



# COUNTY OF LOS ANGELES PROBATION DEPARTMENT

9150 EAST IMPERIAL HIGHWAY – DOWNEY, CALIFORNIA 90242  
(562) 940-2501



**RAY LEYVA**

Interim Chief Probation Officer

# ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

February 11, 2020

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The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

CELIA ZAVALA  
EXECUTIVE OFFICER

Dear Supervisors:

## **PROBATION DEPARTMENT'S ACCEPTANCE OF THE JUDICIAL COUNCIL OF CALIFORNIA'S PRETRIAL RELEASE PILOT PROGRAM GRANT AWARD (ALL DISTRICTS) (3-VOTES)**

### **SUBJECT**

On August 9, 2019, the Judicial Council of California (Judicial Council) awarded the Superior Court of the County of Los Angeles (Superior Court) with a \$17.3 million grant to conduct a two-year local Pretrial Release Pilot Program (Pilot) whose objectives are to increase the number of inmates who can safely be released before trial and use the least restrictive monitoring practices possible to ensure their return for court appearances.

The Probation Department (Probation) was identified in the Superior Court's application as the County's lead department. It is estimated that The Department will be allocated \$15.6 million for staffing costs, pretrial risk and needs assessments, pretrial supervision, and treatment and support services provided through Community Based Organizations and/or County departments. Information Systems Advisory Body (ISAB) will be directly allocated by the Superior Court with an estimated \$1.6 million for information technology systems upgrades. The Pilot will be cost neutral; whereby, County departments will design the scope of their operations to the funding allocation provided by the Superior Court. County Counsel has prepared a corresponding Pretrial Release Pilot Program Memorandum of Agreement (MOA) with the Superior Court, see Attachment I.

### **IT IS RECOMMENDED THAT THE BOARD:**

1. Authorize the Interim Chief Probation Officer to accept a \$15.6 million grant allocation from the Superior Court of the County of Los Angeles to operationalize a local pilot under the Judicial Council

of California's Pretrial Pilot Program.

2. Authorize Interim Chief Probation Officer to execute the Pretrial Release Pilot Program Memorandum of Agreement with the Superior Court of the County of Los Angeles, including delegated authority to approve necessary changes to the scope of service, non-material, technical, and administrative changes, and to terminate the MOA, in whole or in part.

3. Delegate authority to the Interim Chief Probation Officer, or his designee to negotiate, execute, amend, modify, and/or extend agreements with governmental and non-governmental agencies to provide services consistent with the Pilot, upon approval as to form by County Counsel.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The Judicial Council's Pretrial Pilot Program's objectives are to increase the number of inmates who can safely be released before trial through the use of validated risk and/or needs assessment tools and the application of the least restrictive monitoring practices possible to ensure their return for court appearances. The Superior Court will also measure any potential disparate impact or bias the pilot may produce based on race, ethnicity, and gender.

These objectives align with the Board's efforts to reform the local criminal justice system and depopulate the County jails through diversion and alternatives to incarceration. Currently, the County jails' average daily population is 17,000 inmates of whom there are approximately 7,500 (44%) pretrial inmates. The Department's existing Bail Deviation Program does provide pretrial inmates with an opportunity to be assessed and, if eligible, be recommended to a magistrate for prearrangement release; however, this is a self-referral program that receives requests from only a small fraction of the pretrial population.

The proposed Pilot is anticipated to reduce the jails' pretrial population by providing pretrial inmates with two opportunities for non-monetary release:

1. Pre-arraignment Risk Assessment: Anyone booked by a County law enforcement agency will have a static risk assessment automatically performed and delivered to a magistrate; whereby, the Bail Deviation Program essentially becomes automated and mandatory. Upon approval by a magistrate, eligible low risk individuals will be released on their own recognizance with minimal monitoring. e.g. text court date reminders. All remaining individuals will be detained for arraignment.

2. Arraignment Needs Assessment: Individuals detained for arraignment at the Clara Shortridge Foltz Criminal Justice Center (CJC), in downtown Los Angeles, will have a dynamic needs assessment performed prior to arraignment. The static risk and dynamic needs assessments will be taken into consideration by the judge for potential pretrial release. Individuals who are pretrial released will be subject to the least restrictive pretrial release conditions, ranging from text court date reminders, telephone check-in, GPS/electronic monitoring. As indicated by each individual's needs assessment, pretrial release may also include court-ordered treatment and support services provided by community-based providers.

The Superior Court anticipates the Pilot will be operational by March 1, 2020.

In addition to the Pilot's non-monetary pretrial release opportunities, money bail will remain a pretrial release option as determined by an individual's pre-arraignment charge and later by the arraignment

judge.

### **Implementation of Strategic Plan Goals**

The Pilot will support Strategy I.3 – Reform Service Delivery Within Our Justice Systems, by depopulating the County jails and providing rehabilitative services to those involved with the County's justice systems to reduce the risk of recidivism, and support successful re-entry into our communities

### **FISCAL IMPACT/FINANCING**

The Judicial Council has awarded the Superior Court with \$17.3 million to operate the Pilot. The Department will be allocated approximately \$15.6 million for staffing costs, risk and needs assessments, supervision, and treatment and support services. ISAB will be allocated up to \$1.6 million for necessary information technology systems upgrades. Note: The Superior Court, as an ISAB voting member, provides ISAB with direct funding.

The Superior Court will establish a process with The Department to reimburse costs incurred under this Pilot, up to the funding allocation. In turn, The Department will be responsible for monitoring and reimbursing partner County departments and corresponding CBOs for their respective Pilot costs.

The Pilot will be cost neutral to the County; whereby, The Department and the County departments will limit the scope of the Pilot's operations to the funding allocation provided by the Superior Court.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On August 28, 2018, Senate Bill 10 (SB10) was signed by Governor Brown into law. SB10 establishes pretrial services operations to perform pretrial risk assessments and corresponding recommendations that will be submitted, within 24 hours of booking, to a judge for consideration of an individual's eligibility for pretrial release. SB10 eliminates the current money bail option. SB10 contemplates probation departments, upon approval by the local board of supervisors, as the local pretrial services agency responsible for the risk assessment and pretrial release supervision, including any treatment and support services. SB10 is largely an unfunded State mandate; whereby, preliminary CEO estimates projected the proposed Statewide funding amount would be insufficient for County start-up and ongoing operations.

On January 16, 2019, the Secretary of State confirmed a referendum on SB10 qualified for the November 2020 ballot; therefore, SB10 implementation is suspended pending the outcome of the election. The CEO is monitoring the status of SB10 and the referendum.

During the interim, the State Budget Act of 2019 appropriated \$75.0 million to the Judicial Council to fund the implementation, operation, and evaluation of pretrial decision-making pilots in at least 10 courts within the state. Upon award, the pilot duration is through December 30, 2021.

On August 9, 2019, the Superior Court was awarded \$17.3 million to implement the Pilot in partnership with The Department.

The Pilot will conform to existing laws:

- Penal Code 1269(c) permits the release of eligible pretrial inmates by a judge or magistrate. The

Department's existing Bail Deviation Program operates under the auspices of PC1269(c).

- There will be no change to money bail which will remain a pretrial release option for eligible inmates.
- Law enforcement's current cite and release policies and procedures remain unchanged.

The County departments participating in the Pilot include: Probation, District Attorney, Public Defender, Alternate Public Defender, Sheriff, and the Information Services Advisory Body.

The Superior Court and The Department will design the Pilot to take into account the potential outcomes of the November 2020 election.

On February 5, 2019, the Board directed County Counsel to work with the Superior Court and County departments to increase the use of pre-plea diversion programs and to hire a consultant to develop and implement additional bail reform pilots. This project is in-progress and will be separate but complementary with the Pilot and other existing pretrial diversion projects.

## **CONTRACTING PROCESS**

County Counsel has prepared the corresponding Pretrial Release Pilot Memorandum of Understanding (MOU) between the Court and The Department, see Attachment I.

## **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

The Pilot is comprised of three primary operations which will have the following impact:

### 1. Pre-arraignment Risk Assessment:

- Law enforcement agencies will need to be trained on Pilot release/detain policies and procedures. The potential impact on the booking process and inmate housing at local patrol stations and the Sheriff's Inmate Reception Center is unknown.
- The Department will be responsible for monitoring low risk individuals on pretrial release. Pretrial release is anticipated to be release own recognizance with minimal monitoring, such as text court date reminders.

### 2. Arraignment Needs Assessment:

- The Pilot's arraignment operation will be conducted in three courtrooms within the CJC in downtown Los Angeles.
- The Department will contract with a "super navigator" to provide individuals who are released pretrial with linkages to treatment and/or support service providers, as indicated by the needs assessment. County departments may also add staff onsite at CJC to provide their services.

### 3. Pretrial Supervision:

- The Department, Community Based Organizations and/or County departments will leverage the resources of existing programs to maximize the extent of the Pilot's treatment and support services.

## **CONCLUSION**

The Pilot provides an opportunity for Los Angeles County to be at the forefront of bail reform and is in

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line with previous motions by your Board. As this effort is fully funded by the Judicial Council grant, this is an excellent opportunity to gain insight, knowledge and experience in anticipation of SB10, or similar legislation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ray Leyva', written in a cursive style.

RAY LEYVA

Interim Chief Probation Officer

RL:RB:DG

Enclosures

c: Executive Office, Board of Supervisors  
Chief Executive Office  
County Counsel

**MEMORANDUM OF AGREEMENT**

BETWEEN

THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

AND

THE COUNTY OF LOS ANGELES

**FOR THE LOS ANGELES PRETRIAL RELEASE PILOT PROGRAM****I. Introduction**

The Superior Court of California, County of Los Angeles (“Court”) and the County of Los Angeles (“County”) acknowledge the need to collaborate to implement, operate, and evaluate programs and efforts related to pretrial decision-making. To that end, the Court and the County will work together on the Los Angeles Pretrial Release Pilot Program (“Pilot”).

The Court applied for funding from the Judicial Council of California (“Judicial Council”) for the proposed Pilot. On August 9, 2019, the Judicial Council awarded the Court funding to conduct the Pilot.

The Pilot will require significant contributions from the County, including resources for pretrial assessment services and the supervision and monitoring of arrestees and defendants pending trial, and from the Court, including resources for judicial officers and information technology infrastructure. This Memorandum of Agreement (“MOA”) outlines the Court's and the County's responsibilities and ensures that the Court will reimburse the County for the expenditures incurred to carry out its responsibilities as set forth below.

**II. Responsibilities**

A. The Court will:

- Administer the grant award from the Judicial Council, including reimbursing the County on a quarterly basis for expenditures incurred to carry out its responsibilities;
- Validate the static (Public Safety Assessment, PSA) and dynamic (Criminal Court Assessment Tool, C-CAT) pretrial risk assessment instruments with local historical data;
- Provide the County the local historical data and the results of the validation studies of the PSA and C-CAT and program data to evaluate the process and outcomes of the Pilot;
- Implement and maintain necessary information technology systems to deliver pretrial risk assessment reports to judicial officers prearrestment and to

deliver subsequent release decisions to law enforcement agencies, including the Los Angeles County Probation Department (Probation);

- Work with law enforcement agencies to develop and implement training regarding the automated pretrial risk assessment and the subsequent release or detention process;
- Assign and train judicial officers to make prearrestment release decisions based on pretrial risk assessment results provided by the County;
- Provide training to judicial officers assigned to make release decisions at arraignment at the Clara Shortridge Foltz Criminal Justice Center; and
- If deemed necessary and appropriate and with the agreement of the County, contract for supervised release services that Probation would be responsible for managing.

B. The County will:

- Administer the PSA for all arrestees countywide when a booking number is pulled and maintain the resulting data;
- Provide necessary support for the Court-funded development, implementation, and maintenance of information systems necessary to store all pretrial risk assessment data obtained prearrestment and at arraignment;
- Communicate the Court's pretrial release decisions to local law enforcement agencies until the Court can submit this information electronically;
- Fulfill the terms of pretrial supervision that a judicial officer imposes as conditions of release from the agreed upon menu of services and conditions;
- Report data required by the Court to meet the requirements of the grant, as outlined in the application for grant funding;
- Submit claims for reimbursement of actual expenditures incurred to carry out the County's responsibilities to the Court quarterly, no later than 30 days after the close of each quarter. Such expenditures shall not exceed the amounts indicated in Attachment A to this MOA; and
- Comply with all audits of the Court, Judicial Council, or external auditors and provide documentation as requested.

### **III. Term**

The term of this MOA will commence upon execution by both parties. The term of this MOA will end when the funding from the Judicial Council awarded for the Pilot is fully expended, but no later than June 30, 2021. This MOA may be terminated at any time without cause by either party upon giving at least 30 days prior written notice to the other party.

### **IV. Funding**

Performance under this MOA is contingent upon the Judicial Council awarding the Court grant funding for the Pilot as set forth in its August 9, 2019 award notice.

The Court will reimburse the County the amounts specified in the final pilot program budget as specified in the Intrabranh Agreement between the Judicial Council and Court pursuant to this program, as reflected in Attachment A. Program services will cease on June 30, 2021, while pilot activities may continue until December 31, 2021, as the budget allows (e.g., to support reporting activities and completion of deliverables). County will submit an estimate of projected expenses on or before May 15, 2021. No reimbursement will be made for services to arrestees and defendants who enter the program after June 30, 2021. No reimbursement will be made for expenses incurred after December 31, 2021. No billing will be accepted after January 15, 2022, to ensure sufficient time for the Court to reconcile the allocation of funds from the Judicial Council to final program expenditures.

If the Judicial Council, its auditors, or other auditors disallow any expenses, the Court will inform the County and direct it to return the disallowed amount to the Court. The Court will add the amount to any payment due to the County or that may become due to the County.



## **V. Notices**

Any notice required or permitted to be given under the terms of this MOA shall be in writing and delivered by overnight mail and email. Notices shall be sent to the following persons:

Timothy J. Kral  
Principal Deputy County Counsel  
211 West Temple Street, 8th Floor  
Los Angeles, California 90012  
tkral@counsel.lacounty.gov

Craig M. Hoetger  
Senior Deputy County Counsel  
653 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012  
choetger@counsel.lacounty.gov

Bryan Borys  
Director, Research and Data Management  
Superior Court of California, County of Los Angeles  
111 North Hill Street, Room 105E  
Los Angeles, California 90012  
bborys@lacourt.org

## **VIII. Amendments**

Amendments to the MOA will require agreement by both the County and the Court. Amendments to the MOA must be in writing and approved as to form by County Counsel and Court Counsel. Amendments to the MOA will require a new signature page verifying agreement and acknowledgment of the changes. The parties will promptly notify all affected County and Court personnel of amendments to the MOA.

The persons signing this MOA represent that they are authorized to bind their respective parties.

On behalf of the SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES:

\_\_\_\_\_  
SHERRI R. CARTER  
Executive Officer/Clerk of Court  
Superior Court of California, County of Los Angeles

\_\_\_\_\_  
Date

On behalf of the COUNTY OF LOS ANGELES:

\_\_\_\_\_  
RAYMOND LEYVA, Interim  
Chief Probation Officer  
County of Los Angeles

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
IVETTE PEÑA  
Chief Deputy, Legal Services/Court Counsel  
Superior Court of California, County of Los Angeles

\_\_\_\_\_  
MARY C. WICKHAM  
County Counsel  
County of Los Angeles

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Attachment A  
Pretrial Pilot Program  
Superior Court of California, County of Los Angeles  
Budget**

<b>Agency / Contractor</b>	<b>Amount</b>
County of Los Angeles Probation Department	15,581,304
Information Systems Advisory Body (ISAB) / Superior Court of California, County of Los Angeles <sup>(1)</sup>	1,600,000
<b>Total</b>	<b>\$ 17,181,304</b>

(1) Costs may be interchangeable between Los Angeles County and Superior Court of California, County of Los Angeles.