

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**  
**Policy Session Worksheet**

**Presentation Date:** October 30<sup>th</sup>, 2018      **Approximate Start Time:** 10:30am  
**Approximate Length:** 1 hour

**Presentation Title:** Clackamas County Jail Population Control Plan

**Department:** Clackamas County Sheriff's Office, Jail Division

**Presenters:** Sheriff Craig Roberts, Undersheriff Chris Hoy, Captain Lee Eby, Assistant County Counsel Scott Ciecko

**Other Invitees:**

**WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

We are requesting the Board adopt an updated Capacity Management Plan amending the prior plan under Board Order #2005-184 for the Clackamas County Sheriff's Office Jail to be implemented in Accordance with ORS 169.044 in the event of a County Jail Population Emergency.

**EXECUTIVE SUMMARY (why and why now):**

Oregon Revised Statute requires the Board of County Commissioners to reject or adopt a maximum facility population recommendation to establish the maximum allowable number of inmates held in the local jail and the specific standards for determining a county jail population emergency and the specific plan for resolving the emergency. A county jail population emergency occurs when the number of inmates in the jail exceeds the capacity limit. When such an emergency exists the plan gives guidance to reduce the number of inmates held in jail to be in compliance with State and Constitutional Standards. This procedure to release those incarcerated in the local jail under a release agreement is commonly referred to as forced release.

The current capacity of the local jail is not sufficient to keep pace with the number of those incarcerated both pretrial and sentenced in Clackamas County. As such, the number of inmates routinely exceed the maximum allowable number of the facility population in the jail.

Since November of 2014 a Forced Release Task Force consisting of Clackamas County Court representatives (judicial staff), District Attorney, Parole and Probation Office, County Administration and Sheriff's Office have met to examine and problem solve the need to reduce forced releases in the County Jail through population management strategies. In the course of these meetings, justice system mapping (LEAN process) occurred to better understand the jail population. This examination included review of the maximum number of inmates that may be held in the facility and the population control plan to address a population emergency.

The review has produced the recommend Clackamas County Jail Population Control Plan for the Board to review. This plan is an updated version of a plan approved by the board on June 30th, 2005 (Board Order #2005-184).

**FINANCIAL IMPLICATIONS (current year and ongoing):**

Is this item in your current budget?     YES       NO

N/A

What is the cost? \$

What is the funding source?

**STRATEGIC PLAN ALIGNMENT:**

- How does this item align with the County's Performance Clackamas goals?

Ensure safe, healthy and secure communities by establishing inmate population limits and emergency procedures.

**LEGAL/POLICY REQUIREMENTS:**

Oregon Revised Statute 169.044 requires the County Board of Commissioners when receiving a recommendation of maximum facility population in accordance with ORS 169.042 to either reject the recommendation and decline to adopt a limit on the number of inmates that may be held in the local correctional facility; or adopt the recommendation issue an order establishing the maximum allowable number of inmates that may be held in the Clackamas County Jail and the specific standards for determining a county jail population emergency and the plan for resolving the emergency.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

Since November of 2014 a Forced Release Task Force consisting of Clackamas County Court representatives (judicial staff), District Attorney, Parole and Probation Office, County Administration and Sheriff's Office have met to examine and problem solve the need to reduce forced releases in the County Jail through population management strategies.

**OPTIONS:**

When the Board of County Commissioners has received a maximum facility population recommendation pursuant to ORS 169.042, it shall either:

- (1) Reject the recommendation and decline to adopt a limit on the number of inmates that may be held in the local correctional facility; or
- (2) Adopt the recommendation and, after consultation with the officials listed in ORS 169.046, issue an order establishing the maximum allowable number of inmates that may be held in the local correctional facility. This shall include specific standards for determining a county jail population emergency and a specific plan for resolving the emergency.

**RECOMMENDATION:**

The Clackamas County Sheriff's Office recommends the Board of County Commissioners adopt a Capacity Management Plan for the Clackamas County Sheriff's Office Jail to be implemented in accordance with ORS 169.044 in the event of a County Jail Population Emergency. Formal board action will be by adopting the attached board order at a board business meeting.

No anticipated problems are predicted to be encountered if adopted.

If the recommendation is not implemented then the Clackamas County Jail is not in compliance with Oregon Revised Statute and a Capacity Management Plan is not available to be enacted if the number of inmates exceeds housing capacity. This could result in litigation for violation of conditions of confinement in the treatment of inmates housed at the Clackamas County Jail.

**ATTACHMENTS:**

Clackamas County Jail Population Control Plan

Board Order # \_\_\_\_\_

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_

Department Director/Head Approval \_\_\_\_\_

County Administrator Approval \_\_\_\_\_



For information on this issue or copies of attachments, please contact Captain Lee Eby @ 503-722-6760

In the Matter of Adopting  
Population Control Plan for Clackamas  
County Sheriff's Office Jail with a Jail  
Capacity Limit and Action Plan Under  
ORS 169.044  
No. CL

ORDER NO.???

**WHEREAS**, pursuant to ORS 169.042 to .046, this matter comes before the Clackamas County Board of County Commissioners for the purposes of updating the maximum number of inmates that should be held at the Clackamas County Jail, and updating the jail Population Control Plan to be implemented in the event of a jail population emergency, which occurs if the jail inmate population exceeds that maximum number of inmates; and

**WHEREAS**, both the maximum inmate population and the jail Population Control Plan were previously established by Board Order 2005-184 but should be updated in light of changes in conditions at the Clackamas County Jail; and

**WHEREAS**, the Board of County Commissioners and the Sheriff are committed to operating the County jail in a manner consistent with prevailing constitutional standards and statutory provisions regarding conditions of confinement; and

**WHEREAS**, the maximum number of inmates that should be held in the jail has been examined and a recommendation as to that number has been presented to the Board along with a Population Control Plan which complies with the requirements of ORS 169.042; and

**WHEREAS**, it further appearing that this matter previously came before the Board at a policy session on [insert date], 2018.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that

1. The attached maximum inmate population and Clackamas County Jail Population Control Plan ("Plan") are adopted and will be implemented in accordance with ORS 169.042 to .046 in the event of a county jail population emergency;
2. If a county jail population emergency occurs, the Sheriff shall carry out the steps of the plan, which include authorization for the Sheriff to order inmates released to reduce the jail population and remedy or avoid a jail population emergency;
3. The Sheriff shall be immune from criminal or civil liability for any good faith release of inmates under ORS 169.042 to 169.046, for actions taken in furtherance of said jail capacity limit and action plan;

4. The maximum population limit for the Clackamas County Jail system for purposes of jail population emergency and the ability to enact the Jail Population Control Action Plan is set at 465;
5. If the number of inmates housed within the Clackamas exceeds ninety percent (90%) of capacity for a specific classification of housing within the jail population, a county jail population emergency will exist;
6. The Sheriff, or his designee, will implement the Plan in the event of county jail population emergency.

Population Control Plan for Clackamas County Sheriff's Office Jail No. ???? is approved for the reasons stated in attached Exhibit A as of October 30<sup>th</sup>, 2018.

**DATED** this 30<sup>th</sup> day of October, 2018

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## CLACKAMAS COUNTY JAIL POPULATION CONTROL PLAN

I. This Jail Population Control Action Plan (“Plan”) is adopted by Board of County Commissioners for Clackamas County (the “BCC”) by way of Board Order [insert board order number] and pursuant to ORS 169.044 to resolve county jail population emergencies which may arise in Clackamas County. This Plan shall remain in effect until and unless amended in writing with approval of the BCC.

A jail population emergency exists in Clackamas County when the total jail inmate population exceeds ninety percent (90%) of the jail population capacity limit, which in light of the criteria set forth in ORS 169.042(1) – (4) has been determined by the BCC to be 465. Alternatively a jail population emergency exists in Clackamas County when an inmate jail population exceeds ninety percent (90%) of capacity for a specific classification of housing within the jail population as set in *Appendix B* to this Plan and adopted by the BCC after consideration of the same statutory criteria.

By approval of this Plan the BCC delegates to the Sheriff of Clackamas County or his/her designee the authority to implement and carry out this Plan in the event that a jail population emergency occurs in Clackamas County. In carrying out this Plan, the Sheriff or his/her designee may institute forced releases of inmates from the Clackamas County Jail, consistent with the parameters of this Plan, in order to resolve the jail population emergency.

II. The intent of this Plan is to resolve a jail population emergency consistent with ORS 169.042 to .046, and in the best interests of the citizens of Clackamas 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, while releasing a sufficient number of jail inmates in order to resolve a population emergency that exists.

This Plan is based on objective, evidence-based criteria reasonably calculated to:

- A. Resolve the jail population emergency by force releasing certain inmates from the jail;
- B. Ensure public and victim safety and later appearance in court consistent with pretrial release criteria (ORS 135.245 (3)); and
- C. Comply with prevailing constitutional and Oregon jail standards relating to conditions of incarceration.

### III. DEFINITIONS:

**A. Criminal Charges:** The charge or charges that resulted in the arrest and current booking of an inmate into jail.

**B. Criminal History:** Prior arrests or convictions within 10 years unless otherwise specified within this Plan, performance while on a supervised program, and history of failure to appear.

**C. Forced Release:** Temporary release of an inmate from lawful custody before judgment of conviction due to a county jail population emergency (ORS 169.005(2)).

**D. Dangerous Circumstances:** A designation placed upon an inmate based upon criminal history or behaviors listed in *Section V* indicating 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 last for forced release eligibility despite having an Population Control Plan Risk Assessment Score pursuant to *Attachment A*.

**E. Population Control Plan Risk Assessment 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 IV* and *V* below.

**F. Forced Release Task Force:** A group consisting of employees of the Clackamas County Courts, Community Corrections, the Sheriff's Office, County Counsel's Office, and the District Attorney's Office, convened to study and review the use of forced releases in Clackamas County and make a recommendation to the Clackamas County Board of Commissioners on specific standards for determining a county jail population emergency and a specific plan for resolving the emergency (ORS 169.044).

**IV.** The Forced Released Task Force has agreed to an emergency population release scoring mechanism which shall be used to create a Population Control Plan Risk Assessment score for every person in custody of the Sheriff who is eligible for forced release pursuant to state statute and this Plan. The scoring mechanism evaluates each eligible inmate using the criteria set forth below, with input from the jail staff based upon their interviews with the inmates, and updates based on the inmate's classification. *Section V* is added factors affecting the population score based on the following criteria:

- A. Risk to self or other persons;
- B. Propensity for violence as documented or illustrated in Criminal History;
- C. Risk Assessment score as specified by the *Population Control Plan Formula* in *Attachment A*;
- D. Prior failures to appear;
- E. Parole, probation, or post-prison violations history; and
- F. Institutional behavior or Classification.

**V.** Persons whose current charge relates to or who have a criminal history involving any of the following will be identified for dangerous circumstances 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 or if defendant is identified as a "level three sex offender" as defined in ORS 163A.100;
- B. Child abuse or crimes relating to children;
- C. Ineligible release criteria (out of state address, extradition, transport order or court recognizance revoke);

- D. Danger to the community (to include Measure 11 cases);
- E. Domestic violence cases;
- F. Violation of Stalking or Restraining Order;
- G. When specifically ordered by a Judge; or
- H. As requested in orally or in writing for compelling reasons to protect the safety of the public by a Parole/Probation Supervisor, Senior Deputy District Attorney, Law Enforcement Supervisor, Jail Supervisor, or County Health Officer and approved by a Jail Administrator.

VI. Inmates who are identified by Public Health as being at a substantial risk to the public if released due to serious, communicable medical condition shall be excluded from forced release.

VII. In the event of multiple charges pending against a single inmate, the most serious charge will determine the inmate's primary charge category for the risk assessment.

VIII. The Sheriff may institute gender specific forced releases on occasions in which gender specific housing is necessary to alleviate the population emergency.

IX. 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 V* are present; and then
- B. Inmates who have not been arraigned, when none of the special considerations listed in *Section V* are present.

X. The Sheriff may during a population emergency institute specific forced releases, when none of the special considerations listed in *Section V* are present, based on medical needs when the medical needs of the individual would not be otherwise available while in custody or the cost of such care would be prohibitive for the County.

XI. Clackamas County Sheriffs' Office will ensure compliance with ORS 169.046 regarding notice of a county jail population emergency.

XII. The Sheriff may temporarily or permanently adopt, amend, and rescind CCSO policies and procedures and housing classification designations for inmate bed allocation as necessary to ensure compliance with the intent of this Plan and the adopted jail population capacity total.

### **XIII. POPULATION MANAGEMENT STRATEGIES**

Before declaring a jail population emergency the Sheriff may implement strategies to manage the jail population to avoid forced releases. These strategies may be modified as necessary to meet the immediate need of the jail population emergency.



Strategies to manage population 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 intake, removing these inmates from the facility population, and filling behind any beds created by this process.
- B. When feasible, releasing inmates, who are scheduled to be released that day from their sentences, sometime after midnight on that day or rehousing to intake, removing those inmates from the facility population, and filling behind any beds created by this process.
- C. For those inmates eligible, the jail will utilize day reporting within the jail for sentenced individuals to serve their court ordered incarceration in twelve (12) hour blocks. These inmates will be housing in the intake area, removing these inmates from the facility population, and creating open bed space.
- D. When eligible, the jail shall use the Electronic Home Detention program as an alternative custody tool to full incarceration for inmates at the Clackamas County Jail (CCJ) by providing sophisticated electronic monitoring, voice verification, and remote alcohol-testing on inmates who pose a lower risk to the community, yet require supervision. EHD participants may be eligible as pre-trial inmates or sentenced inmates and are considered a low risk to the community based on established criteria from the Sheriff.
- E. When Clackamas County Sheriff's Office has information of law enforcement activities or other circumstances from which it can be reasonably anticipated that a population emergency will occur, the Sheriff shall notify all police agencies in the county to make maximum use of citations in lieu of custody pursuant to ORS 133.055 and 133.076.

## ***APPENDIX “A”—Population Control Plan Formula***

**POPULATION CONTROL PLAN.** The population control release schedule is for overcrowding and shall go into effect only when the jail has achieved ninety (90) percent or greater of its housing capacity or ninety (90) percent of capacity for a specific category of housing classification. When the classification deputy has determined that the jail population has reached or exceeded ninety (90) percent of capacity for the specific category of housing classification, the classification deputy shall generate a population control plan list and select those inmates who are eligible, in numeric sequence, for population control plan release. The classification deputy shall notify the Jail Service Technician of the release and have a Jail Sergeant approve the file. The release list shall be submitted for the electronic archive at the end of the day.

**Population Control Plan Formula.** The population control plan formula uses a four-digit number system. The first digit is the classification indicator.

- a. 1000 is for male probable cause or warrant arrests with no other holds.
- b. 2000 is for male probation violation holds.
- c. 3000 is for male sentenced inmates.
- d. 4000 is for female probable cause or warrant arrests with no other holds.
- e. 5000 is for female probation violation holds.
- f. 6000 is for female sentenced inmates.
- g. 7000 is for parole holds, fugitives, INS holds, and U.S. Marshal holds.
- h. 8000 is for abuse prevention cases.
- i. 9000 is for Measure 11 case (ORS137.700) out of state addresses, extraditions, and judge recognizance revokes.

**Population Control Plan Risk Assessment.** After booking an inmate, and the inmate is identified by State Identification Number (SID) classification staff will complete a Risk Assessment on the inmate through the jail management system (The Risk Assessment is in the Jail/Classification module of the custody management system).

The population control plan consists of two components. The first component is a numerical, 4 digit score based on current charges for a classification indicator. The digits indicate the risk score. For example, a four-digit sequence of 1000 shows the classification as PC or warrant.

The second component is comprised of (1) the Public Safety Checklist (PSC) and/or (2) the Virginia Pretrial Risk Assessment Instrument (VPRAI). These verified tools measure and predict the recidivism risk of a person committing a future crime if released. The scale for the PSC is percentage score (1-100%) for three categories: (1) New Felony Conviction; (2) New Person Crime Arrest; and (3) New Property Crime Arrest. Forced Release risk will be based on percentage score for the greatest risk to public safety captured as a new person crime arrest. The scale for the VPRAI is scored based on single category risk factors that produce a similar coded percentage score (10-90%).

**Release.** All intended releases should be generated sequentially beginning with (1000 and 4000) series inmates. The PSC and/or VPRAI scores will also be considered when calculating the risk of recidivism. When eligible releases from that series have been completed, the next series (2000 and 5000) should be used. Deviation from this procedure and releases from 7000, 8000, and 9000 inmates shall require notification of the population control plan supervisor, or the Jail Commander or his/her designee. As a general rule, staff will release inmates with the least negative public safety scores before those with more negative scores unless authorized by the Jail Commander or his/her designee for the best interest of public safety.

**APPENDIX “B”—Jail Operation Capacity**

<b>CLASSIFICATION</b>	<b>UNIT</b>	<b>OPERATION CAPACITY</b>	<b>IN-USE TOTAL</b>
Inmate Worker Custody--Male	C	10	10
Inmate Worker Custody--Male	D	10	10
Inmate Worker Custody--Male	Y	20	20
Inmate Worker Custody - Female	H	14	8
	<b>Sub-Total</b>	<b>54</b>	<b>48</b>
Transitional Population	A	8	8
Disciplinary Segregation--Male	M	20	20
Administrative Detention--Male	O	20	20
Protective Custody/Administration Detention	ISO	5	5
	<b>Sub-Total</b>	<b>53</b>	<b>53</b>
Protective Custody--Male	L	26	26
Protective Custody--Male	N	22	22
Protective Custody--Male	P	22	22
	<b>Sub-Total</b>	<b>70</b>	<b>70</b>
Maximum Custody--Male	J	26	26
Maximum Custody--Male	Q	20	20
	<b>Sub-Total</b>	<b>46</b>	<b>46</b>
General Population(Medium/Minimum)--Male	K	16	16
General Population(Medium/Minimum)--Male	R	26	26
General Population(Medium/Minimum)--Male	T	26	26
General Population(Medium/Minimum)--Male	U	20	20
General Population(Medium/Minimum)--Male	V	22	22
General Population(Medium/Minimum)--Male	W	20	20
General Population(Medium/Minimum)--Male	X	22	22
	<b>Sub-Total</b>	<b>152</b>	<b>152</b>
General Population(Medium/Minimum)--Female	Z	18	18
General Population(Medium/Minimum)--Female	E	26	26
Maximum/High Medium Custody--Female	F	24	24
Administrative/Disciplinary Detention--Female	S	16	16
	<b>Sub-Total</b>	<b>90</b>	<b>90</b>
Medical/Mental Health Segregation	Medical(old)	8	8
Medical/Mental Health Segregation	Medical(new)	12	0
	<b>Sub-Total</b>	<b>20</b>	<b>8</b>
<b>CLACKAMAS COUNTY JAIL TOTAL BEDS</b>		<b>491</b>	<b>465</b>