



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 9, 2019

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Title	Agenda Item Type
Pretrial Reform: Pretrial Pilot Program	Action Required
Recommended Awards	Effective Date
Rules, Forms, Standards, or Statutes Affected	August 9, 2019
N/A	Date of Report
Recommended by	July 25, 2019
Pretrial Reform and Operations Workgroup	Contact
Hon. Marsha G. Slough, Chair	Deirdre Benedict, Senior Analyst
Shelley Curran, Director	415-865-7543
Criminal Justice Services Office	deirdre.benedict@jud.ca.gov

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### Executive Summary

As part of the Budget Act of 2019, the Legislature allocated \$75 million to the Judicial Council to fund the implementation, operation, and evaluation of programs or efforts related to pretrial decision-making in at least 10 courts. The Pretrial Reform and Operations Workgroup (PROW) undertook an extensive process to solicit and review applications for funding from the superior courts and selected # courts to recommend for funding.

The goals of the Pretrial Pilot Program, (“Program”) as set by the legislature, are: to increase the safe and efficient prearrestment and pretrial release of individuals booked into jail; implement monitoring practices with the least restrictive interventions necessary to enhance public safety and return to court; expand the use and validation of pretrial risk assessment tools that make their factors, weights, and studies publicly available; and assess any disparate impact or bias that may result from the implementation of these programs

The Pretrial Reform and Operations Workgroup (PROW) recommends for Judicial Council approval Program funding allocations and distribution to the # selected courts; authorization of further Program funding opportunities for the courts; and authorization of Judicial Council staff to undertake program grant administration activities.

## Recommendation

1. Approve awards of approximately,    \$    to   #   superior courts for the period of August 1, 2019 to June 30, 2021, from the Program, as stated in Attachment A (THIS ATTACHMENT WILL BE PROVIDED BY AUGUST 5, 2019)
2. Authorize PROW to make any remaining funds available to all interested California trial courts for small training, planning, or technical assistance allocations related to the goals of the Program.
3. Authorize Judicial Council staff to work with awarded courts to enable transfer of budgeted amounts from one fiscal year to another, modification or reallocation of budgets if necessary, or transfer of unspent funds between fiscal years or courts depending on the court's progress on meeting the scope and the goals of the Program.

## Relevant Previous Council Action

There is no previous Judicial Council action on this item, however the Council has received presentations in the branch's pretrial efforts.

At its January 19, 2017 meeting, the Judicial Council heard from Dr. Edward Latessa, School of Criminal Justice, University of Cincinnati on. "Evidence-Based Practices and Pretrial Risk Assessment" Dr. Latessa is a nationally recognized expert on this subject central to the examination of California's pretrial practices.

The Chief Justice appointed the Pretrial Detention Reform (PDR) Workgroup, the predecessor of the Pretrial Reform and Operational Workgroup, in October 2016 to identify ways to improve pretrial release decisions that protect the public, ensure court appearance, and treat people fairly. The workgroup presented its report to the Chief Justice on October 16, 2017. At the Judicial Council's November 16, 2017 meeting, at the Chief Justice's request, the co-chairs of the Pretrial Detention Reform Workgroup (PDR), presented the Workgroup's Report and Recommendations.<sup>1</sup>

## Analysis/Rationale

Governor Newsom included in his January 2019–20 budget, a proposed two-year court pretrial pilot program to be funded at \$75 million. In January 2019, the Chief Justice appointed the Pretrial Reform and Operations Workgroup to, in part, develop recommendations for selection criteria, the application process, and funding allocations for court pretrial pilot projects, should they be included in the final State Budget for fiscal year 2019–2020.

Between February–May 2019, PROW held multiple in-person meetings and conference calls to work with Judicial Council staff on developing, reviewing, and approving the goals and scope of

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<sup>1</sup> <https://www.courts.ca.gov/documents/PDRReport-20171023.pdf>

the Program. The eligibility requirements, application and review processes were designed based on the proposed budget bill language, feedback from legislative budget committee members, and the recommendations of the Chief Justice’s Pretrial Detention Reform Workgroup.

All communication to the trial courts regarding the Program’s goals, criteria and eligibility requirements highlighted that the Budget Bill language, and the criteria which was based upon that language, would not be final until the passage of the Budget Act.

The Request for Applications (RFA) was made available to the courts on May 20, 2019. It included the program goals, scope, eligibility requirements, suggested funding allocations based on court size, and scoring methodology, among other information. (See Attachment B)

CJS held an optional conference call for court applicants on June 5, 2019 to address questions related to the application process, policy and/or scope of the Program. After the call, written responses to the questions were posted on the Judicial Council’s website and updated weekly as additional questions were submitted. (See Attachment C)

By June 7, 2019, courts were asked to submit a “Notice of Intent to Apply” (See Attachment D) including available dates for a mandatory justice system partner interview. Thirty-five (35) courts submitted letters of intent.<sup>2</sup>

Thirty-one justice system partner interviews were conducted between June 20 and July 1, 2019 via videoconference. These 45-minute interviews included a standard set of questions posed to all and provided an opportunity for candid discussion and offered useful insight into local court partnerships and collaboration.

### **Clarification of Prearrestment Judicial Review**

After conducting several court and justice partner interviews, it became clear that some courts were planning pilot projects that provided for prearrestment own recognizance release by nonjudicial officers, under certain guidelines. Justice Marsha Slough, chair of PROW, recognized the importance of clarifying to applicant courts that the Judicial Council is prohibited from funding pilot projects that incorporate prearrestment release by nonjudicial officers, unless such release is permitted by an order addressing the county’s jail population cap. On June 27, 2019, Justice Slough sent a memo to that effect to the Presiding Judges and Court Executive Officers of all applicant courts (See Attachment E). The memo strongly encouraged any court that originally planned to include releases by nonjudicial officer to submit their application timely, and to include their plan for addressing this issue. Courts that had already submitted their applications had an opportunity to provide an amendment by the submission deadline. One amendment was received and specifically included a plan for addressing this issue.

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<sup>2</sup> Four courts that submitted letters of intent, removed themselves from consideration prior to the justice partner interview stage.

Applications were due July 2, 2019. A total of 31 courts submitted applications, including a two-court consortium, representing a broad diversity of programs of various sizes from across the state. Proposals received from the courts totaled \$169.64 million in requested funding.

### **Scoring methodology and review process**

JC staff conducted an initial review and analysis of all applications. A team of five staff with varying expertise including programmatic, legal, budgetary, technology, and data ensured multiple perspectives were represented. Proposals were evaluated with a 100-point scale using the criteria set forth in the RFA Section 9.0.

Proposals were scored based on their responsiveness to the Program criteria, the quality of responses to each section, the structure and content of the proposed project, and the level of detail provided.

After the proposals were scored individually, the CJS Director facilitated a group discussion of the strengths and weaknesses of each proposal to enable the reviewers to come to consensus regarding their evaluation. Reviewer scores were then averaged together to establish one final score for the written application portion and one final score for the justice system partner interviews as these were provided to the PROW Scoring Subcommittee.

Review scores were provided to the PROW Scoring Subcommittee, which is comprised of appellate justice members – Justice Slough and Justice Thomas DeSantos - and retired Judge J. Richard Couzens.

On July 11, 2019 the Subcommittee met with CJS and IT staff to review each of the 31 applicants. Subcommittee members received a narrative summary, a high-level budget overview, and staff scores for the written application and the justice partner interview for each applicant.

The Subcommittee first considered each application on its own merits, then reviewed applications within each court size category. As stated in the Budget Act, the Judicial Council "... should seek a diversity in court size, location, court case management systems, risk assessment tools, including those tools that require an interview and those that do not, and other appropriate factors." The Subcommittee considered these factors in the formulation of its recommendation.

The Subcommittee will present its preliminary recommendations to the full Pretrial Reform and Operations Workgroup on July 30, 2019 and walk the group through the process the Subcommittee undertook, the rationale for its selections, and provide an opportunity to discuss any particulars on the individual applicants or the process overall.

## Funding policies

A total of \$67.5 million was available to allocate to trial courts.<sup>3</sup> PROW provided guidelines for courts' funding requests, but courts could request the amount necessary to accomplish the project goals.

Court categories were based on the authorized number of judicial positions (AJP) within a county: small (2–5 AJP), small/medium (6–15 AJP), medium (16–47 AJP) and large (48+ AJP). Applications were received from [redacted] large counties, [redacted] medium counties, [redacted] small/medium counties, and [redacted] small counties.

From the 31 applications received, [redacted] court programs are recommended for funding, representing a tentative total of \$ [redacted] million in grant awards.<sup>4</sup> JC staff anticipates that small adjustments may be necessary to address computation errors, eliminate nonallowable costs, and the like. After any necessary adjustments, Staff anticipates that approximately \$ [redacted] will remain unallocated.

JC staff is preparing for the execution and administration of contracts with the selected superior courts. Over the course of the award period, if courts require budget modifications, JC staff will assist the courts, if necessary, to shift budgeted amounts from one fiscal year to another, modify budgets, or roll over unspent funds at fiscal year-end provided these funds are within the courts' original award amounts.

If the Judicial Council determines that a court will not be able to spend its full funding allocation, the Judicial Council may approve redistribution of the funds among trial courts as necessary to support other pretrial pilot projects or may solicit additional proposals (per RFA section 4.4) to ensure that all Program funds are fully spent.

## Requirements for Awarded Pilot Projects

Each of the selected pretrial pilot projects will be required to operate under existing law and, to incorporate judicial officer release decisions prior to arraignment (or at arraignment if a hearing is required) that are informed by a risk assessment conducted by county probation departments, and to collect and provide data to the Judicial Council for evaluation of the Pretrial Pilot Program ("Program").

## Policy implications

- No policy implications.

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<sup>3</sup>Up to 10 percent of the \$75 million in state funding will be allocated to the Judicial Council for costs associated with implementing and evaluating these programs or for administrative support.

<sup>4</sup> Award amounts are considered tentative until any necessary budget adjustments are made and the contracting process is completed.

## Comments

- No comments

## Alternatives considered

PROW could have applied a formulaic method of providing proportional funding to all eligible applicants. But as the total funding requested exceeded 200% of the available funding, and it was thought that a narrower focus on a diverse selection of courts would yield more productive outcomes.

## Fiscal and Operational Impacts

There will be significant operational impacts on the Judicial Council. Staff will assist pilot courts with legal, research, education/technical assistance, tool validation, programmatic, business process re-engineering, information technology, data exchange and project management support.

The Pretrial Pilot Program allocates up to 10 percent of funding to the Judicial Council for costs associated with implementing and evaluating these programs. Judicial Council funding will provide selected applicants with case management system development, pretrial risk assessment integration, and data warehouse integration.

Judicial Council staff will provide data collection technical assistance, data collection tools, and reporting templates, and will work with funded projects to ensure that data can be collected and reported to the Judicial Council.

Once the courts receive their award notifications, JC staff will finalize contracts with each court as close to the August 1, 2019 start date as possible. Each court has requested an initial start-up amount that will be distributed upon submission of historical data extracts. Future disbursements will be made quarterly based on submission of the required quarterly program progress reports and data submissions. JC staff will compile information annually and report aggregate-level data generated by the awarded programs to the Department of Finance and the Joint Legislative Budget Committee as required in the Budget Act of 2019.

## Attachments and Links

1. Attachment A: Funding Allocation Recommendation (To be provided by August 5, 2019)
2. Attachment B: Request for Applications (RFA)
3. Attachment C: Frequently Asked Questions
4. Attachment D: Notice of Intent to Apply
5. Attachment E: June 27, 2019 Memo: Notice Regarding Pretrial Pilot Program Funding For Release by Nonjudicial Officers
6. Link A: Budget Act of 2019 (Assembly Bill 74 (Stats. 2019, ch. 23)),  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB74](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB74)

# **Attachment A**

**To Be Provided By  
August 5, 2019**



# JUDICIAL COUNCIL OF CALIFORNIA

## REQUEST FOR APPLICATIONS

### *Pretrial Pilot Program*

<b>Funding Period:</b>	August 2019–June 30, 2021
<b>Eligible Applicants:</b>	Superior Courts of California
<b>May 20, 2019:</b>	Application Packet Released
<b>May 31, 2019:</b>	Questions Submitted for Optional Applicant Teleconference
<b>June 5, 2019:</b>	Optional Applicant Teleconference, 12:15–1:15 p.m.
<b>June 7, 2019:</b>	<b>Notice of Intent to Apply Due via E-mail by 5:00 p.m. at <a href="mailto:pretrial@jud.ca.gov">pretrial@jud.ca.gov</a></b>
<b>June 18–July 1, 2019:</b>	Time frame for Required Partner Interviews (30–40 minutes)
<b>July 2, 2019:</b>	<b>Application Due Via Hardcopy Mail and E-mail by 5:00 p.m.</b>

***This request for applications (RFA) packet includes application guidelines and instructions that are based on Governor Newsom's proposed court pretrial pilot program originally included in his January fiscal year 2019–20 budget and on subsequent information provided by the legislative and executive branches.***

***Please note that because the budget is not yet final, some of the information included in this RFA is subject to change.***

*The Pretrial Reform and Operations Workgroup reserves the right to modify the application guidelines. Dates and deadlines within the RFA may be modified by the Pretrial Reform and Operations Workgroup.*

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**Attachment A: Notice of Intent to Apply for Pretrial Pilot Program Funding AND Dates for Mandatory Justice System Partner Interviews**

**Attachment B: Pretrial Pilot Program Funding Project Application**

**Attachment C: Budget Detail Worksheet and Narrative**

**Attachment D: Pretrial Pilot Program Data Elements Inventory**

**Attachment E: Pretrial Pilot Program Schedule of Deliverables**

**Attachment F: Sample Quarterly Report**

# APPLICATION GUIDELINES FOR PRETRIAL PILOT PROGRAM

## 1.0 BACKGROUND INFORMATION

### 1.1 Organizational Background

The pretrial landscape is changing dramatically throughout the country and in California due to court decisions, legislation, and innovative practices.

Recognizing these considerable changes and the impacts on the courts and local justice system partners, the Governor proposed this funding in order to support a system that protects the public, ensures the rights of defendants, and the fair and efficient administration of justice in pretrial decision-making.

Chief Justice Tani G. Cantil-Sakauye appointed the Pretrial Reform and Operations Workgroup (PROW) to develop recommendations for funding allocations for the pretrial pilot program, together with other responsibilities. PROW will make its recommendations to the Judicial Council for pretrial pilot project selection.

#### **Pretrial Pilot Program Overview**

As part of the Budget Act of 2019, the Legislature is considering the appropriation of \$75 million in one-time funding to the Judicial Council to fund the implementation, operation, and evaluation of programs or efforts related to pretrial decision-making in at least 10 courts.

Each of the selected pretrial pilot projects will operate under existing law and incorporate judicial officer release decisions prior to arraignment (or at arraignment if a hearing is required) that are informed by a risk assessment conducted by county probation departments.

Court and local justice system partner matching funds are not required, and pilot awards should be used to establish new programs or enhance and expand existing programs to meet the goals set forth in section 1.2 and the scope set forth in section 1.3.

### 1.2 Pretrial Pilot Program Goals

The goals of this program are to fund pretrial programs and practices that will:

- Increase the safe and efficient prearrestment and pretrial release of individuals booked into jail by expanding own recognizance and monitored release;
- Implement monitoring practices of those released prearrestment and pretrial with the least restrictive interventions and practices necessary to enhance public safety and return to court;

- Expand the use and validation of pretrial risk assessment tools that make their factors, weights, and studies publicly available; and,
- Assess any disparate impact or bias that may result from the implementation of these projects in order to better understand and reduce biases based on race, ethnicity, and gender in pretrial release decision-making.

The Pretrial Pilot Program will be administered by the Judicial Council.

### **1.3 Pretrial Pilot Program Scope**

The scope of the pretrial pilot program is based on the goals enumerated in section 1.2.

The pilot project shall require the pretrial risk assessment of all persons booked into and retained in actual jail custody and who are not otherwise released under existing release policies.

The assessment and release decision shall be completed prior to arraignment for those who are eligible for release without a hearing. The assessment information shall be provided to the court prior to arraignment for those for whom a hearing is required.

The project shall not assess persons deemed ineligible for bail under article I of the California Constitution.

Each arrested person who is eligible for release on bail under current law shall be entitled at any time to post bail as specified in the county bail schedule or for the amount set on an arrest warrant, or as otherwise set by the court, whether or not a risk assessment has been completed.

The preferred scope of a pretrial pilot project is implementation on a countywide basis. If an applicant court finds it necessary to limit the scope of its proposed pilot project and exclude pretrial assessment of individuals booked into custody in specified jail/detention facilities or arraigned in specified courthouses, the court should identify in this application those facilities and/or courthouses that the court plans to exclude from participation in the proposed pilot project.

## **2.0 PRETRIAL PILOT PROGRAM CONSIDERATIONS**

The Judicial Council seeks to fund pretrial pilot projects that are diverse in court size; location; court case management systems; risk assessment tools, including those tools that require an interview and those that do not; and other appropriate factors.

Examples of funded activities include:

- Support of activities associated with the development or validation of risk assessment tools on local pretrial populations;
- Exchange of pretrial risk assessment information between the courts and county probation departments;
- Costs for technology to facilitate information exchange and process automation;

- Contracts between the courts and county probation departments to conduct prearrest and pretrial risk assessments on individuals booked into county jails, and for monitoring of individuals released pretrial;
- Sharing with the Judicial Council data that is necessary to evaluate the programs;
- Costs associated with judicial officer release and detention decision-making prior to arraignment, informed by the use of risk assessment tools that make their factors, weights, and studies publicly available;
- Implementation and improvement of court date reminder programs; and
- Other activities related to pretrial decision-making and practices that follow standards for pretrial services monitoring that enhance public safety, appearance in court, and the efficient and fair administration of justice.

**Note: This is a competitive bidding process and therefore courts will not automatically receive Pretrial Pilot Program funding.**

### 3.0 ELIGIBILITY AND APPLICATION

All Superior Courts of California are eligible to apply.

Projects that are ultimately selected will clearly demonstrate:

- Commitment to the scope of the program and to meeting all of the goals of the program;
- Evidence of strong collaboration among local justice system partners;
- A history of successfully meeting grant requirements;
- The ability to have the project implemented and operational soon after being awarded;
- The ability to provide the Judicial Council with the data necessary to evaluate the programs.

Courts must submit an application for project funding and list the associated staffing, programs, and services to be delivered; provide detailed costs; and describe how the funds will be used to cover those costs.

(Detailed information regarding proposal contents can be found in section 8.0)

## 4.0 AWARDS AND FUNDING

### 4.1 Amount of Funds Available

A total of \$67.5 million is available:<sup>1</sup>

Awards for the Pretrial Pilot Program may range between \$250,000 and \$17 million to at least 10 selected trial courts. Funds must be expended or encumbered by June 30, 2021.

#### Guidelines for Funding Allocations

*These are guidelines only. A court should request funding in the amount necessary to accomplish stated goals.*

<b>Court Category*</b>	<b>Proposed Funding Allocations</b>
Small	\$250K–\$1.3M
Small/Medium	\$1.4–\$4M
Medium	\$4–\$14M
Large	\$14M–\$17M
Consortium (requires one lead court)	As requested

\* Court category is based on the authorized number of judicial positions (AJP) within a county: small (2–5 AJP), small/medium (6–15 AJP), medium (16–47 AJP) and large (48+ AJP).

### 4.2 Amount of Awards

The Judicial Council seeks to adequately fund at least 10 pretrial pilot projects, with a diversity of project types among small, medium, and large courts. Courts of all sizes are encouraged to apply, and every proposal will be considered on the merits for evaluation purposes.

The Judicial Council will consider proposals from a consortium of trial courts (two or more courts) to provide pretrial projects in multiple counties. One court must be identified as the “lead court” and, if the consortium is selected as a pilot project, the lead court will contract with the Judicial Council for funding and oversee the allocation and distribution of funding among consortium members.

The Judicial Council will seek to award as many qualified applications as possible. The Judicial Council may choose to fund a court at a lesser amount than requested. In this event, the Judicial Council will consult with the recipient court. Courts may

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<sup>1</sup> Up to 10 percent of the \$75 million in state funding will be allocated to the Judicial Council for costs associated with implementing and evaluating these programs or for administrative support. See section 4.3 for more information.

be asked to submit modified project plans and revised budgets that reflect the award amounts offered.

### **4.3 Judicial Council Support for Pretrial Pilot Projects**

The Pretrial Pilot Program allocates up to 10 percent of funding to the Judicial Council for costs associated with implementing and evaluating these programs.

Judicial Council funding will provide selected applicants with case management system development, pretrial risk assessment integration, and data warehouse integration.

Judicial Council staff will assist pilot courts with legal, research, education/technical assistance, tool validation, programmatic, business process re-engineering, and project management support.

Judicial Council staff will provide data collection technical assistance, data collection tools, and reporting templates, and will work with funded projects to ensure that data can be collected and reported to the Judicial Council.

### **4.4 Disbursement of Funds**

Funds will be disbursed as follows:

- The first disbursement will be made based on the amount requested by the court and the provision of the required Budget Detail Worksheets. The disbursement will be made after execution of the contract and submittal of the sample data extracts to the Judicial Council. See Attachment E for the Pretrial Pilot Program Schedule of Deliverables.
- Trial courts' revenue and expenses will be tracked in a work breakdown structure (WBS) code in the Phoenix System. Disbursed funds are to be recorded as advanced revenue and expenditures recognized as incurred using the WBS code.
- Subsequent disbursements will be made on a quarterly basis when the court and the Judicial Council have completed the following:
  - Resolution of all outstanding reconciliation items from the prior fiscal year's quarterly and annual reports.
  - Receipt of a revised spending plan from the court for any unused funds that documents the movement of planned expenses from one fiscal year to the next (not to exceed the total award) or written acknowledgment by the court that it will not use the funds, which can be returned to the Judicial Council.

- Review of unused funds documentation by the Judicial Council. Unused funds may roll over to a subsequent year or be returned to the Judicial Council.

If the Judicial Council determines that a court will not be able to spend its full funding allocation, the Judicial Council may redistribute the funds as necessary to support other pretrial pilot projects or may solicit additional proposals.

Funds must be fully expended or encumbered by June 30, 2021. Unspent, encumbered funds remaining after the liquidation period revert to the state's General Fund.

#### **4.5 Eligible Expenditures**

Program costs must be directly related to the goals, objectives, and activities of the program, and anticipated costs must be listed on the Budget Detail Worksheet.

It is anticipated that most of the funding will be used to contract for staffing and equipment for assessment and monitoring, in addition to funding for court staff and equipment.

Eligible uses of funds may include:

- Consultants/contractors (e.g., probation department salary and benefits, justice partner data extraction, etc.) A copy of all subcontracts must be provided to the Judicial Council;
- Technology costs to facilitate information exchanges and process automation between justice system partners;
- Court date reminder systems;
- Court staff salary and benefits;
- Monitoring equipment (GPS tracking, etc.);
- Equipment (computers and office equipment);
- Instructional material and supplies;
- Office supplies;
- Travel;
- Training; and
- Any other expenses directly related to the project, as properly budgeted and approved by the Judicial Council program manager.

The court must follow applicable federal, state, and local laws and regulations, including the *Judicial Branch Contracting Manual* and the *Trial Court Financial Policies and Procedures Manual*, as applicable.

#### **4.6 Ineligible Expenditures**

Any expenditures not directly related to the program are ineligible for funding. Ineligible uses of funds include:

- Supplanting existing funding;<sup>2</sup>
- Routine replacement of office equipment, furnishings, or technology; and
- Facilities.

Exceptions to the expenditure requirements listed above may be considered on a case-by-case basis. Exception requests must be submitted in writing and approved in writing, in advance, by the Judicial Council program manager.

#### **4.7 Contractual Relationships and Right to Audit**

The Judicial Council will enter into a standard agreement with individual courts or with a lead court on behalf of a multicourt consortium for the administration and disbursement of funds.

The court must maintain all financial records, supporting documents, and all other records relating to performance under the agreement for a period in accordance with state law and/or the *Trial Court Financial Policies and Procedures Manual*. The court must permit the authorized representative of the Judicial Council or its designee to inspect or audit at any reasonable time, including at the time of reconciliation, any records relating to the agreement.

The court will be required to submit quarterly narrative reports as well as data extracts as described in section 5. Judicial Council staff will be responsible for auditing quarterly and annual transactions against eligible and ineligible expenses. The court must resolve any outstanding issues before subsequent disbursements will be released.

In the event a court decides to modify its approach or its Budget Detail Worksheet, the court must bring this to the attention of the Judicial Council Program Manager in the next quarterly report, as described in section 5.

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<sup>2</sup> Funds expended in advance of the program to prepare for the program should not be considered supplantation for the purposes of this program.

## 5.0 PROGRAM REQUIREMENTS

### 5.1 Program Training

The Judicial Council will conduct informational meetings related to pretrial pilot projects, including a mandatory two-day Pretrial Justice Practice Institute in October 2019. Funds may be used for travel expenses to attend these meetings.

### 5.2 Reporting and Tracking

Pilot courts must submit quarterly progress reports that summarize pretrial pilot project-related activities, provide ongoing communication regarding spending and financial projections, and provide regular data extracts.

#### 5.2.1 Quarterly Progress Reports

*Sample Quarterly Progress Report* (see Attachment F): Includes progress toward goals and objectives of the program, achievements and challenges, collaboration with justice system and other local partners, and changes to key staff or procedures. Reports are due no later than 15 days following the end of each fiscal year quarter.

#### 5.2.2 Data Extraction

Includes measurable outcomes as identified by the court in the program proposal (see Program Evaluation and Data Collection, section 5.3).

#### 5.2.3 Financial Tracking

Award recipients agree to track, account for, and report on all expenditures related to the pilot separately from all other expenditures.

Program funds may be used in conjunction with other funding as necessary to complete projects; however, tracking and reporting of expenditures specific to the funds must be separate.

*Final report:* Award recipients must submit a final report to the Judicial Council due 90 days after project completion. This report will provide a high-level summary of how funds were spent; describe what was accomplished, including any products or services delivered by consultants/contractors; and offer advice to other courts that might seek to replicate the project. The agreement will provide additional information and details on the required elements of the final report.

*Supporting documentation:* Award recipients agree to maintain supporting documentation (e.g., timesheets, invoices, contracts, etc.) used to compile reports, and to provide copies of this supporting documentation to the Judicial Council or its designee, as requested.

### 5.3 Program Evaluation and Data Collection

The pilot courts shall collaborate with their local justice system partners to make data available to the Judicial Council. Historical data will also be required to establish baseline outcomes.

The required data elements will include individual and case-level data, and will include booking charges and charge level; risk level of individuals who are assessed; type of release including own recognizance, own recognizance with monitoring, and secured bond; demographic factors including race/ethnicity, gender, and age of the defendant; failures to appear in court as required; and arrests for new crimes during the pretrial period.

Award recipients agree to adhere to the data collection and reporting requirements as outlined in Attachment D.

## 6.0 TIMELINE FOR REQUEST FOR APPLICATION

### 6.1 Summary of Key Events

All dates are subject to change at the discretion of the Judicial Council. Dates and deadlines within the RFA may be modified by the Pretrial Reform and Operations Workgroup.

EVENT	DATE
Request for Applications Released	May 20, 2019
Deadline to Submit Questions for Optional Applicant Teleconference	May 31, 2019
Optional Applicant Teleconference	June 5, 2019, 12:15–1:15 p.m.
Deadline for Notice of Intent to Apply	June 7, 2019
Required Justice System Partner Interviews	June 18–July 1, 2019
Application Due Date	July 2, 2019
Pretrial Reform and Operations Workgroup (PROW) Review	Early August 2019
PROW Presentation to Judicial Council	August 9, 2019
Notice of Intent to Award	August 12, 2019
Negotiation and Execution of Agreements	August 12–23, 2019
Standard Agreement Start Date	August 2019
Standard Agreement End Date	December 30, 2021

## 6.2 Optional Applicant Teleconference

Judicial Council staff will host an applicant teleconference for courts interested in applying for funding. The purpose of the applicant teleconference is to provide an opportunity for courts to ask specific questions regarding the application process, program requirements, and terms and conditions for funding. Participation in the applicant teleconference is optional.

The applicant teleconference is scheduled for Wednesday, June 5, 2019, from 12:15 p.m.–1:15 p.m. Interested applicants should RSVP by e-mail to [pretrial@jud.ca.gov](mailto:pretrial@jud.ca.gov) for information on the teleconference.

To ensure a fair process, applicants (including interested justice system partners and co-applicants) should submit their questions in advance by e-mail to [pretrial@jud.ca.gov](mailto:pretrial@jud.ca.gov). Questions must be received by 5:00 p.m. on Friday, May 31, 2019.

Requests for clarification or guidance should indicate the RFA page number and section and state the question clearly. Judicial Council staff will consolidate or paraphrase questions for efficiency and clarity. Questions and answers will be posted to [www.courts.ca.gov/criminaljustice.htm](http://www.courts.ca.gov/criminaljustice.htm) within one week following the conference call and may be updated, as needed.

## 6.3 Mandatory Justice System Partner Interviews

The chair of the Pretrial Reform and Operation Workgroup and Judicial Council staff will hold a mandatory 30- to 40-minute video conference call with each applicant court and probation department. The purpose of the individualized video conference is to discuss the project design, collaboration among local justice system partners, and to address any anticipated challenges and/or issues. These calls will be an opportunity to discuss any changes made to the program based on revisions to the budget bill language. Questions will be provided to the participants in advance of the call.

Required participants include:

- Court presiding judge, or designee;
- Court executive officer, or designee;
- Chief probation officer, or designee; and
- Court information technology director, or designee.

Courts may invite any other justice system partners who would be useful to include in this discussion.

Courts that are members of a multicourt consortium may choose to participate solely through the lead court presiding judge, court staff, and probation chief,

or to include judges, staff, and probation chief or designees from other member courts.

Please indicate the dates and time segments that all required participants will be available to participate on Attachment A.

## 7.0 SUBMISSIONS OF PROPOSALS

Proposals should provide information that satisfies the requirements outlined in this RFA. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFA's instructions and requirements, and completeness and clarity of content.

The applicant must submit one original of the proposal and five copies in a sealed envelope. The application cover page (Attachment A) must be signed by the court's presiding judge and court executive officer, and the chief probation officer. The original proposal must be submitted to the Judicial Council of California, Criminal Justice Services Office. The applicant must write "Pretrial Pilot Program" on the outside of the sealed envelope.

The applicant must submit an electronic version of the entire proposal by e-mail to [pretrial@jud.ca.gov](mailto:pretrial@jud.ca.gov).

Both the hardcopies and the electronic copy of the proposal must be delivered by Tuesday, July 2, 2019, no later than 5:00 p.m., to:

Judicial Council of California  
Criminal Justice Services  
Attn: Deirdre Benedict, Program Manager  
455 Golden Gate Avenue  
San Francisco, California 94102-3688

Late proposals will not be accepted.

## 8.0 PROPOSAL CONTENTS AND INSTRUCTIONS

The following information must be included in the proposal and must cover the full funding period (August 2019 to June 30, 2021). A proposal lacking any of the following information may be deemed nonresponsive.

### 8.1 **Project Application**

Use the *Project Application* (see Attachment B) to address the following:

#### 8.1.1 **Court Contact Information**

Provide court name, address, and telephone number in addition to the name, title, and e-mail address of the individual who will act as the court project manager for purposes of this RFA.

### **8.1.2 Risk Assessment Tool and Technology Information**

Provide the name of the court's case criminal case management system, as well as the case management system used by the Probation Department.

Provide the name of the pretrial risk assessment tool that will be employed during the pretrial pilot project.

### **8.1.3 Pilot Project Narrative**

Maximum 10 pages, 12 point, Times New Roman double-spaced.

Describe how the pretrial process will operate to meet the program scope and all goals as enumerated in section 1.3. At a minimum, please address the following questions:

#### **Operational Status of Current Pretrial Program**

- (a) Do you have a pretrial program that is currently operating? If so, what is your plan to expand or enhance it to meet the pilot goals and scope?
- (b) If not, what is the expected date of operation?
- (c) If your program will not be operational across all detention facilities and courthouses in your county, please explain where the pilot will operate, and the reasons for limiting the pilot locations.

#### **Assessment**

- (d) Where will those arrested be assessed? How soon after booking will the assessment occur?
- (e) Provide the average number of people booked into jail each month for new charges (for jails that will be included in the pilot), and the average number of people who bail out or are released due to a jail cap each month.
- (f) In what manner will the Probation Department provide the risk assessment information to the judicial officer? (For example, will the Probation Department transmit an electronic report to the judicial officer?)
- (g) In what format will the Probation Department provide the information? (For example, what information will be included in the report? How will risk scores be communicated?)

#### **Release Decisions and Conditions**

- (h) What is the time frame(s) under which release decisions will be made?
- (i) How will the court ensure judicial officers are available to make prearrestment release decisions?
- (j) Is your county jail, or any jail within your county, currently operating under a state or federal jail cap? If so, describe how the jail cap may affect the operation of the court's proposed pretrial pilot.

- (k) Will the court and its justice system partners develop and use a release conditions matrix? If so, attach a copy of the currently used matrix or a draft of the proposed matrix to the application form.
- (l) What policies will the court and its justice partners adopt to ensure consistent application of conditions of pretrial release?

### **Grant Requirements**

(m) Discuss how you will meet the grant data requirements:

- Explain the plan for collaborating with justice system partners to collect and report required data. (See Attachment D.)
- Explain any anticipated challenges related to collecting data and describe any data quality issues.
- Briefly describe methods for assuring data quality.

## **8.2 Budget**

### **8.2.1 Proposed Costs**

*Budget Detail Worksheet:* Use the attached Budget Detail Worksheet template (Attachment C), which includes a detailed line item budget, to show costs of the proposed services.

This worksheet is broken out into two sections:

- (1) Year 1 (August 2019 to June 30, 2020): The estimated funding need for fiscal year 2019–20 must be included in this section.
- (2) Year 2 (July 1, 2020 to June 30, 2021): The estimated funding need for fiscal year 2020–21 must be included in this section.

All Budget Detail Worksheets include four main budget categories: Personnel Services/Benefits, Operating Expenses, Consultants/Contractors, and Indirect Costs.

- Expense items listed under Personnel Services/Benefits should list each position by title and name of employee (if known), show the monthly salary rate, the percentage of time to be devoted to the project or number of months the employee will be needed for the project. A full benefit breakdown should also be included for the same time base and number of months.
- Expense items listed under Operating Expenses—including travel expenses, equipment, supplies, and other costs—should consist of actual costs paid by the court and/or the court’s contractor, not to exceed the contract amount.
- Consultant/Contractor expense items should include a breakdown of type and cost of services to be provided and estimated time on the project.
- Courts’ indirect costs are costs that cannot be directly assigned to a particular activity but are necessary to the operation of the organization and the performance of the project. The costs of operating and maintaining facilities, accounting services, and administrative salaries are examples of indirect costs.

In order to qualify to be reimbursed for indirect costs, the project must comply with the following:

- Court staff salaries and benefits funded by this program must appear in the Personnel Services cost category on the worksheet;
- The indirect cost rate of no more than 20 percent of the court staff salaries and benefits funded by this project may be reimbursed if the court has a current Judicial Council approved indirect cost rate on file; and
- Partner agency and subcontractor indirect costs are not allowed.

*Calculating indirect costs:* Add the court employee salary and benefits funded through this program and multiply that total by the Judicial Council–approved indirect cost rate or 20 percent (whichever is lower). This is the maximum amount that will be reimbursed to the court.

### **8.2.2 Budget Justification**

Use the attached Budget Detail Worksheet to provide a full explanation of all budget line items in narrative form. The budget justification should thoroughly and clearly describe every category of expense listed in the worksheet. Proposed budgets should be complete, cost-effective, and allowable (e.g., reasonable, allocable, and necessary for project activities). The narrative should explain how the applicant estimated and calculated costs, and how those costs are relevant to the completion of the proposed project.

## **9.0 EVALUATION OF PROPOSALS**

Proposals will be evaluated on a 100-point scale using the criteria set forth in the table below. In addition, the Judicial Council will also take into account selecting pretrial pilot projects that are diverse in court size, location, court case management systems, risk assessment tools, and other appropriate factors. Courts with lower scores may be selected in order to accomplish the program goals of including courts of various size, geographic, and other diversity factors.

Applicants may be asked to respond to questions from Judicial Council staff to clarify elements set forth in their proposals.

Awards will be posted at [www.courts.ca.gov/criminaljustice.htm](http://www.courts.ca.gov/criminaljustice.htm).

<b>CRITERION</b>	<b>RFA SECTION</b>	<b>MAXIMUM NUMBER OF POINTS</b>
Meeting Basic Eligibility Requirements	<b>8.1</b>	20
Project Plan to Address Project Goals	<b>8.1.3</b>	55
Justice System Interview—Local Collaboration	<b>6.3</b>	15
Budget	<b>8.2</b>	10



# JUDICIAL COUNCIL OF CALIFORNIA

## PRETRIAL PILOT PROGRAM

### APPLICATION FORM

**SECTION I (RFA Section 8.1)**

**A. Name of Applicant Court: Superior Court of California, County of:**

**B. Court Project Manager:**

**Name and Title:**

**Address:**

**Phone and Email:**

**C. Name of other court(s) participating in Consortium (if applicable):**

**D. Court's Criminal Case Management System:**

**E. Probation's Case Management System:**

**F. Pretrial Risk Assessment Tool to be used :**

**Is this Pretrial Risk Assessment Tool in use in your County?**

**YES NO If No, when will it to be operational?**

**G. Total Amount of Funds Requested:**

**(FY 19-20 and FY 20-21) :**

**H. Amount Requested**

**for First Payment**

**(September 2019)**

\_\_\_\_\_  
**Judicial Officer Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Court Administrator Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Chief Probation Officer Signature**

\_\_\_\_\_  
**Date**

**SUBMISSION INSTRUCTIONS**

Grant applications are due by 5:00 p.m. on July 2, 2019.

✓ Application must be signed by: Presiding Judge, Court Executive Officer, and Chief Probation Officer

✓ Submit an electronic version of the entire proposal to [pretrial@jud.ca.gov](mailto:pretrial@jud.ca.gov).

✓ Submit one (1) original and five (5) copies of the proposal in a sealed envelope.

✓ Write "Pretrial Pilot Program" on the outside of the sealed envelope.

**Proposals must be delivered by July 2, 2019, no later than 5:00 p.m., to:**

Judicial Council of California Criminal

Justice Services

Attn: Deirdre Benedict, Program Manager

455 Golden Gate Avenue

San Francisco, California 94102

**Section II Pilot Project Narrative - Please attach as a separate document.**

**Maximum 10 pages, 12 point, Times New Roman double-spaced.  
(RFA Section 8.1.3)**

**Describe how the pretrial process will operate within the program scope and goals as enumerated in section 1.3.**

**At a minimum, please address the following questions:**

**Operational Status of Current Pretrial Program**

- (a) Do you have a pretrial program that is currently operating? If so, what is your plan to expand or enhance it to meet the pilot goals and scope?
- (b) If not, what is the expected date of operation?
- (c) If your program will not be operational across all detention facilities and courthouses in your county, please explain where the pilot will operate, and the reasons for limiting the pilot locations.

**Assessment**

- (d) Where will those arrested be assessed? How soon after booking will the assessment occur?
- (e) Provide the average number of people booked into jail each month for new charges (for jails that will be included in the pilot), and the average number of people who bail out or are released due to a jail cap each month.
- (f) In what manner will the Probation Department provide the risk assessment information to the judicial officer? (For example, will the Probation Department transmit an electronic report to the judicial officer?)
- (g) In what format will the Probation Department provide the information? (For example, what information will be included in the report? How will risk scores be communicated?)

**Release Decisions and Conditions**

- (h) What is the time frame(s) under which release decisions will be made?
- (i) How will the court ensure judicial officers are available to make prearrestment release decisions?
- (j) Is your county jail, or any jail within your county, currently operating under a state or federal jail cap? If so, describe how the jail cap may affect the operation of the court's proposed pretrial pilot.
- (k) Will the court and its justice system partners develop and use a release conditions matrix? If so, attach a copy of the currently used matrix or a draft of the proposed matrix to the application form.
- (l) What policies will the court and its justice partners adopt to ensure consistent application of conditions of pretrial release?

## Section II Pilot Project Narrative (Cont'd)

### Grant Requirements

- (m) Discuss how you will meet the grant data requirements:
- Explain the plan for collaborating with justice system partners to collect and report required data. (See Attachment D.)
  - Explain any anticipated challenges related to collecting data and describe any data quality issues.
  - Briefly describe methods for assuring data quality.

## Section III: Attachments

### Attach the following:

- **Budget Detail Worksheet and Narrative**
- **Data Elements Inventory**

### **SUBMISSION INSTRUCTIONS**

Grant applications are due by 5:00 p.m. on July 2, 2019.

- ✓ Application must be signed by: Presiding Judge, Court Executive Officer, and Chief Probation Officer
- ✓ Submit an electronic version of the entire proposal to [pretrial@jud.ca.gov](mailto:pretrial@jud.ca.gov).
- ✓ Submit one (1) original and five (5) copies of the proposal in a sealed envelope.
  - ✓ Write "Pretrial Pilot Program" on the outside of the sealed envelope.

**Proposals must be delivered by July 2, 2019, no later than 5:00 p.m., to:**

Judicial Council of California Criminal  
Justice Services  
Attn: Deirdre Benedict, Program Manager  
455 Golden Gate Avenue  
San Francisco, California 94102

**Pretrial Pilot Program  
Cost Proposal and Narrative/ Justification  
Year 1 (August 1, 2019 to June 30, 2020)**

**A. Court Personnel Salaries**

Name/Position	Computation (Salary per month X number of months needed X percentage FTE)	Cost
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
<b>Personnel Total</b>		\$

**B. Fringe Benefits** (list the benefit percent below)

Name/Position	Total Benefit Rate %	Cost
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
<b>Benefits Total</b>		\$

<b>Personnel &amp; Fringe Benefits Total</b>	\$
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**CONSULTANTS/CONTRACTORS**

**G. Consultants/Contractors**

<b>Consultant/Contractors (Name/Agency)</b>	<b>Services Provided</b>	<b>Cost Breakdown of Service</b>	<b>Cost</b>
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$

<b>Consultants Total</b>	\$
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**INDIRECT COSTS**

**H. Indirect Costs** (JCC approved indirect cost rate up to 20% allowable)

<b>Description</b>	<b>Computation (% X Personnel &amp; Fringe Benefits Total)</b>	<b>Cost</b>
		\$
		\$
		\$

<b>Indirect Costs Total</b>	\$
-----------------------------	----

<b>Year One Total</b>	\$
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**Pretrial Pilot Program  
 Cost Proposal and Narrative/ Justification  
 Year 2 (July 1, 2020 to June 30, 2021)**

**I. Court Personnel Salaries**

Name/Position	Computation (Salary per month X number of months needed X percentage FTE)	Cost
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
<b>Personnel Total</b>		\$

**J. Fringe Benefits** (list the benefit percent below)

Name/Position	Total Benefit Rate %	Cost
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$
<b>Benefits Total</b>		\$

<b>Personnel &amp; Fringe Benefits Total</b>	\$
--	----

**OPERATING EXPENSES**

**K. Travel** (Include location, number of travelers, hotel, meals, transportation, etc.)

Purpose of Travel	Computation	Cost
		\$
		\$
		\$
		\$
		\$
		\$
<b>Travel Total</b>		\$

**L. Equipment** (non-expendable)

Item Description	Computation	Cost
		\$
		\$
		\$
<b>Equipment Total</b>		\$

**M. Supplies** (expendable items such as office supplies, training materials, etc)

Item Description	Computation	Cost
		\$
		\$
		\$
		\$
<b>Supplies Total</b>		\$

**N. Other Costs** (necessary project costs not included above)

Item Description	Computation	Cost
		\$
		\$
		\$
		\$
<b>Other Costs Total</b>		\$

<b>Operating Expense Total</b>		\$
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**CONSULTANTS/CONTRACTORS**

**O. Consultants/Contractors**

<b>Consultant/Contractors (Name/Agency)</b>	<b>Services Provided</b>	<b>Cost Breakdown of Service</b>	<b>Cost</b>
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$

<b>Consultants Total</b>	\$
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**INDIRECT COSTS**

**P. Indirect Costs** (Use JCC approved indirect cost rate; up to 20% allowable)

<b>Description</b>	<b>Computation (% X Personnel &amp; Fringe Benefits Total)</b>	<b>Cost</b>
		\$
		\$
		\$

<b>Indirect Costs Total</b>	\$
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<b>Year Two Total</b>	\$
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**Project Grand Total \$**

**BUDGET JUSTIFICATION/NARRATIVE**

**Personnel & Fringe Benefits**

**Travel**

**Equipment**

**Supplies**

**Other Operating Costs**

**Consultants/Contracts**

**Indirect Costs**

# Pretrial Pilot Program Data Elements Inventory

Below is a comprehensive list of data elements requested. Pilots do NOT need to provide all data elements requested, but applicants will be evaluated on data availability. Judicial Council staff will provide data collection technical assistance, data collection tools, reporting templates and will work with funded projects to ensure that data can be collected and reported to the Judicial Council.

**Essential Elements** - are necessary to accurately measure the goals of the pretrial pilot program.

**Technical Elements for Data Linking** - Please indicate which of the listed elements your case management captures. Judicial Council Research and Information Technology staff will work with you to determine the most efficient way to integrate data among justice partners and the Judicial Council.

**Supplementary Elements** - are desired, but do not need to be created if not currently captured in the respective partner’s case management system.

Indicate either, “Yes” or “No” which data elements you will be able to provide in collaboration with your justice system partners. Indicate in the Pilot Project Narrative any anticipated challenges related to collecting data and describe any data quality issues. (RFA 8.1.3.o)

## ***Court Data Elements Requested from Court Case Management System***

YES	NO	Essential Elements for Data Analysis	Definition
		Court_Case_ID	Court Case Identification Number Used to Match Cases <i>(i.e., case number, docket number, court case)</i>
		Secondary_Identification	One Additional Unique ID Match from the Technical Elements Below Including: <i>Name, Local_ID, FBI, CII, or CDL_ID</i>
		Hearing_FTA	Did Defendant Miss Court Appearance? <i>(e.g., yes, no, 1, 0)</i>
		FTA_Dates	Dates of hearings missed by defendant
		FTA_Bench_Warrant	Bench Warrant Issued, excluding stayed orders <i>(e.g., yes, no, 1, 0)</i>
		Warrant_Date	Date Bench Warrant Issued
		Disposition_Outcome	Disposition Result for Each Charge <i>(e.g., dismissal, charge dropped, pled nolo contendere, guilty, not guilty)</i>
		Disposition_Event_Date_Time	Disposition Event Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Final_Case_Disposition_Date	Date of Final Case Disposition
		Sentence_Type	Sentencing Result for Each Charge <i>(e.g., CDCR, jail, jail and probation, probation, other)</i>
		Sentence_Date_Time	Sentence Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>

# Pretrial Pilot Program Data Element Inventory

## Court Data Elements Requested from Court Case Management System

YES	NO	Technical Elements for Data Linking	Definition
		CII	Defendant's Criminal Identification and Information Number <i>(if collected)</i>
		FBI	Defender's FBI Number <i>(if collected)</i>
		Local_ID	Any Local Identifier Used by the Sheriff's Office, Which Can be Linked to CII, FBI, or Other Local ID
		CDL_ID	California Driver's License Number/California ID Number
		Name	First and last names
		DOB	Defendant's Date of Birth <i>MMDDYYYY</i>
		Sex	Defendant's Sex
		Race	Defendant's Race and/or Ethnicity
YES	NO	Supplementary Elements for Data Analysis	Definition
		File_Date_Time	File Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Case_Status	Status of Case <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Case_Status_Date	Case Status Date <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Filing_Charge	Charge Code and Code Section (Note: If this data is held as two fields, please include Charge_Code and Charge_Statute Variables) <i>ChargeCode.CodeSection</i>
		Charge_Level	Type of Charge <i>(e.g., misdemeanor, felony, violation)</i>
		Charge_Description	Description of Charge <i>(i.e., character string description)</i>
		Hearing_Type	Hearing Type, excluding En Camera and Ex Parte <i>(e.g., arraignment, trial)</i>
		Hearing_Date_Time	Hearing Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Plea_Type	Plea Status for Each Charge <i>(e.g., pled nolo contendere, guilty, not guilty)</i>
		Plea_Date_Time	Plea Date for Each Charge (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Sentence_Location	Place to Carry Out Sentence <i>(e.g. LA County Jail, CDCR)</i>
		Sentence_Term	Length of Sentence <i>(e.g., 105 days)</i>
		Date_Risk_Assessment_Report	Date Risk Assessment Report Filed with the Court <i>YYYY-MM-DD HH:MM:SS Zone</i>

## Pretrial Pilot Program Data Element Inventory

### *Data Elements Requested from Probation*

YES	NO	Essential Elements for Data Analysis	Definition
		Tool_Name	Pretrial tool being used
		Assessment_Date_Time	Assessment Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Client_Zip_Code	Zip Code of Pretrial Program Participant
		Tool_Responses	Responses to tool questions based on tool used <i>Based on specific tool in use.</i>
		Score(s)	Score <i>(e.g. high, 9, enhanced, etc)</i>
		Release_Recommendation	Recommendation for pretrial release type <i>OR, Detain, OR-Conditions</i>
		Release_Authorization	Who authorized pretrial release? <i>Sheriff, magistrate, pre-trial services, judge</i>
		Release_Type	Type of pretrial release <i>OR, Detain, OR-Conditions</i>
		Release_Date_Time	Pretrial Release Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Pretrial_Terms_and_Conditions	Pretrial Monitoring Terms and Conditions <i>(e.g. ankle monitor, phone call check-ins, etc)</i>
		Violation_of_PTR	Any violations of pretrial release Terms and Conditions <i>failed to call in, etc</i>
		PTR_Violation_Date_Time	Condition Violation Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Court_Date_Reminder	Client reminded of court date? <i>Yes, No</i>
		Other_Pretrial_Service	What service was offered to those released? <i>Bus Pass, Counseling Services, etc.</i>
		Termination_Outcome	Reason/Outcome of Pretrial Services Terminations <i>sentenced, remand, charges dropped, etc</i>
		Termination_Date	Pretrial Services Termination Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>

## Pretrial Pilot Program Data Element Inventory

### ***Data Elements Requested from Probation***

YES	NO	Technical Elements for Data Linking	Definition
		CII	Defendant's Criminal Identification and Information Number <i>(if collected)</i>
		FBI	Defender's FBI Number <i>(if collected)</i>
		Local_ID	Any Local Identifier Used by the Sheriff's Office, Which Can be Linked to CII, FBI, or Other Local ID <i>(e.g., probationID)</i>
		CDL_ID	California Driver's License Number/California ID Number
		Name	First and last names
		DOB	Defendant's Date of Birth <i>MMDDYYYY</i>
		Sex	Defendant's Sex
		Race	Defendant's Race and/or Ethnicity

## Pretrial Pilot Program Data Element Inventory

### ***Data Elements Requested from Jail Information Management System***

YES	NO	Essential Elements for Data Analysis	Definition
		CII	Offender's Criminal Identification and Information Number
		Name	First and last names
		DOB	Offender's Date of Birth <i>MMDDYYYY</i>
		Arrest_Date_and_Time	Arrest date and time <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Booking_Number	Booking Number
		Booking_Date_Time	Booking Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Booking_Type	Type of Jail Booking <i>(i.e., on view, street, warrant, commitment, probation violation)</i>
		Court_Case_ID	Court Case Identification Numbers for all associated cases. <i>(i.e., case number, docket number, court case)</i>
		Charge	Booking Charge Code and Code Section (Note: If data is held as two fields, please include Charge_Code and Charge_Section Variables)
		Charge_Level	Type of Charge <i>(e.g., misdemeanor, felony, violation)</i>
		Physical_Release_Date	Release Date From Custody (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Physical_Release_Type	Type of Release <i>(e.g. time served, bail, OR, cite and release, transferred, pretrial supervision, probation, detention only, etc.)</i>

## Pretrial Pilot Program Data Element Inventory

### ***Data Elements Requested from Jail Information Management System***

YES	NO	Technical Elements for Data Linking	Definition
		CII	Defendant's Criminal Identification and Information Number <i>(if collected)</i>
		FBI	Defender's FBI Number <i>(if collected)</i>
		Local_ID	Any Local Identifier Used by the Sheriff's Office, Which Can be Linked to CII, FBI, or Other Local ID
		CDL_ID	California Driver's License Number/California ID Number
		Name	First and last names
		DOB	Defendant's Date of Birth <i>MMDDYYYY</i>
		Sex	Defendant's Sex
		Race	Defendant's Race and/or Ethnicity

YES	NO	Supplementary Elements for Data Analysis	Definition
		Bail_Amount	Bail Amount by Charge (if available)
		Conviction_Date	Conviction Date (and time if available) <i>YYYY-MM-DD HH:MM:SS Zone</i>
		Conviction_Charge	Conviction Charge Code and Code Section <i>(Note: If this data is held as two fields, please include Conviction_Code and Conviction_Section Variables)</i>
		Employment_Status	Offender's Employment Status (if collected)

## PRETRIAL PILOT PROGRAM SCHEDULE OF DELIVERABLES

Deliverable Due Date	Timeframe	Data Due	Data Span	Quarterly Progress Report	Final Narrative Report
After Execution of Contract and upon submittal of sample data extracts	Pre-Program Deliverables	✓	Historical Data - Jan 2015— June 2019		
October 15, 2019	FY1 - Q1 July -Sept. 2019	✓	July—Sep 2019	✓	
January 15, 2020	FY1 - Q2 Oct.-Dec. 2019	✓	Oct—Dec 2019	✓	
April 15, 2020	FY1 - Q3 Jan-March 2020		Jan—June 2020	✓	
July 15, 2020	FY1 - Q4 April-June 2020	✓	July—Dec 2020	✓	
October 15, 2020	FY2 - Q1 July -Sept. 2020		Jan —June 2021	✓	
January 15, 2021	FY2 - Q2 Oct.-Dec. 2020	✓	July—Dec 2021	✓	
April 15, 2021* *Final Financial Disbursement (Will incorporate funds for FY2-Q4)	FY2 - Q3 Jan-March 2021			✓	
July 15, 2021	FY2 - Q4 April-June 2021		Jan—June 2021	✓	
See individual dates	Post-Program Deliverables	✓ January 15, 2022	July December 2021		✓ October 15, 2021

**JUDICIAL COUNCIL OF CALIFORNIA**  
**PRETRIAL PILOT PROGRAM**  
**QUARTERLY PROGRESS REPORT**

*Pretrial Pilot Program Quarterly Progress Reports* must summarize pretrial-related activities, including progress towards goals and objectives, program achievements and challenges, collaboration with justice system and other local partners, and changes to key staff or procedures.

Contract No.: ▶		Date Report Prepared: ▶	/ / (MM/DD/YYYY)	
Relevant Fiscal Year Quarter: ▶	1st (FY 2019-20) 1st (FY 2020-21)	2nd (FY 2019-20) 2nd (FY 2020-21)	3rd (FY 2019-20) 3rd (FY 2020-21)	4th (FY 2019-20) 4th (FY 2020-21)
Court Name: ▶				
Contact Information for Person Completing this Form	<b>Name, Email, Phone Number</b>			
Final Report:	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Please provide the following information: ▼				
<b>1. Project activities during the reporting period:</b> (include progress towards goals and objectives, program achievements, Project Management Team meetings, changes to key staff, etc.): ▼				
<b>2. Any significant challenges or problems that developed and how they were or will be addressed</b> (any changes to procedures, changes to the project plan, remaining issues, successful outcomes, etc.): ▼				

**JUDICIAL COUNCIL OF CALIFORNIA  
PRETRIAL PILOT PROGRAM  
QUARTERLY PROGRESS REPORT**

<b>3. Financial Activity during this reporting period</b> (Include any changes to anticipated spending, challenges with sub-contractors, etc.): ▼
<b>4. Financial Activity scheduled for the next report period:</b> ▼
<b>5. Project Activities scheduled for the next reporting period:</b> ▼

SAMPLE

## PRETRIAL PILOT PROGRAM COURT QUESTIONS & RESPONSES

Updated: June 21, 2019

(New questions and responses added in yellow highlight.)

### PRETRIAL PILOT PROGRAM

**Question:** Section 1.1 (pg.1): The materials indicate they will fund a pilot in at least 10 courts. What is the maximum number of courts they believe will be funded?

The maximum number of courts selected to be pilots will depend on the number of eligible applicants, the total amount of funding requested, and ensuring that selected applicants are diverse in various factors such as court size, location, court case management system, and risk assessment tool used, as required by the Budget Bill Language.

**Question:** Can we submit the electronic copy of the application by July 2 and then put the hard copies in the mail on July 2?

No. Both the email copy and the hardcopy are due by 5:00 pm on Tuesday, July 2. (RPA Pg. 1 and Section 7.0 pg. 11)

### SCOPE OF THE PROGRAM—Section 1.2 and 1.3 (pgs. 1-3)

**Question:** Are pilot applicants expected to perform risk assessments on all detained defendants, including all defendants charged with serious and violent felonies, regardless of offense or criminal history?

The first legislative goal of the Pretrial Pilot Program is to “increase the safe and efficient prearrestment and pretrial release of individuals booked into jail by expanding own recognizance and monitored release.”

The Pretrial Reform and Operations Workgroup (PROW) discussed scope at length. Their decisions are reflected in the RFA requirements that pilot courts perform a prearrestment risk assessment on each booked and detained arrestee, including arrestees charged with serious and violent felonies, except for those deemed ineligible for bail under article I of the California Constitution.

The RFA assessment requirement covers all classes of offenses. However, if necessary, the court may “exclude pretrial assessment of individuals booked into custody in specified jail/detention facilities or arraigned in specified courthouses.” These permissible exclusions relate to court geography and capacity, not exclusion of persons arrested for certain crimes.

**Question:** Is the scope of the program intended to perform risk assessments on defendants charged with misdemeanors as well as felonies, or is it limited to felonies only?

The scope of the Pretrial Pilot Program is not limited to felonies. The RFA, in section 1.3, page 2 "Pretrial Pilot Program Scope" states, "The pilot project shall require the pretrial risk assessment of all persons booked into and retained in actual jail custody and who are not otherwise released under existing release policies."

The RFA assessment requirement covers all classes of offenses. However, if necessary, the RFA permits the court to “exclude pretrial assessment of individuals booked into custody in specified jail/detention facilities or arraigned in specified courthouses.” These permissible exclusions relate to court geography and capacity, not exclusion of persons arrested for certain crimes.

**Question:** Who determines those eligible for prearraignment release without a hearing?

Eligibility for prearraignment release without a hearing is covered in existing statute. Penal Code sections [1270.1\(a\)](#), [1319](#) and [1319.5](#) define when a hearing must be held in open court before an arrested individual can be released on his or her own recognizance.

These sections require a hearing in open court before a magistrate or judge for persons arrested for serious or violent felonies, and for other listed felonies, for persons on felony probation and parole, and for those who have failed to appear multiple times and are arrested for various offenses.

Section [1319.5\(g\)](#) provides an exception to the open hearing requirement for persons who have failed to appear multiple times if the person is released pursuant to a court-operated pretrial release program or a pretrial release program with approval by the court.

**Question:** What is the timeframe in which prearrest release decisions should occur? How should the pilot handle cases in which the District Attorney makes a decision not to charge, or to drop charges?

The release decision must be made by the judicial officer prior to arraignment for those who are eligible for release without a hearing (as noted on p. 2 of the RFA).

Under Penal Code § [825](#), the arraignment must be held within 48 hours of arrest. While the RFA does not set a specific number of hours, it is anticipated that in most cases the judicial officer will make the prearrest release decision well before the 48 hour deadline for arraignment. The plans for conducting prearrest release, including timelines, should be described in the narrative portion of the Pilot Project's Application (section 8.1.3).

Arrestees may be released on own recognizance or monitored release before the District Attorney makes a decision on charging.

Data on all arrestees will be required and tracked, including those cases where the D.A. makes a decision not to charge, or to drop charges.

Applicant courts should project funding for costs associated with assessing all detained arrestees (except for constitutional exclusions), including those that the D.A. decides not to charge or to drop charges.

**Question:** Can subordinate judicial officers authorize prearrest release on own recognizance?

Yes. Under Penal Code section [1269c](#), except where the defendant is charged with an offense listed in Section [1270.1\(a\)](#), a defendant, either personally or through his or her attorney, friend, or family member, may apply for release on his or her own recognizance, and the magistrate or commissioner to whom the application is made may authorize the defendant's release on his or her own recognizance.

Note also that the current Budget Bill Language references "judicial officers" rather than "judges" or "magistrates," and provides that funds may be used for "costs associated with judicial officer release and detention decision-making prior to arraignment."

**Question:** What expectations/guidance can the Judicial Council provide regarding the supervision of medium risk defendants placed on supervised OR who live outside the county?

The RFA includes as a funded activity (sec. 2.0, p.3) “Contracts between the courts and county probation departments... for monitoring of individuals released pretrial.”

Since probation departments currently have procedures for monitoring persons placed on probation who live outside the county, the RFA presumes that probation departments will use the same or other appropriate procedures for monitoring persons placed on pretrial supervision.

## **RISK ASSESSMENT TOOL SELECTION/VALIDATION**

**Question:** Is there a list of Pretrial Risk Assessment tools that are approved for this use?

No. The Council is not designating specific risk assessment tools as approved for use in the pretrial pilot program.

SB 10, the pretrial legislation, includes a requirement that the Judicial Council put together a list of approved pretrial risk assessment tools. However, the referendum that qualified for the November 2020 general election has stayed implementation of SB 10, and the Judicial Council has suspended all activities required by the legislation.

Pilot courts may select or continue to use a tool that meets its local county needs, provided the court meets the goals of the program -- specifically, that the project “expands the use and validation of pretrial risk assessment tools that make their factors, weights, and studies publicly available (sec. 1.2, pg.2).

The Judicial Council seeks to fund pretrial pilot projects that, as a group, are diverse in their use of risk assessment tools, including tools that require an interview and those that do not (2.0, pg.2).

## JUSTICE SYSTEM PARTNER INTERVIEW

**Question:** Is there any prohibition against video or audio recording of the panel interview?

The Justice System Partner Interviews may **not** be video, or audio recorded

**Question:** Courts raised questions about when and how to implement a risk assessment tool, if not already in use in their county. Would it be more advantageous to select a tool now, prior to submitting their application? Or should they wait until they were selected for the pilot to choose a tool?

Selection of a pretrial risk assessment tool is a court decision made with its local justice system partners - the Judicial Council will not assist courts with selecting and implementing a tool.

Courts do not need to have a tool identified at the onset of the project but need to demonstrate they are working with their justice system partners to identify a risk assessment tool and are taking concrete steps toward selection and implementation of a pretrial risk assessment tool.

As part of the selection process, the members of PROW will consider how quickly a pilot can be up and running under the scope and goals of the program. Selected courts will clearly demonstrate an ability to have the project implemented and operational soon after being awarded. (Sec. 3.0, p.3)

**Question:** Can a court change tools during the pilot?

Yes, it is permissible to change assessment tools during the course of the pilot. Pilot courts may select or continue to use a tool that meets its local county needs, provided the court meets the goals of the program -- specifically, that the project “expands the use and validation of pretrial risk assessment tools that make their factors, weights, and studies publicly available (sec. 1.2, pg.2).

Courts should have a plan in place to ensure that during the transition period, the court and its partners are able to collect required data elements and adhere to the scope and goals of the program. This transition plan should be addressed in the applicant’s Pilot Project Narrative (sec. 8.1.3, pg.12)

**Question:** What Judicial Council support can courts expect with regard to validation of risk assessment tools?

The Judicial Council will use an outside evaluator to conduct an evaluation that will include local validation of the assessment tools. However, courts may also choose to select a separate entity to assist with local validation.

## **IMPLEMENTATION TIMELINE**

**Question:** If a court is awarded the grant, what is the implementation pilot timeline post award?

The Pretrial Pilot Program is a two-year grant program. It is expected that the Court will, upon award, immediately take steps to begin or expand pretrial assessment and release operations and ramp up to being fully operational no later than June 30, 2020.

“Fully operational” in this context means meeting the scope of the pretrial pilot program (sec. 1.3, pg.2) and the parameters of the pilot project as described in the narrative submitted by the court.

It is recognized that technological applications & integrations may require more time and consultation with the Judicial Council, and may be put in place later than June 30, 2020.

## **ROLE OF PROBATION AND SUBCONTRACTORS**

**Question:** Is a court required to contract with the County Probation Department to conduct the risk assessments? Or can the court purchase a risk assessment tool, hire staff, and perform the risk assessments internally?

Pilot courts are required to contract with their county probation department to conduct risk assessments. The current Budget Bill Language designates that funds may be used for “contracts between the courts and county probation departments to conduct prearrest and pretrial risk assessments on individuals booked into county jails, and for monitoring of individuals released pretrial.”

**Note that Santa Clara has been added as an exception to this requirement. It is possible that other changes may be included until the Budget is finalized.**

Based on that requirement, Section 1.1 (pg.1) of the RFA, Pretrial Pilot Program Overview, states that, “each of the selected pretrial pilot projects will... incorporate judicial officer release decisions...that are informed by a risk assessment conducted by county probation departments.”

Section 2.0 (pg.2), provides examples of funded activities, including “[c]ontracts between the courts and county probation departments to conduct prearrestment and pretrial risk assessments on individuals booked into county jails, and for monitoring of individuals released pretrial.”

**Question:** Section 4.5 (page 6) states that court staff, salary, and benefits are eligible uses of funds. The introductory paragraph anticipates that “most of the funding will be used to contract for staffing and equipment for assessment and monitoring” but does not specifically mention probation. Are personnel resources allowable uses of funds to support increased staffing needs for probation and IT departments? If additional sheriffs’ office, law enforcement, or security personnel are needed to facilitate pre-trial interviews of arrestees, is that funding allowed?

As set forth in the Budget Bill Language, funds may be used to contract with probation departments to conduct risk assessments and monitor defendants; this includes costs associated with staffing and equipment for those departments.

Additionally, funds may be used to support data collection and technology integration among local justice system partners. Funds may not be used for staffing costs associated with other justice system partners.

**Question:** Section 4.5 (page 6, first bullet) indicates a copy of all subcontracts must be provided to the Judicial Council. What is the timeframe for providing those subcontracts? Is there an assumption the subcontracts will be provided when available (subsequent to the execution of the funding agreement), or that draft subcontracts be submitted with the RFA response?

There is no expectation that draft subcontracts would be included with a Court's application. Expressed intent to contract is sufficient at the time of submission.

However, the budget narrative (See Attachment C) should describe the intended use(s) of the requested funding, which should include any subcontracting with commercial vendors, nonprofit organizations, and justice system partners such as the local Probation department.

The expectation is that the Judicial Council will receive fully executed subcontracts within a reasonable time, subsequent to the funding Agreement. Email the fully executed subcontracts to [pretrial@jud.ca.gov](mailto:pretrial@jud.ca.gov).

## **PRETRIAL PRACTICE INSTITUTE**

**Question:** Section 5.1 (pg.8) indicates travel expenses may be budgeted for the mandatory two-day Pretrial Justice Practice Institute. Can you provide more information on the conference, including guidelines as to how those costs should be based?

The Pretrial Justice Practice Institute will be held October 9-10 in downtown Oakland, California. The training is mandatory for the Presiding Judge, Court Executive Officer, Pretrial Program Manager and Court Information officer or their designees; for the Chief Probation Officer or designee; and for the Sheriff or Corrections Authority or designee.

The court may invite any other justice system partners who would be useful to include.

There will not be a registration fee for the Institute. Courts should include in their budgets the cost of travel and lodging for required attendees, up to six persons. Please include expenses for **all** required members of the team under Section K (Travel) of the Budget Worksheet.

Hotel rates should be based on the Judicial Council's travel reimbursement guidelines. This also includes reimbursement rates for meals and vehicle mileage. Any variances to these prescribed rates will require approval by the Judicial Council project manager.

We anticipate there will be a second, one-day mandatory training in fall of 2020, with the same requirement for participation by judicial officers, court staff and justice system partners. Courts should include in their budgets the cost of travel for required attendees, up to six persons, for the fall 2020 training.

## **INFORMATION TECHNOLOGY – JUDICIAL COUNCIL SUPPORT AND BUDGETING FOR LOCAL NEEDS**

- As indicated in Section 4.3 of the RFA, the Pretrial Pilot Program allocates up to 10 percent of funding to the Judicial Council for costs associated with implementing and evaluating these programs.
- This includes funding that will provide pilots with case management system development, pretrial risk assessment integration, and data warehouse integration.
- Building up these systems will require time and will be tailored based on the needs and resources of the selected projects.
- In terms of a Court developing its pilot project budget, focus on the **immediate** technology needs in working with local partners and include those expenses in the anticipated budget.
- These expenses could range from an individual laptop purchase for a judicial officer to review assessments online, to contracting with the probation department to purchase a pretrial case management system.

**Question:** Regarding Judicial Council funding support as described in section 4.3 (pg.5), will the Judicial Council fund the development of integrations necessary to collect and electronically transmit data to the Judicial Council, or should applicants build related funding requests – including subcontractor/justice partner funding requests – into their applications?

Yes, the Judicial Council will fund the development of integrations necessary to electronically transmit data to the Judicial Council. If the court does not have the resources for related work, those costs should be built into the funding request.

**Question:** (Attachment D) How do we appropriately budget for the technical assistance and justice partner interfacing?

The Judicial Council will work with the Court, CMS vendors and justice partners on data collection and integration for the pretrial program. The full cost of technical assistance and justice partner interfaces will largely depend on the selected pilot court's current technology environment including, CMS, existing interfaces, status of existing pretrial program, etc. If programming at a county level is needed to extract the required data, the court may choose to fund those activities.

**Question:** Will the Judicial Council pay for and build the necessary integrations to obtain data from the jail, probation and the court for output information and data analyses? Does the court only needs to pay for and build local integrations?

The Judicial Council's technology budget covers secured, permissions-based data storage and collection, and data integration. These processes will be addressed in two phases.

In Phase 1, the JC will procure and build out the judicial branch-wide, court permissions-based data repository. Each court/county will have their own repository within the judicial branch repository. The JC will work with each court to get the data into the repository by whatever short-term method is available (i.e., Excel file, csv, etc). The court is responsible for data collection,

however the JC will work with the court/county to find the best way for data to be collected in its current state.

Also, during Phase 1, the JC will contract with the state's case management systems (CMS) vendors to develop automated data exchanges for populating the data repository with the required CMS data.

If data is spread amongst many systems throughout the county, or is on an old mainframe, the court will need to contract with the county to create a data extract. That expense should be included as part of the court's proposed budget for data collection.

Lastly during Phase 1, the JC will be issuing an RFP/MSA (master service agreement) for electronic pretrial risk data collection solutions, which will include any new/other required data elements. We know that some courts are currently using manual methods. This electronic solution will provide them with an automated method that can integrate with their CMS systems.

During Phase 2, the JC will pay for automated integration with the selected pretrial tool vendors under the master service agreement (MSA) for data collection into each court's data repository and for interfaces to update data in the state CMS vendors. Courts may choose one of the MSA pretrial tool vendors or they can use their existing solution.

**Question:** Does “case management system development” mean that grant funding can be used to fund enhancements or procurement of case management systems? Does this include enhancements needed by the Probation Department? See also sec. 4.5 (pg.6) Eligible expenditures – (“Any other expenses related to the project, as properly budgeted and approved by the Judicial Council program manager.”)

Yes, grant funding can be used to support enhancements or procurement of case management systems to support the pretrial pilot program. Courts can also contract with probation departments to support enhancements or procurement of pretrial case management systems.

**Question:** What is the Judicial Council’s vision of data collection and reporting technology development with pilot courts and justice partners?

The Judicial Council will work with courts and justice system partners on data collection and reporting technology development, and these enhancements will be paid for out of the Judicial Council’s portion of the pilot program funds.

## **ATTACHMENT C – BUDGET WORKSHEET AND NARRATIVE**

**Question:** Can some of the required information required in the Pilot Project Narrative, be exhibits, and not count towards the 10-page maximum?

The only document required to be attached to the Pilot Project Narrative. (sec. 8.1.3(k), pg.13), if applicable, is a current or draft “release conditions matrix” and/or “supervision matrix.”

Although not necessary, a court may choose to provide detailed booking statistics, case flow protocols and related reports, as exhibits to Attachment B. These exhibits will not be applied toward the 10-page maximum requirement for the pilot project narrative section.

**Question:** Where on the budget should Courts indicate monitoring equipment, staff, technology, etc, that is purchased by another agency?

All expenses, including electronic monitoring equipment and technology, should be included in the Budget Detail Worksheet regardless of whether the Court or a Court’s subcontractor will be procuring the goods.

But, if a Court’s subcontractor will be procuring such equipment, these expenses should be listed under the Consultants/Contractors section in the Budget Detail Worksheet.

The only exception is for travel for all required members of the team to attend the Pretrial Justice Practice Institute in 2019 and 2020, which should be included under Section K (Travel) of the Budget Worksheet.

**Question:** Are courts permitted to charge defendants for the cost of release conditions imposed pretrial such as anger management classes or GPS monitoring?

No, pilot courts are not permitted to charge defendants for the cost of any pretrial release conditions. Pilot courts should plan accordingly and include those projected costs in their proposed budgets.

**Question:** What is the “Indirect Rate,” how is it calculated, and to what should it be applied?

“Indirect costs” are expenses ancillary to doing business and conducting court operations as a result of participating in the pretrial pilot program.

The “indirect cost” calculation is based on the salary and benefits of the staff provided for in this funding opportunity, not based on all court staff. If a Court is not familiar with their individual indirect cost rate, please contact Judicial Council staff directly.

As noted on pg. 14 of the RFA (8.2.1) indirect costs for partner agencies and subcontractors are not allowed.

**Question:** Section 4.4 (page 5) seems to indicate funding will be disbursed up front after the contract is executed and approved. Subsequent disbursements will be made quarterly thereafter. What percentage of the funding will be in the initial disbursement? Will Year 1 be disbursed first and then quarterly thereafter?

The initial disbursement will be determined by the request of the Court as indicated on the Court’s Application Section 1H and is not intended to be a specific percentage of the total award, but rather is meant to meet the needs of the Court with respect to start-up costs for implementing the pilot. All subsequent disbursements will be allocated equally by the remaining balance of the total award, unless otherwise agreed upon by the Court and the Judicial Council and in accordance with the terms of the contract.

For example, Court A requested a \$20MM total with an initial disbursement of \$5MM and is approved for such a request. The subsequent disbursements of the remaining \$15MM would then be distributed in equal installments on a quarterly basis and in accordance with the terms of the contract.

**Question:** Section 4.6, (pg.7) categorizes “facilities” as an ineligible use of funds. However, many courts, probation departments, sheriff’s departments, and jails may need to modify or expand their existing facilities to provide adequate, secure space for the pre-trial risk assessment process. Is funding to support those facilities modifications allowable?

No, funding for facilities is not permissible under the Pretrial Pilot Program.

**Question:** Is office space an allowable cost as a part of the subcontract the Court would be making with the Probation Department, if that office space was used exclusively for the purposes of the Pretrial Program?

Section 4.6 Ineligible Expenditures (Page 7) does list “facilities” as an ineligible expense, however in this context, that means capital expenses (building and renovating permanent structures). The rental of office space is consistent with the goals of the pretrial pilot program.

If you can quantify the expense as a new cost for new, additional space, solely for these activities it is allowable. If you can show you have expanded and can show the additional costs over and above normal, that would also be allowable. If it’s a percentage of your current rent bill, then no, that would not be allowable.

Equipment (desk/chairs/phones/computers) is also allowable if it’s purchased and supplied at the beginning of the project so as to justify the purchase.

**Question:** Our court is considering preparation work prior to the start of the Pretrial Pilot Program, including reallocating existing staff into the assessment role and phasing out contractors. Under Section 4.6 Ineligible Expenditures (pg.7), is the salary of a reallocated officer an allowable expense or only the additional staff that would be brought on to create increased monitoring options were we to receive funding?

Yes, the salary of a reallocated officer would be considered an eligible expense so long as the reallocated officer is assigned to pretrial services with a time base outlined in the Budget Detail Worksheet. If pretrial services previously had been conducted by contractors, then the work by the reallocated officers would not be considered supplantation. Please refer to Section 4.6, footnote 2 (pg.7) of the RFA.

**Question:** If we have more line items than Attachment C allows for based on format, is it possible to submit our own budget document with the requested information listed in C? For example, more space for positions and/or technology costs associated.

Please contact [pretrial@jud.ca.gov](mailto:pretrial@jud.ca.gov) to request the word document version of Attachment C, which will allow you to add additional line items.

Please note that this version will not automatically calculate totals, so please ensure that you have calculated the subtotals and grand total correctly.

**Question:** Can pilot funding can be used to enhance existing case management systems to increase risk assessment related functionality, justice partner integrations, and data collection and reporting mechanisms? Will these necessary upgrades and integrations be considered allowable expenses or prohibited “supplanting”?

Yes, the court’s portion of the funding may go towards the enhancements described above.

Yes, expenses directly related to enhancing existing case management systems to increase risk assessment related functionality, justice partner integrations, and data collection and reporting mechanisms will be allowed and not considered supplanting.

## **ATTACHMENT D – DATA ELEMENTS AND DATA EXTRACTS**

**Question:** Attachment D includes a “Data Elements Inventory”. Which of the data elements included here will be required to be reported on a historical basis (as compared to current/on-going)? Many courts have recently migrated to new case management systems. Will the inability to provide every data element exclude courts from participating in this program?

No. the Judicial Council recognizes that not all courts will be able to provide all the data elements requested and that historical data will be a significant challenge to courts that have recently migrated to new case management systems.

Pilots do not need to provide all the data elements listed in the inventory and the lack of ability to provide comprehensive historical data will not necessarily disqualify a court from receiving an award. However, the ability to provide data will be one factor in the evaluation process. Courts should describe data collection challenges including the availability of historic data, in Section (m) “Grant Requirements” of the application narrative.

**Question:** How does the Judicial Council anticipate collecting or requiring courts to report this data?

The manner of data collection will depend on the pilot courts selected and their data collection capacity. The Judicial Council will work with awarded courts individually to identify the most appropriate method of data collection.

**Question:** Can courts contract with justice partners to provide the requisite data to the Judicial Council, or does the Judicial Council want the courts to be responsible for transmitting and checking all pretrial release-related data?

The Judicial Council anticipates working directly with local partners to collect data and perform data quality checks. Courts will be responsible for contracting and/or collaborating with local agencies, including probation or jails, in order to facilitate the Judicial Council’s ability to access data directly from justice system partners.

**Question:** I was reviewing the data element requirements for the pilot program and had a question about it. The Court, Probation and Jail all have similar information. Will it be necessary to provide access to all three system if we have the same information?

For the Pretrial Pilot Program, it will be necessary for the Judicial Council to have access to the required data elements listed in Attachment D of the RFA, Pretrial Pilot Program Data Elements Inventory. While the court, Probation Department and jail often have similar or some overlapping information, it is not typical that one entity would have all of the required data elements. However, if your county has a system in which it is possible for the Judicial Council to access all required data elements through one entity, then access to that system would be sufficient.

**Question:** Attachment D lists a series of data fields that need to be extracted from the jail (Sheriff's Dept). Some of those data fields are not collected/maintained by them (e.g., court case number, conviction date, conviction charge, etc.). For purposes of the grant requirements, would it be acceptable to extract this information from the Court's case management system and report it as a 'null' value from the Sheriff's system?

The Judicial Council will work with each selected county to make sure they can provide all the necessary data elements, the fact that the sheriff does not track those data elements will not exclude a county from being selected.

**Question:** Is there a data element the Judicial Council would be looking for courts to provide to assess any disparate impact of bias that may result from the implementation of these projects in order to better understand and reduce biases based on race, ethnicity, and gender in pretrial release decision-making?

The data elements that will be collected for this Pilot Program include the race, gender, and ethnicity of each defendant as listed in the data elements requested in Attachment D. The Judicial Council will be responsible for assessing disparate impact and bias once the data has been collected.

**Question:** What is the data collection frequency?

Data will be reported (more or less) quarterly. Data reporting frequency is outlined in Attachment E. under the "Data Due" heading.

**Question:** At what point within the life of a case or the records of a particular inmate or defendant will data be required to be reported?

The Judicial Council does not anticipate requiring courts to track specific individuals over time or across different data management systems. The courts and their local partners will be providing full extracts of the data required.

Courts will be expected to contract and/or collaborate with local justice system partners to direct data exchange between the local partners and the Judicial Council. For each time range described in Attachment E, the Judicial Council will require data on all relevant individuals entered into the data management system regardless of the stage in the criminal justice process.

**Question:** What triggers extracting the data for a specific case so that it is sent to JCC for analysis?

We will be requesting a data extract of the specific data elements listed for all cases for the time period

**Question:** Will the same case be sent multiple times?

Yes, we know that there will be many duplicates with this type of extract, and we are prepared to identify duplicate records. Our experience with similar programs indicates that this is easier for the courts.

**Question:** Will data only be required for incarcerated defendants with a pre-release report?

No, data will be required for all defendants.

**Question:** Is there a particular output format for the data that will be specified for submission (XML, CSV, etc.)?

This will be determined in consultation with the selected counties.

**Question:** Some of the data items appear to require multiple values, how will these be handled (depending on desired format)?

For elements that have multiple values we want the date and status of the element for each incidence of that data element. This can be repeated across rows, which may result in some duplicate records.

**Question:** Can you define or provide clarity on the following Data elements?

FTA\_Dates – All FTA dates for this defendant?

Yes, all FTA dates for the specific reporting periods, if possible.

Warrant\_Date – All warrant dates, or just the most recent?

All FTA warrant dates for the specific reporting period.

Disposition\_Outcome – Is this the current charge disposition, or all dispositions for the charge??

Any, and all actions on the charge during the time period. And the date of each action.

Disposition\_Event\_Date\_Time – Is this the date for the current charge disposition, or a list of the dates for all the dispositions of this charge?

Any, and all actions on the charge during the time period. And the date of each action.

Sentence\_Type – The definition indicates this is to be the sentencing result for each charge, however sentences can be combined across multiple charges. Is a Sentence\_Type for the case an acceptable alternative?

Yes

Case\_Status – Is the request to send the current case status, or all case statuses which have ever been placed on the case?

Current case status only

Case\_Status\_Date – Again, current, or the dates to go with each case\_status?

Current Case date only

Filing\_Charge – All, the current set, as originally filed?

We want original filings and filing dates, any amendments with amendment date, as well as the final charges.

Charge\_Level – What is a ‘violation’ charge level? We only have misdemeanor, felony and infraction level charges.

Violation was included in error. We are interested in misdemeanor and felony level arrests, however we will accept infractions if they are associated with a felony or misdemeanor arrest.

Hearing\_Type – Is this intended to be the current hearing, the latest, all?

All hearings for the cases during the reporting period.

Hearing\_Date\_Time – Dates of all hearings, the latest hearing?

All hearing dates for the reporting period.

Plea\_Type – All pleas for each charge, or the current plea value for each charge?

We would like all pleas for each charge

**Question:** Sentence\_Location – We sentence to state prison, county jail, etc. rather than a specific facility. Is this sufficient?

Yes.

**Question:** We understand one intent of the Pretrial Pilot will be to examine larger issues such as recidivism. This could require data that is outside the currently requested data set such as previous data on similar offenders, cases without pretrial assessments, etc. Can we limit our estimation of required resources to the currently specified data set and assume additional data requests would be funded separately?

Yes. The Judicial Council staff is working with the California Department of Justice to obtain recidivism information.

## **ATTACHMENT E – SCHEDULE OF DELIVERABLES**

**Question:** Attachment E sets forth a Schedule of Deliverables, which sets the first deliverables' due date as October 15, 2019 based on a data span of July-Sept. 2019. Since the pilot participants will not be decided until August 2019, with contracts to be negotiated thereafter, what deliverables would be expected on the October 15, 2019 due date?

Data available from July-September 2019 should be delivered by the October 15, 2019 due date, in addition to a Quarterly progress report (Attachment F).

**Question:** Some courts anticipate developing an automated process for risk assessments and related reporting and judicial review. However, the Schedule of Deliverables set forth in Attachment E does not appear to build in any development time. Are applicants expected to have built such systems prior to the selection of the pilot courts? Or does the Judicial Council expect the applicants to develop paper processes for immediate implementation, even though the related data and Quality Assurance mechanisms would be limited? Would phased risk assessment and automated reporting go-lives be acceptable or discouraged?

Applicants are not expected to have such systems built and operational prior to being selected as a pilot project.

At a minimum, a Court and its justice system partners must have electronic and/or paper processes in place to collect the required data elements and adhere to the scope and goals of the program. This should be noted in the applicant's Pilot Project Narrative (8.1.3)

Automated processes will vary county by county based on the resources of the applicant courts and their local partners. The JUDICIAL COUNCIL will work with selected applicants to help facilitate this process and help craft a technology solution.

**Question:** How is the time necessary to build the appropriate electronic or manual reporting system built into the Schedule of Deliverables set forth in Attachment E?

The manner of data collection will depend on the pilot courts selected and their data collection capacity. The Judicial Council will work with awarded courts individually to identify the most appropriate method of data collection. It is anticipated that initial data collection will involve data extracts until a more dynamic solution can be developed in partnership with the courts.

NOTICE OF INTENT TO APPLY

FOR PRETRIAL PILOT PROGRAM FUNDING

Superior Court of California, County of \_\_\_\_\_

Please return this document by e-mail to:    pretrial@jud.ca.gov  
PLEASE RETURN BY:                            Friday, June 7, 2019 by 5:00 p.m.

This is to inform you, that the Superior Court of California, County of (“Court”), intends to apply for funding under the Pretrial Pilot Program and will partner with the County Probation Department.

We understand that the parameters of the program and level of funding will remain uncertain until the final budget is approved by the Legislature and signed by the Governor in late June.

The Court Project Manager for purposes of this funding request is expected to be: [name and contact info]

Sincerely,

Superior Court of California, County of

Presiding Judge

Court Executive Officer

Chief Probation Officer

Person completing this form:

Contact Name:

Title:

Telephone Number:

E-mail:

## Mandatory Justice System Partner Interviews

Every pilot program applicant must attend a 30-40-minute video-conference call with the Chair of the Pretrial Reform and Operation Workgroup (PROW) and Judicial Council staff. The purpose of the individualized video conference is to discuss collaboration among local justice system partners and any anticipated challenges and/or issues. These calls will also be an opportunity to discuss any changes made to the budget bill language and/or program upon final adoption. Questions will be provided to the participants in advance of the call. Required participants include:

- Court Presiding Judge, or designee
- Court Executive Officer, or designee
- Chief Probation Officer, or designee
- Court Information Technology Director, or designee

Courts may invite any other partners that they think would be important to include in this discussion.

Please indicate **all** dates and time segments below that all required participants would be available to participate.

Date	Morning			Noon	Afternoon			
	9:00 – 10:00	10:00 – 11:00	11:00 – 12:00	12:00 – 1:00	1:00 – 2:00	2:00 – 3:00	3:00 – 4:00	4:00 – 5:00
Tuesday, June 18								
Thursday, June 20								
Wednesday, June 26								
Thursday, June 27								
Friday, June 28								
Monday, July 1								

Please indicate your top three date/time choices:

Court Contact:

Video Conference Logistical Contact for the Team:

## Notice Regarding Pretrial Pilot Program Funding For Release by Nonjudicial Officers June 27, 2019

In the course of our interviews with courts that intend to apply for Pretrial Pilot Program grant funding, several courts indicated they intend to adopt a standing order or local rule that would authorize prearrestment release on own recognizance by Probation's Pretrial Services officers or by detention facility staff for specified booked arrestees based on assessed risk level. While SB 10, the legislation passed in 2018 and currently stayed until the November 2020 general election, provides for prearrestment release by Pretrial Services of those assessed as "low risk," the courts selected for funding under the Pretrial Pilot Program must operate under existing law (as noted in Section 1.1 of the RFA).

### **Summary**

The Judicial Council will provide funding for Pretrial Pilot Program grantees that incorporate judicial officer release decisions prior to arraignment based on a risk assessment, including release by subordinate judicial officers. The authority to release a person on their own recognizance and to impose reasonable conditions is held by a judge or magistrate. The Judicial Council cannot provide funding to courts that authorize nonjudicial officers to conduct prearrestment own recognizance release of booked individuals unless such release is permitted by an order addressing the county's jail population cap. Other potential options are addressed below.

### **Discussion**

Our interpretation of existing law is that courts may not authorize prearrestment release on own recognizance by nonjudicial officers except under very limited circumstances, as described below, and that the Judicial Council is not authorized to fund projects that incorporate own recognizance release by nonjudicial officers (or releases on a notice to appear for a felony charge). Other than provisions that allow release on a signed notice to appear for certain infractions and misdemeanors,<sup>1</sup> the authority to release a person on their own recognizance and to impose reasonable conditions is held by a judge or magistrate. (Pen. Code, §§ 1270, 1318.)

Penal Code § 1270(a) provides, in relevant part: "Any person who has been arrested for, or charged with, an offense other than a capital offense may be released on his or her own recognizance by a court or magistrate who could release a defendant from custody upon the defendant giving bail. . . ." Penal Code section 1318 provides, among other requirements, that the defendant shall not be released from custody under an own recognizance until the defendant files a signed release agreement which includes the defendant's promise to obey all reasonable conditions imposed by the court or magistrate.

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<sup>1</sup> Pen. Code, § 853.6, Veh. Code, §§ 40307, 40500(a).

Section 1318 originally did not require the defendant to promise to obey reasonable conditions imposed by the court. (Pen. Code, § 1318; Stats. 1979, ch. 873, § 12, pp. 3043-3044; see § 17, p. 3044.) In adding this requirement, it was the Legislature’s intent “to codify the authority of a court or magistrate, in imposing OR conditions, to weigh considerations relating to the public safety that extend beyond those intended to ensure subsequent court appearances.” (*People v. Carroll* (2014) 222 Cal.App.4<sup>th</sup> 1406, 1414, citing *In re York* (1995) 9 Cal.4<sup>th</sup> 1133, 1144; Stats. 1988, ch. 403, § 4, p. 1757.) Courts may not ignore the “statutory command” of Penal Code section 1318 and devise their own criteria for release on OR. (*People v. Mohammed* (2008) 162 Cal.App.4<sup>th</sup> 920, 930.)

There is no express statutory authority for a local rule or standing order that purports to authorize a nonjudicial officer to grant own recognizance releases, and such a rule or order may conflict with the structured release process established by the Legislature. A local court’s expansion of the authority to release beyond that which is expressly provided by statute may constitute an unwarranted intrusion into a field occupied by the Legislature. Furthermore, the release of a person on their own recognizance or on a notice to appear, when such a release is not authorized, may preclude the prosecution of the person if there is a subsequent failure to appear. In some cases, it has been held that “if the requirements of section 1318 are not satisfied and the defendant is nonetheless released, that release is not an OR release as defined by the Legislature and hence cannot be the basis for prosecution under sections 1320 or 12022.1, subdivision (b) [for failure to appear].” (*People v. Hernandez* (2009) 177 Cal.App.4<sup>th</sup> 1182, 1191; *People v. Jenkins* (1983) 146 Cal.App.3d 22, 27; but see *People v. Carroll*, *supra* 222 Cal.App.4<sup>th</sup> at 1413-1422 [substantial compliance with the provisions of Penal Code section 1318 was sufficient to support a conviction of failure to appear].) Furthermore, the court’s jurisdiction to enforce conditions imposed by detention facility staff under an “own recognizance” release may similarly be compromised (See *People v. American Sur. Ins. Co.* (2009) 178 Cal.App.4<sup>th</sup> 1437, 1440 [court lacked jurisdiction to forfeit bail upon defendant’s failure to appear because prosecutor’s “Notice of Complaint Filed” letter was not a court order].)

Since there is no express statutory authority for a system of release by nonjudicial officers outside of the application of the bail schedule or under the provisions that allow release on a signed notice to appear for certain infractions and misdemeanors, the Judicial Council cannot provide funding for such an arrangement for a pilot project.

One possible exception to the constitutional and statutory limitations that restrict decisionmaking on “own recognizance” releases to judicial officers is in the context of a federal or state court order that imposes a “jail population cap.” It is common for jail population caps to address early release by the sheriff or jail authority. The extent to which the order is prescriptive in the rules for early releases once capacity is reached varies greatly across counties. Some orders are so general that they implicitly give the sheriff discretion to decide who should be granted early release. Other court orders include specific criteria the sheriff should use when making early release decisions, and establish a hierarchy based on charge level and a person’s status as unconvicted/unsentenced.

In some counties, modifications to court-ordered population caps are not uncommon, and those modifications can affect release decisions for those held pretrial. Whether a county's jail cap order can be modified to provide for prearrest release by jail authorities based on assessed risk level will depend on multiple factors: the legal and practical parameters of the original jail cap order and any subsequent modifications, the timing of risk assessments for those held in custody, and the willingness of justice system partners to incorporate release based on risk assessment scores into the existing early release model.

Another alternative considered by some courts is to issue a standing order or local rule that authorizes release by judicial officers based on risk level. The rule or standing order might provide for own recognizance release for those who are assessed at low risk levels, and could include monitoring or predetermined conditions. This allows for minimal review beyond confirmation of the assessed risk level while still retaining judicial decision making. The important distinction is that, under such a rule or standing order, the actual release decision is made by a judicial officer, although based on risk assessment information provided by other agencies, unlike a rule that authorizes release by nonjudicial officers. This approach can have nominal impact on the workload of the "on duty" judge conducting review of probable cause declarations and search warrants, or on review by other judicial officers, including subordinate judicial officers.

Subordinate judicial officers may authorize prearrest release on own recognizance, as noted on page 3 of the updated [Pretrial Pilot Program, Court Questions & Responses](#). Under Penal Code section 1269c, except where the defendant is charged with an offense listed in Section 1270.1(a), a defendant, either personally or through his or her attorney, friend, or family member, may apply for release on his or her own recognizance, and the magistrate or commissioner to whom the application is made may authorize the defendant's release on his or her own recognizance. Note also that the current Budget Bill Language references "judicial officers" rather than "judges" or "magistrates," and provides that funds may be used for "costs associated with judicial officer release and detention decision-making prior to arraignment."

As noted in section 1.3 of the RFA, arrested persons who are eligible for release on bail under current law shall be entitled at any time to post bail as specified in the county bail schedule or for the amount set on an arrest warrant, or as otherwise set by the court, whether or not a risk assessment has been completed.

If you have questions regarding the above information, contact [Pretrial@jud.ca.gov](mailto:Pretrial@jud.ca.gov).