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Presiding Judge, Baker County

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PRETRIAL IN OREGON

OREGON JUDICIAL DEPARTMENT



Senate Bill 48-Enrolled

OVERVIEW OF CHANGES

Moves Oregon toward risk-based and data-informed decision making in the pretrial release system.

Before Senate Bill 48

Eligible defendants with means may post bail and obtain release.

No bail if Preventatively Detained

In Custody

Defendants can post bail according to local security schedules and obtain release prior to seeing a judge.

1st Appearance

Judge may determine form of release (e.g. personal recognizance, conditional release, or bail) after evaluation of the primary/secondary release criteria.

Release Hearing

If a release decision is not made at the 1st appearance or requested by a party, a judge will make a release decision or may reconsider a release decision at a Release Hearing. At this stage judges can also evaluate preventive detention (no bail).

SB 48-Enrolled

Δ's not released per PJO are detained for RAO evaluation or hearing with judge.

Defendants assigned bail may post bail and obtain release.

No bail if Preventatively Detained

In Custody

PJO releases certain qualifying defendants on personal recog. or conditional release. Non-qualifying defendants are not eligible for bail unless assigned security by RAO. Otherwise, held until first appearance.

1st Appearance

Judge must make a release decision (e.g., personal recog, conditional release, or bail) after evaluation of the primary/secondary release criteria, unless good cause is found to set over the release decision.

Release Hearing

If good cause is found at 1st appearance or a request made by a party or judge, the judge will make a release decision or may reconsider a release decision. At this stage, if sought, the judge will evaluate preventative detention (no bail).

Pretrial Legal Framework

Recognizance Release

Release based on the individual's promise to appear in court.

Conditional Release

Release imposing regulations on the activities and associations of the individual.

Security ("Bail") Release

Release secured by monetary amount and an immediate payment of 10% required.

Release Denied ("Preventive Detention")

Only applies to certain offenses (i.e. murder, treason, and violent felonies) if court makes required findings.

- The Oregon Constitution provides a **right to bail** except for murder/treason or when the defendant is charged with a violent felony and only if the court makes required findings. (Art. I §14, §43) **Preventive detention** is the only way that pretrial release may be denied.
- Unless a case is eligible for preventative detention, a court must consider whether to release the defendant on **personal recognizance, conditional release, or security release** (bail). ORS 135.230-135.290.
- When determining the form of release, the court considers the **primary and secondary release criteria** (e.g., danger to victim/public, nature of the charge, prior FTAs and criminal history, ties to the community). ORS 135.230(7),(11).

Legislature Directed a Study Of Pretrial Practices that resulted in Senate Bill 48

The Legislature reconvened the Public Safety Task Force (PSTF) in 2017, which then engaged in a multi-year analysis, developing recommendations to address:

- Racial and Economic Disparities
- Victim Rights
- Domestic Violence Safety
- Maximizing Court Appearance
- Data Collection and Reporting
- Best Practice Integration



Senate Bill 48

ORS 135.233(2): The Chief Justice of the Supreme Court, with input from a criminal justice advisory committee appointed by the Chief Justice, shall **establish release guidelines for the pretrial release orders described in this section** to:

- Provide consistent release decision-making structure across the state;
- Reduce reliance on the use of security;
- Include provisions for 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.

Senate Bill 48

ORS 135.233(1) directs all circuit court presiding judges to **enter standing pretrial release orders** that specify to the sheriff or jail the persons or offenses that are:

- a) Subject to recognizance release,
- b) Subject to release on conditions as specified in the order, and
- c) Those who are not eligible for release until arraignment.

Criminal Justice Advisory Committee Pretrial Subcommittee

Oregon Judicial
Department

Criminal Justice
Commission

Yamhill County
Dept. of
Community
Justice

Association of
Oregon Counties

Oregon State Bar

National Crime
Victim Law
Institute

Lincoln County
Sheriff's Office

Clackamas
Women's Services

Oregon Criminal
Defense Lawyers

Metropolitan
Public Defender

Oregon
Department of
Justice

Keizer Police
Department

Oregon District
Attorneys
Association

Governor's
Office

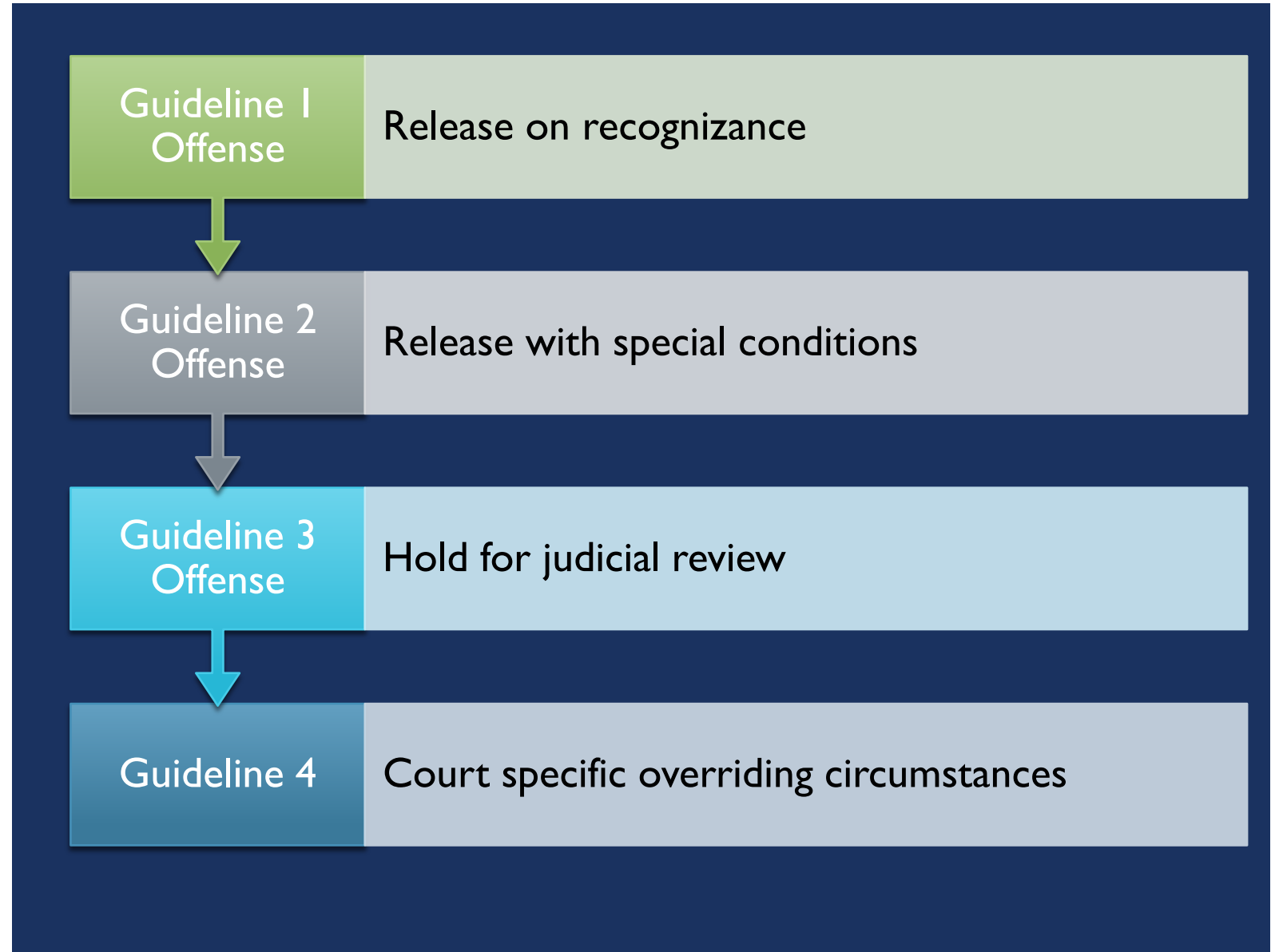
Office of Public
Defense Services

Grant County
Justice Court

Senate Bill 48 Implementation

Chief Justice Order 22-010 was issued in June 2022, providing a consistent release decision-making structure across the state.

- Every court has issued a pretrial release order consistent with the guidelines included in the CJO.
- Local courts have identified person-specific, risk-based criteria that ensure public and victim safety in the pretrial process.



Judicial Decision Making and Implementation



Baker County

Honorable Matthew Shirtcliff

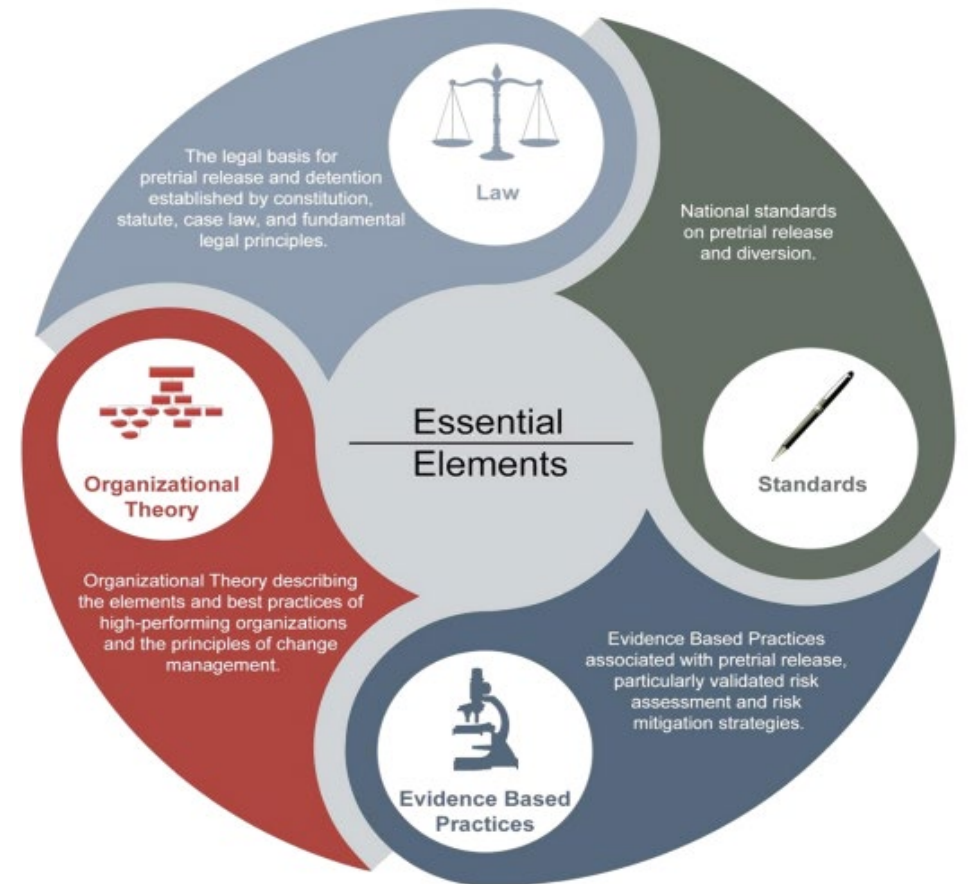


Polk County

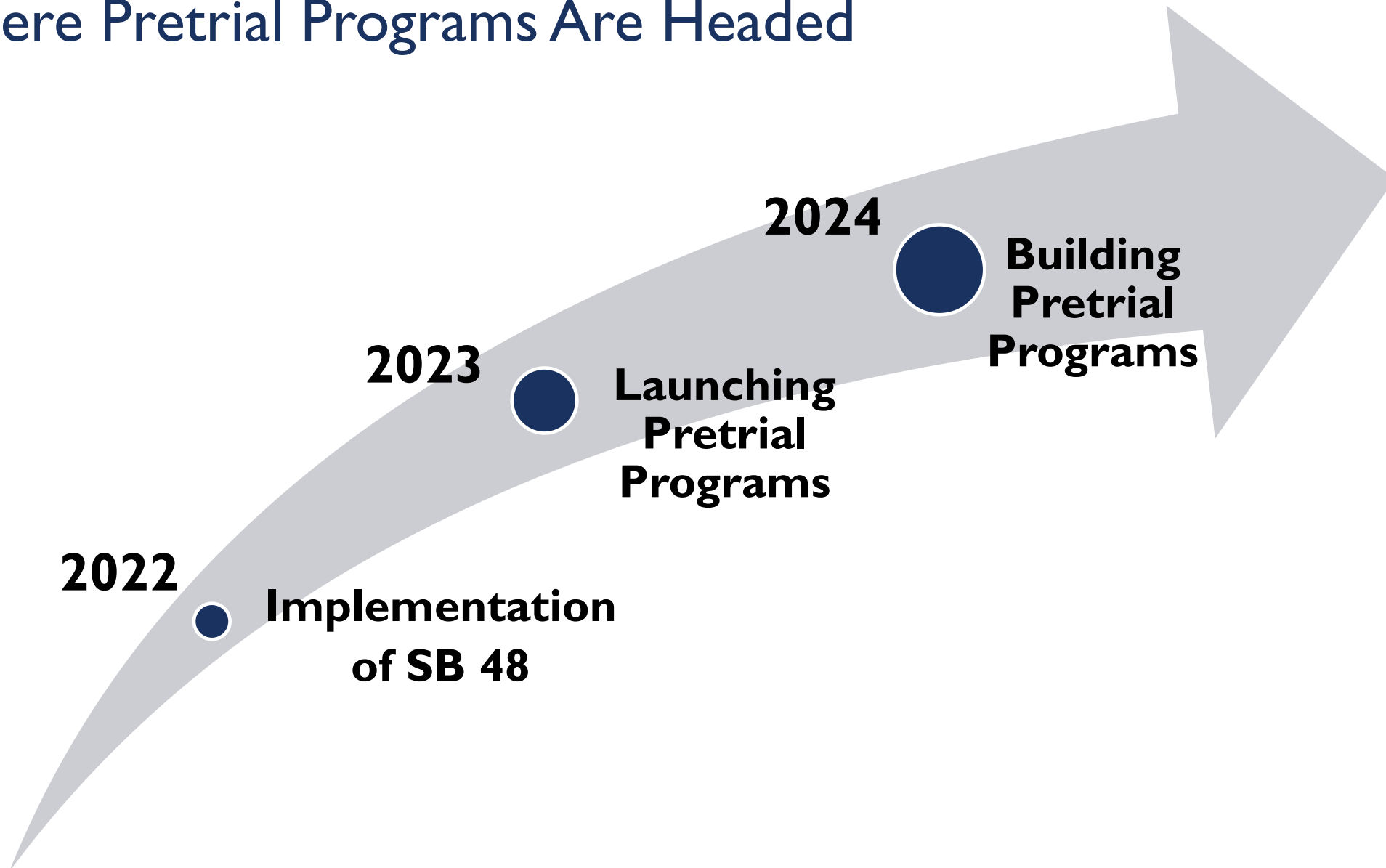
Honorable Norm Hill

Building Pretrial Programs

- Programs are informed by national best practices on pretrial release
- Stakeholders across communities are engaged, informed, and participate in the development and improvement of pretrial programs
- Pretrial programs support release and community safety
- County-state program partnerships ensure effective and efficient pretrial release



Where Pretrial Programs Are Headed

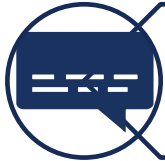




Oregon Judicial Department Release Assistance Officers Support Consistent Pretrial Programs



Interview individuals detained pretrial



Contact victims for position on release



Verify release criteria and provide release recommendations to the court



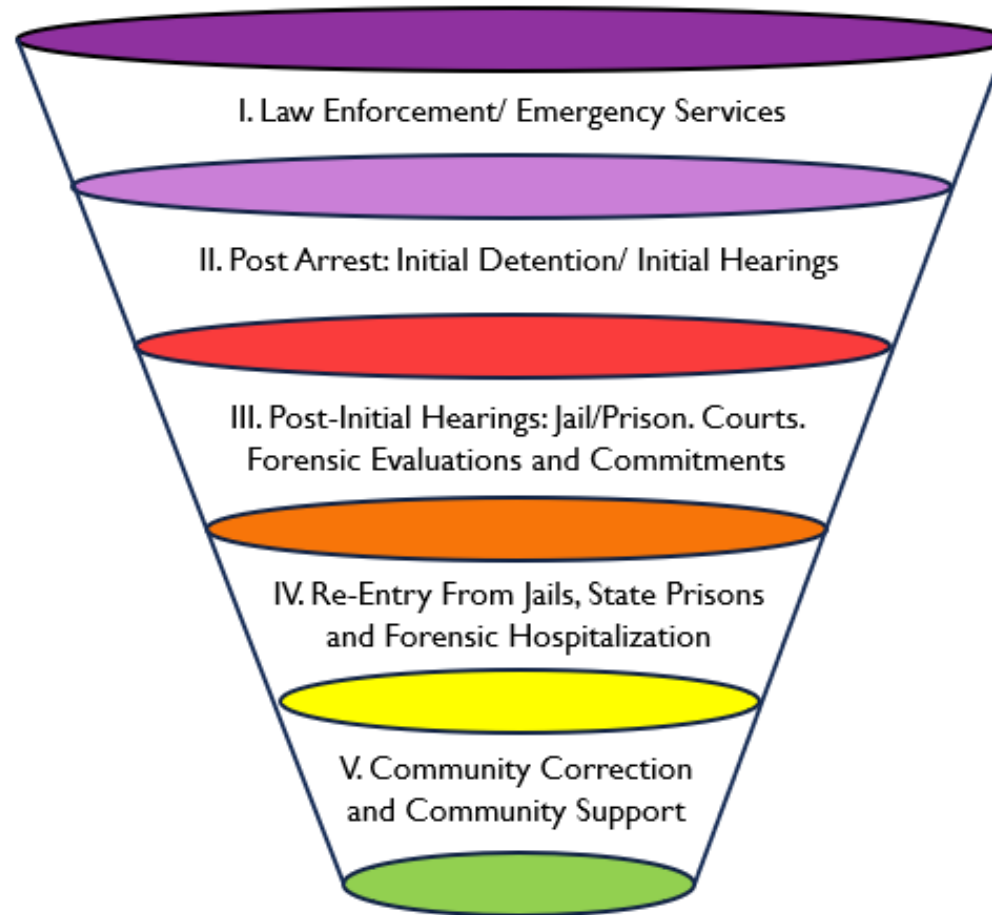
Monitor individuals released pretrial



Maintain accurate records of pretrial release

Pretrial Programs Promote Early Intervention for Individuals with Behavioral Health Needs

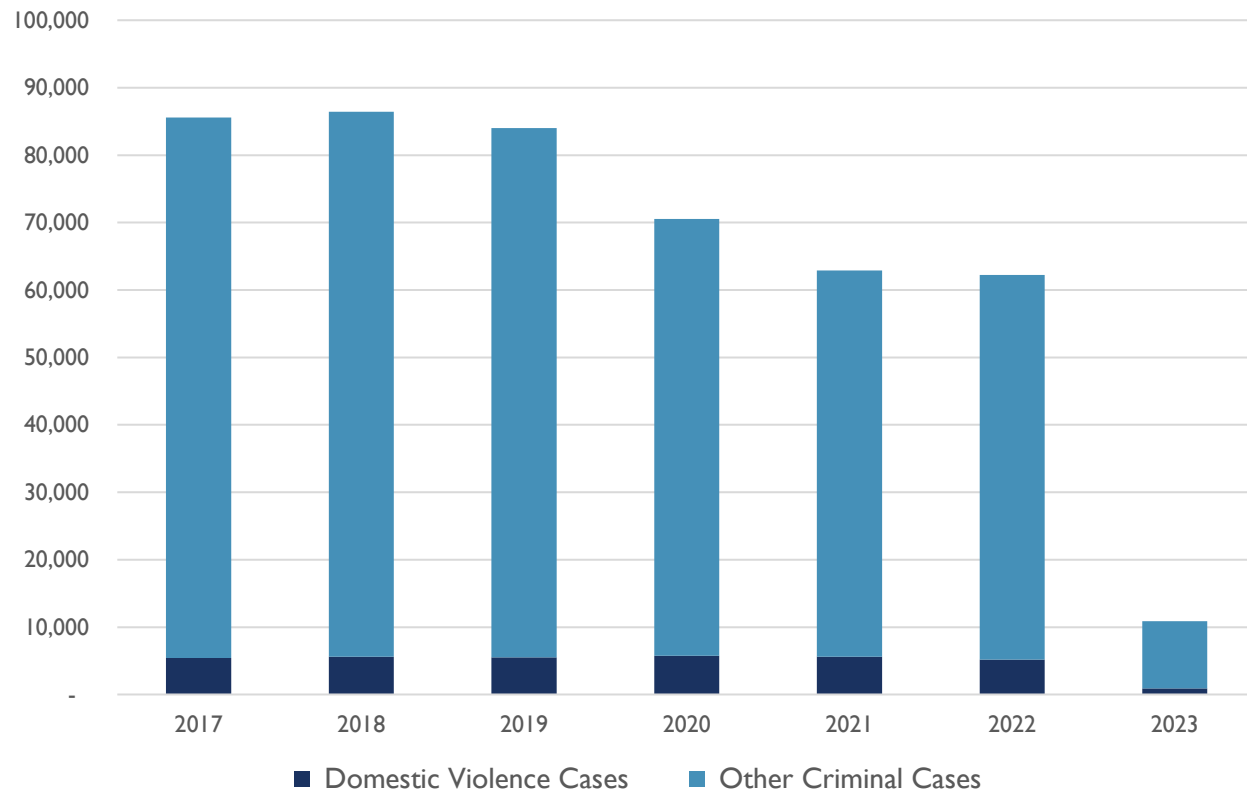
- Early identification of behavioral health needs
- Connection to community resources
- Specialized monitoring to support success pretrial and return to fitness



Intercept 2:
Initial Court Hearings/Initial Detention
Involves diversion to community-based treatment by jail clinicians, social workers, or court officials during jail intake, booking, or initial hearing.

Domestic Violence Cases Require Specialized Response

Domestic violence cases make up 7.4% of criminal cases filed



- **Individuals with DV charges are held for arraignment in front of a judge**
- Training for RAOs & judges in 2022, continuing in 2023
- Developing domestic violence decision-making protocol for judges
- Evaluating DV risk assessment tool

Case Study – Lane County Circuit Court

- Established in 1975 | One pretrial release officer hired by court; delegated authority to release defendants
- Pretrial Monitoring 1997 | Prioritized by Local Public Safety Coordinating Council (LPSCC), initially funded by CCA, now partially funded by JRI
- 1998 - 2002 | Multidisciplinary team established to prioritize monitoring and consistent release, added risk tool
- Staff: 1 supervisor, 8 court RAOs, 3 court support staff, 3 Sheriff Deputies
- Partner with Sheriff for Electronic Monitoring
- Pretrial office staffed 16/7



Thank You

QUESTIONS?

