class A person misdemeanor.
  - b. Harassment under ORS 166.065(1)(a)(A) will move to Release Guideline 3 if it is stated objectively and in writing in the custody information or probable cause statement provided by a law enforcement officer that the victim is a “family or household member” as defined in ORS 135.230(4).
  - c. Harassment under ORS 166.065(4)(a)(A) will move to Release Guideline 3 if the person has a prior conviction for the same offense or for any sex crime and if it is verified by information presented in a probable cause statement or other informational document that the victim is a minor.
  - d. Harassment under ORS 166.065(4)(a)(B) will move to Release Guideline 3.
  - e. Bias Crimes in the Second Degree under ORS 166.155 will move to Release Guideline 3 if defendant has been convicted of another bias crime within 3 years.
  - f. Bias Crime in the First Degree under ORS 166.165 will move to Release Guideline 3 if, within the last three years, defendant has been convicted of another bias crime, unlawful use of a weapon, any level of assault, or any attempted felony assault.
  - g. Unlawful Use of a Weapon under ORS 166.220 will move to Release Guideline 3 if it involves use of a firearm;
  - h. Delivery or Manufacture of a controlled substance of whatever kind will move to Release Guideline 3 if the charged delivery or manufacture involves a “super super substantial quantity” under ORS 475.925(1).
  - i. Felony DUII under ORS 813.010 will move to Release Guideline 3 if there is a pending DUII or a conviction for DUII within the last three years.
3. **Overriding Circumstances for offenses in Release Guideline 3:** The following criteria will move an offense from Release Guideline 3 to Release Guideline 2 as specified below. The Pretrial Release Program shall impose on all offenses moved to Release Guideline 2 the condition that

the defendant keep in contact with their attorney once one is appointed or retained, including notifying the attorney's office of any updates to defendant's mailing or residential address or phone number.

- a. The offenses of Failure to Appear under ORS 162.195 to 162.205, Giving False Information to a Police Officer under ORS 162.385, and misdemeanor Attempt to Elude under ORS 811.540(3)(b) will remain in Release Guideline 3 if the criteria below are present. Otherwise, these offenses will move to Release Guideline 2:
  - The defendant has a pending person felony or a Class A DV person misdemeanor in any court; or
  - The defendant is on probation, parole or post-prison supervision for any person felony or Class A DV person misdemeanor.
- b. The offenses of Escape in the Third Degree under ORS 164.145, Escape in the Second Degree under ORS 162.155, Unauthorized Departure under ORS 162.175, and Resist Arrest under ORS 162.315, will remain in Release Guideline 3 if the criteria below are present. Otherwise, these offenses will move to Release Guideline 2:
  - The defendant has a pending person felony or a Class A DV person misdemeanor.
- c. The offense of felony Attempt to Elude under ORS 811.540(3)(a) will remain in Release Guideline 3 if the same criteria in section (a) immediately above apply. Otherwise, it will move to Release Guideline 2.
  - The Pretrial Release Program shall order defendant to report to Pretrial Release Services by 10 a.m. the next business day.
- d. Burglary in the First Degree under ORS 164.225 will move to Release Guideline 2 if the burglary was not of a dwelling.
  - The Pretrial Release Program shall order defendant to report to Pretrial Release Services by 10 a.m. the next business day.
  - If known to the Pretrial Release Program, the officer shall order no entry into the location of the offense.
- e. Any Delivery or Manufacture of a Controlled Substance of whatever kind that would presumptively be in Release Guideline 3 will move to Release Guideline 2 unless it involves a "super super substantial quantity" under ORS 475.925(1).
  - If an offense in 3(e) above involves a "super substantial quantity" under ORS 475.925(2); or if it is a Delivery or Manufacture that is a commercial drug offense under ORS 475.900, the Pretrial Release Program will order defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.
  - If none of the factors above apply, the Pretrial Release Program will order defendant to keep in contact with their attorney once one is appointed or retained, including notifying the attorney's office of any updates to defendant's mailing or residential address or phone number.
- f. Sex Abuse III will move to Release Guideline 2 if the person has no prior conviction for any sex crime and if it is verified by information presented in a probable cause statement or other informational document that the victim is not a minor. Otherwise, it will remain in Release Guideline 3.

- The Pretrial Release Program will order defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.
  - If known to the Pretrial Release Program, the officer will order no contact with any named victim.
4. **Person-Specific Overriding Circumstances:** If present, the following overriding circumstances will categorically move a person to Release Guideline 3 no matter the presumptive Release Guideline:
- a. A probable cause arrest within 24 hours of a booking on a previous probable cause arrest;
  - b. Any person arrested for whom there is probable cause that the person has violated a no-contact order as defined in Section A(3)(g) of this order.
  - c. Any person arrested on a material witness warrant.
  - d. Any person who has five or more pending cases of any type, not including probation violations.
  - e. Of the group of people who undergo a VPRAI assessment, any person who scores a 6 or higher.
  - f. Any person arrested for any reason who is on community release pending fitness to proceed under ORS 161.370.
  - g. Any person who refuses or is unable to comply with the release process and is charged with a person crime.
5. The following circumstances, though they may require remaining in custody by their own terms, will not require a person to move to a different Release Guideline on any pending charge.
- a. Other than a person held on a fugitive warrant, a person who has an outstanding warrant or hold from another jurisdiction may still be released as otherwise provided in this order.
  - b. A person arrested on a warrant for probation violation, specialty court, failure to comply with Pretrial Release conditions, administrative sanction, or post-prison supervision hold will be held or released as authorized by that warrant, but the warrant will not affect the Release Guideline for any new charge or prohibit the person's release as otherwise authorized in this order.
  - c. Any person arrested on a bench warrant for failure to appear on pending charges may be considered for release as otherwise authorized in this order.
  - d. Any person arrested on an indictment warrant or arrest warrant will be considered for release as provided in this order for pending charges.

**SECTION D: OTHER CONSIDERATIONS:**

1. As required by ORS 135.247, the Pretrial Release Program officer 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 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 Pretrial Release Program 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.

2. Nothing in this order precludes the court or an OJD Release Assistance Officer from imposing or altering conditions, changing custody status, imposing bail, or taking any other action as authorized by law.
3. A decision imposing a bail amount at arraignment does not constitute law of the case. A party may request a change of security amount or release conditions at the first subsequent release hearing notwithstanding ORS 135.285.
4. This order does not serve to delete bail if previously imposed by court order in connection with an arrest warrant, indictment warrant, bench warrant, probation violation warrant, or other order permitting bail. Defendants shall retain the right to post bail on those warrants any time after being booked on that warrant.

Dated this 29 day of June, 2022

  
The Hon. Judith Matarazzo  
Presiding Judge

**PRESIDING JUDGE ORDER 2201-00002**

**ATTACHMENT A: STEP I PRESUMPTIVE RELEASE GUIDELINES FOR OFFENSES**

See: [Release guidelines categorization list \(oregon.gov\)](https://www.oregon.gov/courts/criminal/step1/presumptive-release-guidelines) for complete list of offenses.

RELEASE TYPE	OFFENSE TYPE
<p><b>RELEASE GUIDELINE 1</b> Release on personal recognizance pursuant to release order and agreement as required by ORS 135.250 and 135.255.</p>	<ul style="list-style-type: none"> <li>• Any non-person misdemeanor, except those offenses listed in Release Guideline 2 or 3;</li> <li>• Any non-person Class C felony, except those offenses listed in Release Guideline 2 or 3;</li> <li>• Any driving while suspended offense defined, felony or misdemeanor, in ORS 811.182, except for aggravated driving while suspended as defined in ORS 163.196; and</li> <li>• Any other offense that is not included in Release Guideline 2 or 3, including contempt for failure to pay child support, contempt for failing to appear at a Judgment Debtor Exam, or other contempt under ORS 33.015 to 33.155, but not including contempt for failure to obey a no-contact order.</li> </ul>
<p><b>RELEASE GUIDELINE 2</b> Release on condition that defendant keep in contact with their attorney once one is appointed or retained, including notifying the attorney’s office of any updates to defendant’s mailing or residential address or phone number. Release on additional conditions specified below in Attachment C and pursuant to release order and agreement as required by ORS 135.250 and 135.255.</p>	<ul style="list-style-type: none"> <li>• Any non-domestic violence person misdemeanor, as defined in OAR 213-003-0001(15), except those offenses listed in Release Guideline 3 :             <ul style="list-style-type: none"> <li>○ If known to the Pretrial Release Program, the officer shall order defendant to have no contact with any named victim.</li> </ul> </li> <li>• Any driving under the influence of intoxicants (DUII) offense (ORS 813.010, ORS 813.011, 813.326):             <ul style="list-style-type: none"> <li>○ No driving without a valid driver’s license or insurance and no use of intoxicants in connection with the operation of a motor vehicle.</li> </ul> </li> <li>• Any non-domestic violence Class B felony (person or non-person) and any non-domestic violence person Class C felony as defined in OAR 213-003-0001(14), except for those offenses included in Release Guideline 1 or 3.             <ul style="list-style-type: none"> <li>○ If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no contact with any named victim.</li> <li>○ If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no entry into the particular location of the offense.</li> </ul> </li> <li>• Of the group of people who undergo a VPRAI assessment, any person who scores 4-5:             <ul style="list-style-type: none"> <li>○ The Pretrial Release Program will order the defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.</li> </ul> </li> <li>• Any offense for which there is a known co-defendant:             <ul style="list-style-type: none"> <li>○ The Pretrial Release officer will order defendant not to discuss facts of case with co-defendant.</li> </ul> </li> </ul>

- Any level of Bias Crime not placed in Release Guideline 3 due to overriding circumstances:
  - The Pretrial Release Program will order defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.
  - If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no contact with any named victim.
  - For Bias Crime in the Second Degree under ORS 166.155(1)(a), if known to the Pretrial Release Program, the officer shall order no entry into location where tampering or interfering with property occurred.
- Delivery or Manufacture of a controlled substance of whatever kind that involves a “super substantial quantity” under ORS 475.925(2), or a Delivery or Manufacture that is a “commercial drug offense” under ORS 475.900:
  - The Pretrial Release Program will order defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.
- Criminal Mistreatment if not classified as a domestic violence case as defined by ORS 135.230:
  - The Pretrial Release Program will order defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.
  - If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no contact with any named victim.
- Arson in the Second Degree and Arson Incident to the Manufacture of a Controlled Substance in the Second Degree:
  - If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no contact with any named victim.
  - If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no entry into the location of the offense.
  - The Pretrial Release Program will order defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.
  - The Pretrial Release Program will order defendant to possess no accelerants.
- Any Harassment under ORS 166.065(4) not placed in Release Guideline 3 due to overriding circumstances:
  - The Pretrial Release Program will order defendant to report to Pretrial Release Services for supervision by 10 a.m. the following business day.

	<ul style="list-style-type: none"> <li>○ If known to the Pretrial Release Program, the officer shall impose the condition that defendant shall have no contact with any named victim.</li> </ul>
<p><b>RELEASE GUIDELINE 3</b></p> <p>HOLD for arraignment, first appearance, or other judicial department release decision</p>	<ul style="list-style-type: none"> <li>● Any violent felony, as defined in ORS 135.240 or as provided in PJO 2201-00003 (Order Re: Preventative Detention Hearing Procedures and Security Release in Violent Felonies);</li> <li>● Any offense in ORS 137.700;</li> <li>● Any Class A felony;</li> <li>● Any sex crime, as defined in ORS 163A.005(5), as well as Luring a Minor as defined in ORS 167.057, Invasion of Personal Privacy in the First Degree as defined in ORS 163.701, and Purchasing Sex with a Minor as defined in ORS 163.413, or attempts to commit those crimes, notwithstanding that those offenses have not been designated as a sex crime in any judgment;</li> <li>● Any domestic violence felony or misdemeanor, as defined in ORS 135.230;</li> <li>● Any felony Stalking as defined in in ORS 163.732, any Violation of a Stalking Protective Order as defined in ORS 163.750, and any felony Strangulation as described in ORS 163.187;</li> <li>● Possession of a Firearm or Dangerous Weapon in a Public Building or Court Facility, as defined in ORS 166.370;</li> <li>● Failure to appear, as defined in ORS 162.195 and ORS 162.205;</li> <li>● Felon in Possession of a Firearm, as defined in ORS 166.270;</li> <li>● Fleeing or Attempting to Elude, as defined in ORS 811.540;</li> <li>● Resisting arrest, as defined in ORS 162.315;</li> <li>● Giving false information to a peace officer, as defined in ORS 807.620 and ORS 162.385;</li> <li>● Escape in any degree, as defined in ORS 162.145, ORS 162.155, and ORS 162.165;</li> <li>● Fugitive from justice, as defined in ORS 133.747;</li> <li>● Tampering with a Witness as defined in ORS 162.285.</li> </ul>

**PRESIDING JUDGE ORDER 2201-00002**

**ATTACHMENT B: STEP II OVERRIDING CIRCUMSTANCES (RELEASE GUIDELINE 4)**

The following non-discretionary, person-specific overriding circumstances, if present, will require a Pretrial Release Program officer to move a person from Release Guideline 1 to Release Guideline 2 or 3; from Release Guideline 2 to Release Guideline 3; or from Release Guideline 3 to Release Guideline 2.

OVERRIDING CIRCUMSTANCES FOR OFFENSES IN PRESUMPTIVE RELEASE GUIDELINE 1	RELEASE GUIDELINE 1	RELEASE GUIDELINE 2 (See Attachment C for conditions)	RELEASE GUIDELINE 3
UUMV/PSMV/Burg II if on probation for PPS for UUMV, PSMV or Burg II		<b>X</b>	
UUMV/PSMV/Burg II with 3 or more pending UUMV, PSMV or Burg II or convictions within prior 3 years			<b>X</b>
Reckless Burning if AIC is on release or supervision for any degree arson		<b>X</b>	
Crim Trespass/Theft/Crim Mischief if location is known		<b>X</b>	
Any offense with named victim		<b>X</b>	
Any offense if there is a known co-defendant		<b>X</b>	
Any AIC with a VPRAI score of 4 to 5		<b>X</b>	
Any of the following: a. A probable cause arrest within 24 hours of a previous probable cause arrest; b. Any person arrested for whom there is probable cause that the person has violated a no-contact order as defined in Section A(3)(g) of this order. c. Any person arrested on a material witness warrant. d. Any person who has five or more pending cases of any type, not including probation violations.			<b>X</b>



<p>e. Of the group of people who undergo a VPRAI assessment, any person who scores a 6 or higher.</p> <p>f. Any person arrested for any reason who is on community release pending fitness to proceed under ORS 161.370.</p> <p>g. Any person who refuses or is unable to comply with the release process and is charged with a person crime.</p>			
<p><b>OVERRIDING CIRCUMSTANCES FOR OFFENSES IN PRESUMPTIVE RELEASE GUIDELINE 2</b></p>	<p><b>RELEASE GUIDELINE 1</b></p>	<p><b>RELEASE GUIDELINE 2</b></p>	<p><b>RELEASE GUIDELINE 3</b></p>
<p>Non-DV person felony or A misd., or any B felony if:</p> <ul style="list-style-type: none"> <li>• AIC has a pending person felony or person Class A misd. in any court;</li> <li>• AIC is on probation or PPS for any person felony or person Class A misd;</li> </ul>			<p><b>X</b></p>
<p>Harassment under ORS 166.065(1)(a)(A) if DV</p>			<p><b>X</b></p>
<p>Harassment under ORS 166.065(4)(a)(A) if prior conviction for same offense or any sex crime and if victim is a minor</p>			<p><b>X</b></p>
<p>Harassment under ORS 166.065(4)(a)(B)</p>			<p><b>X</b></p>
<p>Unlawful Use of a Weapon if offense involves use of a firearm</p>			<p><b>X</b></p>
<p>Bias Crime in the Second Degree if convicted of another bias crime within 3 years</p>			<p><b>X</b></p>
<p>Bias Crime in the First Degree if convicted of another bias crime, UUW, any assault, or attempted felony assault within 3 years</p>			<p><b>X</b></p>
<p>Felony DUUI if there is a pending DUUI or a conviction for DUUI within 3 years</p>			<p><b>X</b></p>

DCS/MCS if “super super substantial quantities” under ORS 475.925(1)			X
Any of the following: a. A probable cause arrest within 24 hours of a previous probable cause arrest; b. Any person arrested for whom there is probable cause that the person has violated a no-contact order as defined in Section A(3)(g) of this order. c. Any person arrested on a material witness warrant. d. Any person who has five or more pending cases of any type, not including probation violations. e. Of the group of people who undergo a VPRAI assessment, any person who scores a 6 or higher. f. Any person arrested for any reason who is on community release pending fitness to proceed under ORS 161.370. g. Any person who refuses or is unable to comply with the release process and is charged with a person crime.			X
<b>OVERRIDING CIRCUMSTANCES FOR OFFENSES IN PRESUMPTIVE RELEASE GUIDELINE 3</b>	<b>RELEASE GUIDELINE 1</b>	<b>RELEASE GUIDELINE 2</b>	<b>RELEASE GUIDELINE 3</b>
Any presumptive RG3 offense will REMAIN in RG3 if any of the factors in Section C(4)(a) through (g) are present.			X
Burglary in the First Degree if not of a dwelling		X	
False Information, Fail to Appear, Misd. Att. Elude if defendant does NOT have a pending person felony or DV Class A misdemeanor in any court or is		X	

NOT on probation, parole or pps for any person felony or DV Class A misdemeanor			
Resist Arrest, Escape III and Escape II if the defendant does NOT have a pending person felony or Class A DV person misdemeanor		X	
Felony Att to Elude if defendant does NOT have a pending person felony or Class A DV person misdemeanor		X	
DCS/MCS unless it involves "super super substantial quantities" under ORS 475.925(1)		X	
Sex Abuse III if no prior conviction for any sex crime and victim is not a minor		X	

**PRESIDING JUDGE ORDER 2201-00002**

**ATTACHMENT C: CONDITIONS IMPOSED FOR OFFENSES IN RELEASE GUIDELINE 2**

The following offense-specific criteria lead to the following conditions:

OFFENSE TYPE	CONDITION OF RELEASE
All offenses in Release Guideline 2	<ul style="list-style-type: none"> <li>Defendant must keep in contact with their attorney once one is appointed or retained, including notifying the attorney's office of any updates to defendant's mailing or residential address or phone number.</li> </ul>
AIC scores 4-5 on VPRAI	<ul style="list-style-type: none"> <li>Report to Pretrial Release Services by 10 a.m. the next business day</li> </ul>
Any offense when there is a known named victim.	<ul style="list-style-type: none"> <li>If known, no contact with any named victim.</li> </ul>
Any offense when there is a known co-defendant.	<ul style="list-style-type: none"> <li>Do not communicate with any co-defendant regarding the facts of the case</li> </ul>
Any level of Criminal Trespass, Theft, Criminal Mischief involving a known location (from RG1)	<ul style="list-style-type: none"> <li>If known, no entry into that particular location.</li> </ul>
Arson II and Arson incident to MCS II	<ul style="list-style-type: none"> <li>Report to Pretrial Release Services by 10 a.m. the next business day .</li> <li>If known, no contact with any named victim.</li> <li>If known, no entry into location of offense.</li> <li>No possession of accelerants.</li> </ul>
Bias Crime (if not in RG3)	<ul style="list-style-type: none"> <li>Report to Pretrial Release Services for supervision by 10 a.m. the following business day.</li> <li>If known, no contact with any named victim.</li> <li>For Bias Crime in the Second Degree under ORS 166.155(1)(a), if known, no entry into location where tampering or interfering with property occurred.</li> </ul>
Burglary in the First or Second Degree	<ul style="list-style-type: none"> <li>Report to Pretrial Release Services by 10 a.m. the next business day.</li> <li>If known, no entry into the particular location of the offense.</li> </ul>
Criminal Mistreatment (non DV)	<ul style="list-style-type: none"> <li>Report to Pretrial Release Services by 10 a.m. the next business day.</li> <li>If known, no contact with named victim</li> </ul>
Delivery or Manufacture of any Controlled Substance that is SSQ under ORS 475.925(2) or is a CDO under 475.900.	<ul style="list-style-type: none"> <li>Report to Pretrial Release Services by 10 a.m. the next business day.</li> </ul>
DUII	<ul style="list-style-type: none"> <li>No driving without a valid driver's license and insurance.</li> <li>No use of intoxicants in connection with the operation of a motor vehicle.</li> </ul>
Harassment under 166.065(4) not placed in RG3	<ul style="list-style-type: none"> <li>Report to Pretrial Release Services by 10 a.m. the next business day.</li> </ul>

Reckless Burning (from RG1)	<ul style="list-style-type: none"> <li>• Report to Pretrial Release Services by 10 a.m. the next business day.</li> <li>• Defendant prohibited from possessing any accelerants.</li> </ul>
Riot (from RG1)	<ul style="list-style-type: none"> <li>• Defendant must immediately disperse from any gathering within Multnomah County if the defendant reasonably knows that a law enforcement agency has declared that gathering unlawful or riotous pursuant to ORS 131.675;</li> <li>• While in any public gathering, whether lawful or unlawful, defendant shall not possess rocks, paint-filled balloons, fireworks, laser pointers, bear spray canisters, expandable batons, or incendiary devices.</li> </ul>
UUMV or PSMV (from RG1)	<ul style="list-style-type: none"> <li>• Report to Pretrial Release Services by 10 a.m. the next business day.</li> </ul>

**PRESIDING JUDGE ORDER 2201-00002**  
**ATTACHMENT D: RELEASE GUIDELINES FOR CONTROLLED SUBSTANCE CHARGES**

Regardless of the presumptive Release Guideline and regardless of whether it is an A or B felony, Delivery or Manufacture of a controlled substance, whatever type, are placed into Release Guidelines as specified below.

OVERRIDING CIRCUMSTANCE	RELEASE GUIDELINE
Any DCS/MCS involving "super super substantial quantities" (SSSQ) under ORS 475.925(1)	Release Guideline 3
Any DCS/MCS involving "super substantial quantities" (SSQ) under ORS 475.925(2)	Release Guideline 2 with condition to Report to PRS
Any DCS/MCS that is a commercial drug offense under ORS 475.900	Release Guideline 2 with condition to Report to PRS
Any DCS/MCS that does not involve any of the above overriding circumstances	Release Guideline 2 with standard condition for all offenses in Release Guideline 2