IN THE SIXTH JUDICIAL DISTRICT OF THE STATE OF OREGON

In the Matter of Release Assistance Officers under ORS 135.235 for the Sixth Judicial District, Representing Umatilla and Morrow Counties; a Bail Schedule; and Cite and Release Authority of Law Enforcement Officers as to Arrest Warrants	PRESIDING JUDGE ORDER No. 21-003

THIS PRESIDING JUDGE ORDER REPLACES PJO 20-008
****Updates Misdemeanor Security Amounts and Cite and Release Authority of Law Enforcement Officers****

WHEREAS ORS 135.235 provides for the appointment of release assistance officers; and

WHEREAS the persons appointed hereunder are not State employees or employees of the court, and instead are delegated authority as provided in statute; and

WHERAS ORS 133.055 allows for Cite and Release (C&R) by law enforcement officers for Class C Felonies and Misdemeanors; and

WHEREAS ORS 133.110 allows judges to issue C&R Arrest Warrants on Class C Felonies and Misdemeanors[1]; and

WHEREAS law enforcement officers have an obligation to arrest persons subject to an outstanding Arrest Warrant (e.g., ORS 133.140, 133.220, 133.360); and

WHEREAS ORS 169.044 allows the County Board of Commissioners to establish jail capacity; and

WHEREAS ORS 169.046 provides for the Sheriff to notify the presiding circuit judge, each municipal court judge and justice of the peace in the county, the district attorney for the county, the county counsel, the chief law enforcement officer for each city located in the county and the county court or

board of commissioners that the number of adults in custody in the local correctional facility has exceeded capacity and that a county jail population emergency exists; and

WHEREAS the Sheriff may under ORS 169.046(3), when and if it becomes necessary to order adults in custody released under ORS 169.042 to 169.046, or if it appears to the sheriff that release of adults in custody is likely to become necessary in the near future, the sheriff shall immediately notify all police agencies in the county to make maximum use of citations in lieu of custody pursuant to ORS 133.055 to 133.076 until further notice; and

WHEREAS, the Sheriff has not issued such a notice to Law Enforcement; and

WHEREAS, the Sheriff has broad authority for the administration of the local confinement facility and under ORS 169.320, "[e]xcept as otherwise provided in ORS 169.170 to 169.210, each county sheriff has custody and control of all persons legally committed or confined in the county local correctional facility of the county of the sheriff during the period of the commitment or confinement;" that ORS 169.076 (2) provides for policies for commitment, including denial of admission in (2)(b); and that ORS 169.105 provides for denial of admission of unconscious persons; and

WHEREAS release decisions shall be made in accordance with ORS 135.230 et seq.; therefore

IT IS ORDERED that the Sheriffs of Umatilla and Morrow Counties, and their designated correctional staff officers and deputies are release officers delegated authority hereunder and pursuant to ORS 135.235(3)(b), for security release decisions for Umatilla and Morrow Counties respectively. The Sheriff of Morrow County may delegate his authority to the Sheriff of Umatilla County for jail administration.

IT IS FURTHER ORDERED that Law Enforcement Officers are authorized to use Cite and Release (C&R) procedures under ORS 133.055 as to execution of Arrest Warrants for C Felony and any Misdemeanor Offenses other than those involving domestic violence under the following circumstances:

Until the Governor lifts the Emergency Declaration as to the COVID-19 Pandemic, if the Arrest Warrant security amount is less than $20,000.00, and thereafter $10,000.00; or

If the Sheriff or designated authority at the Umatilla County Jail determines in accordance with law that the medical condition or threat of disease, or other allowances for denial under ORS 169.0076(2) and the policies thereto, of the defendant poses an inability for the Sheriff to

reasonably provide adequate measures to guarantee the safety of the inmates, admission is denied pursuant to ORS 169.076.

C&R shall be coordinated with the Trial Court Administrator and the TCA shall provide written instructions to all law enforcement agencies, District Attorney, and Prosecuting Attorneys.

Subject to ORS 135.240, and the exceptions next stated, the Sheriffs are authorized to utilize a release matrix at their discretion, taking into account statutory release criteria, for conditional releases for offenses not otherwise prohibited by statute or herein (ORS 135.235). The exceptions to this authority are as follows:

ORS 135.240(4)(f)(A), no bail is allowed for new offenses occurring in violation of an express security or conditional release order.

FURTHERMORE, IT IS ORDERED THAT subject to the provisions of ORS 135.230 – 135.290, and changes in statutory amounts that arise which shall control, and subsequent order of a Judge, the following is a schedule of approved security amounts with the specific offenses or offense categories and their security amount ('Bail'):

DESCRIPTION	ORS	BAIL
	CRIMES	
Murder	137.700/.707 & 163.115	No Bail
Treason		No Bail
Rape 1	137.700 & 163.375	No Bail
Kidnapping 1	137.700 & 163.235	No Bail
Aggravated Vehicular Homicide	137.700 & 163.149	$500,000
Measure 11 felonies	ORS 137.700 & 137.707	$250,000
Methamphetamine Manufacture Delivery within 1000 feet of a school Substantial Quantity or commercial drug offense Delivery to a minor	135.242(7)	$500,000
Class A Felony		$50,000
Class B Felony, Escape 1	162.145	$50,000

Class B Felony		$20,000
Class C Felony, Escape 2	162.155	$50,000
Class C Felony domestic violence classification under ORS 135.320(2)		$20,000
Class C Felony, or unclassified Felony		$10,000
Misdemeanor (any type) domestic violence classification under ORS 135.320(2)		$10,000
Class A Misdemeanor Escape 3	162.145	$20,000
Class A or unclassified Misdemeanor		$6250
Class B misdemeanor		$2500
Class C Misdemeanor		$$1250
	MISC	
FUGITIVE COMPLAINTS	133.803,133.809	NO BAIL until order by the court under 133.809
	PROBABLE CAUSE ARRESTS, VIOLATIONS OF STATUTORY PROTECTION ORDERS	
Probable Cause Violation of FAMILY ABUSE Restraining Order (RO),	133.310(3) FOR 107.720(4), 107.716; 107.718	Per Restraining Order in place
Probable Cause Violation of SEX ABUSE RO	133.310(3) FOR 163.765, 163.767	Per restraining order in place

Probable Cause Violation of ELDER ABUSE RO	133.310(3) FOR 124.030(4), 124.015, 124.020	Per restraining order in place
Probable Cause Violation of CHILD ABUSE RO	133.310(3) FOR 419B.845	$5,000 per ORS 419B.845(8) unless otherwise set forth in the court RO
Probable Cause Violation of EX PARTE EMERGENCY PROTECTIVE ORDERS	133.310(3) FOR 133.035	Amount set by Judge in order – if blank, $20,000
Probable Cause Arrest for violation of STALKING ORDER	133.310(3) FOR 30.866 (see also 163.738(4) for courts warrant and security amount for failure to appear to a stalking hearing)	$20,000
	PROBABLE CAUSE ARREST FOR VIOLATION OF CIVIL COURT ORDERS	
Domestic Relations CIVIL PENDITE LITE TEMPORARY ORDER	133.010(3) for 107.095(1)(c),(d) for Court's domestic relations *pendente lite* temporary order: restraint from molesting or interfering in any manner with the party or the minor children & Failure to comply with courts order requiring a party to move out of the residence leaving the other party with the children	$10,000

	PROBABLE CAUSE ARREST FOR VIOLATION OF NO CONTACT PROVISIONS OF RELEASE AGREEMENTS AND ORDERS	
Probable Cause, Violation of Court's RELEASE AGREEMENT AND NO CONTACT ORDER[2], domestic violence (DV)[3]	133.310(6)	$50,000
Probable Cause Arrest for violation of FOREIGN RESTRAINING ORDER FOR ANY PROVISION OF THE ORDER Domestic Violence Classification	133.310(4) & (5) Foreign Restraining Order	$50,000 Amount is also set out in the court's LEDs entry authorization notice
Probable Cause Arrest for violation of RELEASE AGREEMENT AND NO CONTACT ORDER (Not DV)[4]	133.310(6)	$20,000

The matters herein and the orders in the endnotes hereto are hereby ordered.

Dated: March 2, 2021

DANIEL J. HILL
Presiding Judge of the Circuit Court

[1] Criminal citations are covered under ORS 133.055 and 133.060 and directs the defendant to appear before the court on the 'cite and release' for releasable offenses. The form of citation is under ORS 133.068 and if with complaint under ORS 133.069. Cite and Release applies to crimes, and the Oregon Uniform Citation requires only a presumptive fine amount to be included when there is a presumptive fine, for instance on violations as

required under ORS 153.051(4) (2019). The maximum fine for misdemeanors (or a C Felony) is not the presumptive fine, and the citation reference to preemptive fine is typically blank or TBD (to be determined).

[2] If law enforcement arrests for violation of a no contact provision in any type of release agreement under ORS 133.310(6) this is a constructive revocation of the release order in the case unless otherwise ordered by the court. Separately, the District Attorney may file for forfeiture and judgment for the security amount based upon the alleged violation. Moreover, separately and without initial arrest by law enforcement, upon probable cause the district attorney may motion the court for revocation of release from the original release agreement or order under ORS 135.280. See ORS 133.310(6). The court may upon the motion, and affidavit or declaration, act on a proposed order to revoke release and issue warrant, set hearing for revocation of release or deny the motion. The court then takes appropriate action as to any posted security and any security amount that the release was subject to under ORS 135.280(3).

[3] DV no contact orders are required under ORS 135.250(2) and ORS 135.260(2) whenever the state classifies a charge as domestic violence. The court has no discretion but to order a no contact condition unless the requisite 'petition' by victim and hearing is 'held' to not order or modify the condition under ORS 135.250(b)(2). Security releases are under ORS 135.240(5)(b). Conditional releases are under ORS 135.280.

[4] Where the court has described a business or other entity as the protected party in a release order providing for no contact, the applicability of the no contact shall herein extend to the owners of a sole proprietorship, partnership, limited liability company or other non-corporate entity, and the property owned or controlled by them. Corporations are treated as 'persons' and thus no contact orders related to a corporation, whether a non-corporate entity or corporate entity, the no contact order as to a non-named person under a business name shall apply to its properties or a specific property when so noted and operates as a bar from entry and a no contact order under ORS 133.310(6).