

# OREGON JUDICIAL DEPARTMENT

PRETRIAL REFORM UPDATE AND BUDGET REQUEST

JOINT WAYS & MEANS  
PUBLIC SAFETY SUBCOMMITTEE



# PRESENTATION TOPICS

1. Brief overview of recent pretrial reform efforts and legislation
2. Current pretrial practices
3. Implementation actions and efforts to improve pretrial practices
4. Resources needed to continue improvements for pretrial programs
5. Questions

# PRETRIAL REFORM EFFORTS

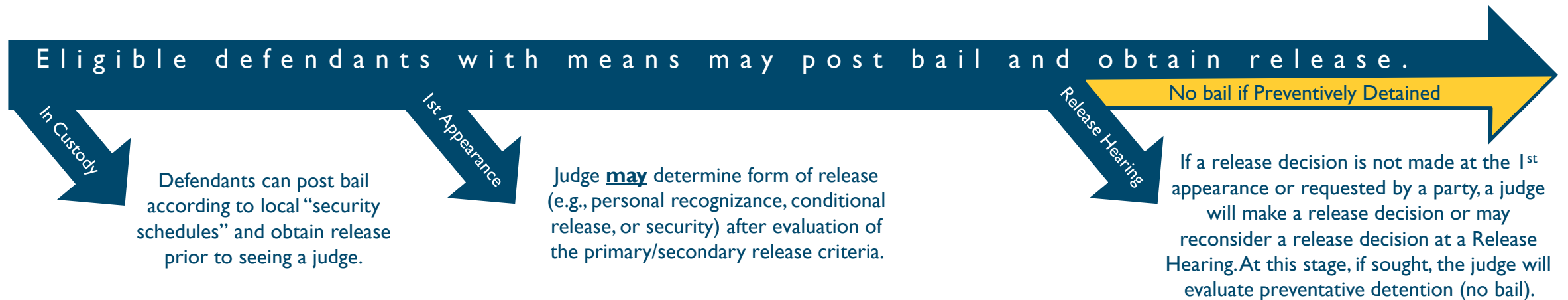
- National discussion
  - CCJ/COSCA policy papers (2012)
  - Challenges to bail schedules
- CCJ Western Regional Summit (2016)
- Statewide efforts
  - HB 2238 (2017) / Public Safety Task Force (2017 - 2020)
  - SB 48 Workgroup (CJC/Legislature)
- Local efforts to improve pretrial practices

## OJD Strategic Campaign Initiative 1.6:

*“We will work with stakeholders to ensure that Oregon has an effective and consistent statewide pretrial release system.”*

# CURRENT PRETRIAL PROCESS

SLIDE COURTESY OF CJC



- Prior to first appearance, defendants are given a bail amount based on Presiding Judge Order (often called "security" or "bail" schedules). If a defendant has the means, they can be released on security without a consideration of victim or community safety or the risk of failure to appear.
- While judges may make release decisions at first appearance, in current practice, judges have discretion as to whether these decisions will be made at that time.
- While preventative detention is an option, it is used relatively rarely, and high bail amounts are often used in its place.

In the Matter of  
Standard Security Amounts

ORDER SETTING STANDARD  
SECURITY AMOUNTS

The following amounts are established as the standard security release amounts for persons arrested on Yamhill County charges. The court may adjust the amount up or down, set further conditions of release or authorize other form of release at first appearance or other release hearing. Priority shall be given to recognizance or conditional release, *where authorized*, without posting money.

<b>Aggravated Murder or Murder:</b>	<b>No Release</b>
<b>Certain MCS/DCS Meth charges<sup>1</sup></b>	<b>\$500,000</b>
<b>Measure 11\ORS 137.700 Offense<sup>2</sup></b>	<b>\$150,000</b>
<b>Class A Felony</b>	<b>\$ 20,000</b>
<b>Class B Felony</b>	<b>\$ 10,000</b>
<b>Class C Felony</b>	<b>\$ 7,500</b>
<b>Violation of Restraining Order</b>	<b>\$ 10,000</b>
<b>Domestic Assault 3 or 4 or Menacing</b>	<b>\$ 10,000</b>
<b>Felony DUII (or 3<sup>rd</sup> or more w/i 10 yrs)<sup>3</sup></b>	<b>\$ 50,000</b>
<b>Class A Misdemeanor</b>	<b>\$ 5,000</b>
<b>Domestic Harassment</b>	<b>\$ 5,000</b>
<b>Class B Misdemeanor</b>	<b>\$ 2,500</b>
<b>Class C Misdemeanor</b>	<b>\$ 1,500</b>

# EXAMPLE OF A CURRENT SECURITY ("BAIL") SCHEDULE

ORS 135.245

# OREGON'S PRETRIAL REFORM EFFORTS

- Public Safety Task Force
  - Multi-year process with stakeholders to examine system, processes, and data
  - Considered constitutional and statutory framework
  - Submitted comprehensive report to the Legislature in December 2020
- SB 48 Workgroup
  - Convened during 2021 legislative session to develop legislation
  - Considered ways to reduce reliance on security (“bail”)
  - Statewide discussions to continue through a criminal justice advisory committee

## **Oregon Public Safety Task Force Report** ***Per House Bill 2238 (2017)***

4 December 2020



Oregon Criminal Justice Commission

Ken Sanchagrin  
Interim Executive Director

The mission of the Oregon Criminal Justice Commission is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems.



# SENATE BILL 48 (2021)

- Goals
  - Consistent statewide pretrial release decision-making framework
  - Reduce the reliance on security (“bail”)
  - Additional crime victim notification and input
  - Balance the rights of the defendant and presumption of pretrial release against community and victim safety and the risk of failure to appear
- Replaces security schedules with pretrial release orders in every circuit court using guidelines established by Chief Justice
- Eliminates statutory minimum security amounts in favor of case-by-case judicial determinations

## SENATE BILL 48 (2021)

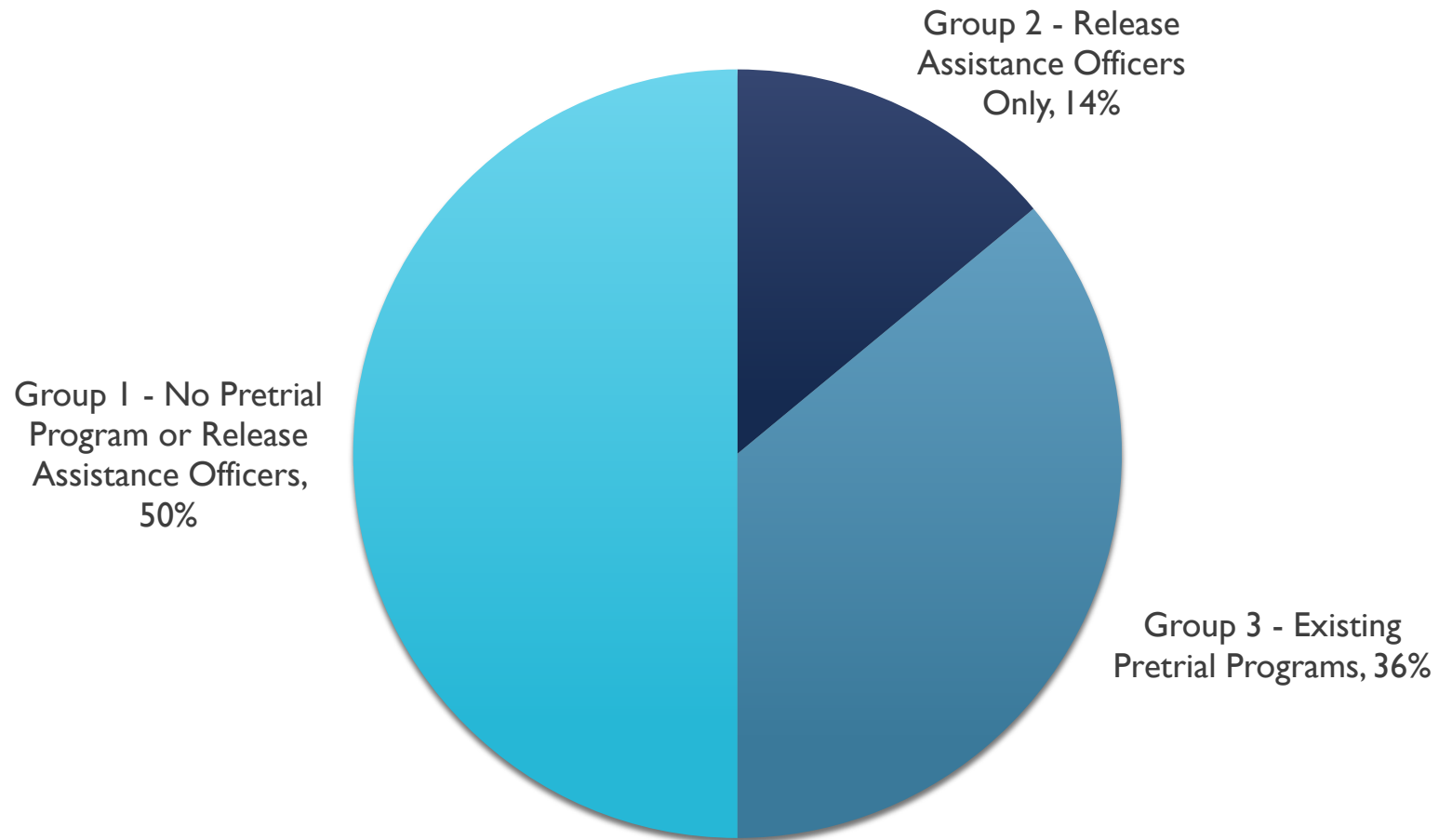
- Requires Chief Justice, with input from a criminal justice advisory committee, to develop guidelines for new presiding judge pretrial release orders (PROs)
- PROs must specify whether the sheriff shall release a person on recognizance or on conditional release or hold for arraignment
  - New orders issued by July 1, 2022



# SB 48: CHIEF JUSTICE'S PRETRIAL RELEASE GUIDELINES

- Criminal Justice Advisory Committee (CJAC) developed recommendations for the Chief Justice's pretrial release guidelines
  - Diverse representation of community and public safety stakeholders
  - Thorough consideration of the requirements of SB 48 and drafting of recommendations
- Chief Justice review of CJAC recommendations
  - Submitted to the Chief Justice in January 2022
- Anticipate Chief Justice will issue guidelines in Spring 2022.

# OREGON'S PRETRIAL PROGRAM OPERATIONS OVERVIEW



# RELEASE ASSISTANCE OFFICERS (RAOs)

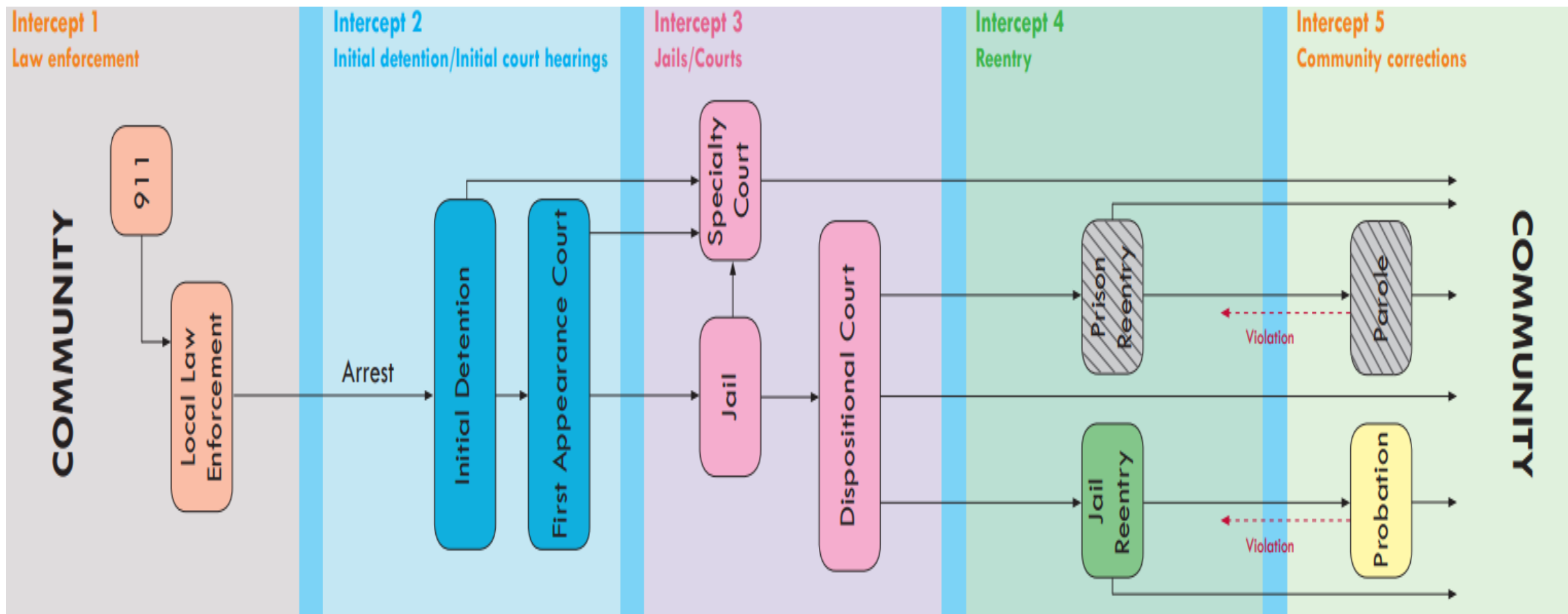
- May have release decision-making authority if delegated by the presiding judge
- Focus on consistent decision making to reduce racial disparities
- Prior to a Release Decision – Interview in-custody defendants, complete risk assessment, contact crime victims, and make a recommendation whether a defendant should be released pending trial
- After Release – Develop and implement release agreements, monitor defendants while on release, and investigate release violations and recommend an appropriate response to the court



# CONTINUED INVESTMENTS TO REFORM PRETRIAL PRACTICES

Biennium	Request	General Fund Impact
2021 - 2023	40 RAOs (20.0 FTE)	\$3.9 million
2023 - 2025	40 RAOs (40.0 FTE)	\$7.4 million

- Request for investments to fund pretrial release programs and activities as counties develop their programs under SB 48
- Additional funding would provide:
  - 27 RAOs for counties with no existing pretrial operations of any kind
  - 13 RAOs to adequately staff Josephine and Washington counties
- Continue working with counties to determine need for additional resources for **existing** pretrial programs prior to 2023 session



# SEQUENTIAL INTERCEPT MODEL

## Action Steps for Service-Level Change at Each Intercept

- **911:** Train dispatchers to identify calls involving persons with behavioral health disorders and refer to designated, trained respondents
- **Police:** Train officers to respond to calls where mental illness and substance use may be a factor
- **Documentation:** Document police contacts with persons with behavioral health disorders
- **Emergency/Crisis Response:** Provide police-friendly drop off at local hospital, crisis unit, or triage center
- **Linkage:** Ensure positive linkages among law enforcement, mobile crisis teams, forensic case managers, and key community service providers
- **Follow Up:** Provide service linkages and follow-up services to individuals who are not hospitalized and those leaving the hospital
- **Evaluation:** Monitor and evaluate services through regular stakeholder meetings for continuous quality improvement

- **Screening:** Screen for mental illness, substance use disorders, and trauma and assess for criminal risk at earliest opportunity; initiate process that identifies those eligible for diversion or needing treatment in jail; use validated, simple instrument or matching management information systems; screen at jail or at court by prosecution, defense, judge/court staff or service providers; implement a criminal risk-needs-responsivity model
- **Pre-trial Diversion:** Maximize opportunities for pretrial release and assist defendants with behavioral health disorders in complying with conditions of pretrial diversion
- **Service Linkage:** Link to comprehensive services, including care coordination, access to medication, integrated dual disorder treatment (IDDT) as appropriate, prompt access to benefits, health care, peer support, and housing; IDDT is an essential evidence-based practice (EBP)

- **Screening:** Inform diversion opportunities and need for treatment in jail with screening information from Intercept 2
- **Court Coordination:** Maximize potential for diversion in specialty treatment courts or non-specialty courts
- **Service Linkage:** Link to comprehensive services, including care coordination, access to medication, IDDT as appropriate, trauma-specific programs, prompt access to benefits, health care, peer support, and housing
- **Court Feedback:** Monitor progress with scheduled appearances (typically directly by court); promote communication and information sharing between non-specialty courts and service providers by establishing clear policies and procedures
- **Jail-Based Services:** Provide services consistent with community and public health standards, including appropriate psychiatric medications; coordinate care with community providers

## SEQUENTIAL INTERCEPT MODEL



# GROWING OREGON'S PRETRIAL PROGRAMS

- INVESTMENT IN DEDICATED PRETRIAL STAFF POSITIONS FOR CIRCUIT COURTS AND OSCA
- ENGAGE AND COORDINATE WITH COURTS AND PUBLIC SAFETY STAKEHOLDERS
- INITIAL FOCUS ON SB 48 IMPLEMENTATION AND CRAFTING RELEASE ORDERS BY JULY 1, 2022
- MONITOR DATA AND PRETRIAL PRACTICES AND RECOMMEND PROCESS IMPROVEMENTS





THANK YOU

