



# JUDICIAL COUNCIL OF CALIFORNIA

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HON. TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

HON. MARSHA G. SLOUGH  
*Chair, Executive and Planning Committee*

HON. DAVID M. RUBIN  
*Chair, Judicial Branch Budget Committee*  
*Chair, Litigation Management Committee*

HON. MARLA O. ANDERSON  
*Chair, Legislation Committee*

HON. HARRY E. HULL, JR.  
*Chair, Rules Committee*

HON. KYLE S. BRODIE  
*Chair, Technology Committee*

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*Hon. Rebecca L. Wightman*

MR. MARTIN HOSHINO  
*Administrative Director*  
*Judicial Council*

August 3, 2020

Hon. Holly J. Mitchell  
Chair, Senate Committee on Budget and Fiscal Review  
Chair, Joint Legislative Budget Committee  
State Capitol, Room 5019  
Sacramento, California 95814

Hon. Philip Y. Ting  
Chair, Assembly Committee on Budget  
Vice-Chair, Joint Legislative Budget Committee  
State Capitol, Room 6026  
Sacramento, California 95814

Ms. Keely Bosler, Director  
California Department of Finance  
915 L Street  
Sacramento, California 95814

Re: *Pretrial Pilot Program: Report to the Legislature (July 2020)*, as required under the Budget Act of 2019

Dear Senator Mitchell, Assembly Member Ting, and Ms. Bosler:

Pursuant to the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23), the Judicial Council is submitting *Pretrial Pilot Program: Report to the Legislature (July 2020)* on the activities of the Judicial Council's Pretrial Pilot Program between January and July 2020.

If you have any questions related to this report, please contact Shelley Curran, Director, Judicial Council Criminal Justice Services, at 415-865-4013 or [shelley.curran@jud.ca.gov](mailto:shelley.curran@jud.ca.gov).

Sincerely,

Martin Hoshino  
Administrative Director  
Judicial Council

Hon. Holly J. Mitchell  
Hon. Philip Y. Ting  
Ms. Keely Bosler  
August 3, 2020  
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MH/SC/DMB/ma  
Enclosures

cc: Diane F. Boyer-Vine, Legislative Counsel  
Erika Contreras, Secretary of the Senate  
Sue Parker, Chief Clerk of the Assembly  
Eric Dang, Policy Consultant, Office of Senate President pro Tempore Toni G. Atkins  
Amy Alley, Policy Advisor, Office of Senate President pro Tempore Toni G. Atkins  
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MR. MARTIN HOSHINO  
*Administrative Director*  
*Judicial Council*

Report title: *Pretrial Pilot Program: Report to the Legislature* (July 2020)

Statutory citation: Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23)

Date of report: July 1, 2020

The Judicial Council has submitted a report to the Legislature in accordance with the Budget Act of 2019.

The following summary of the report is provided under the requirements of Government Code section 9795.

As part of the Budget Act of 2019, the Legislature allocated a total of \$75 million to the Judicial Council to fund the implementation, operation, and evaluation of projects or efforts in at least 10 courts related to pretrial decision-making. The Budget Act directed the Judicial Council to administer the program, collect and analyze required data elements to measure the outcomes, and report annually to the Joint Legislative Budget Committee and the Department of Finance.

This is the second legislatively mandated report on the Judicial Council's Pretrial Pilot Program and details pilot court implementation progress and Judicial Council administrative activities carried out between January and July 2020. It is expected that by the publication of this report, all 16 pilot court projects will be fully implemented according to the requirements of the program as set by the Legislature.

This report also includes information on the impact of state and local responses to the COVID-19 pandemic on project operations, as well as plans for evaluating program outcomes.

The full report can be accessed at <http://www.courts.ca.gov/7466.htm>.

A printed copy of the report may be obtained by calling 415-865-8994.



# Pretrial Pilot Program

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REPORT TO THE LEGISLATURE

JULY 2020



JUDICIAL COUNCIL  
OF CALIFORNIA

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OPERATIONS AND PROGRAMS DIVISION  
CRIMINAL JUSTICE SERVICES

**JUDICIAL COUNCIL OF CALIFORNIA**

**Hon. Tani G. Cantil-Sakauye**

*Chief Justice of California and*

*Chair of the Judicial Council*

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## **Executive Summary**

As part of the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23, item 0250-101-0001, provisions 8–17), signed into law on June 27, 2019, the Legislature allocated a total of \$75 million to the Judicial Council of California to launch and evaluate two-year pretrial projects in local trial courts. The Judicial Council approved and distributed funding to the 16 pilot court projects selected for participation in this program in August 2019.

This is the second legislatively mandated report on the Judicial Council’s Pretrial Pilot Program. It details pilot court implementation progress and Judicial Council administrative activities carried out between January and July 2020. Since the last reporting period, all participating pilot courts have continued local collaboration efforts and expended necessary funding to operationalize their pretrial projects.

This report also includes information on the impact of state and local responses to the COVID-19 pandemic on pilot court projects. Despite various delays in implementation efforts related to this crisis, it is anticipated that by the publication of this report, all 16 pilot court projects will be fully implemented according to the requirements of the program as set by the Legislature.

While the overall impact of the COVID-19 pandemic on the population eligible for participation in the program cannot be determined at this time, courts continue to compile data extracts as scheduled, and data collected during this time will be reported to the Judicial Council and available in subsequent legislative reports. This report details efforts underway to collect this data, as well as plans for evaluating and reporting program outcomes.

## **Introduction**

This report fulfills the legislative mandate of the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23), which allocated \$75 million to the Judicial Council to fund the implementation, operation, and evaluation of programs related to pretrial decision-making in at least 10 courts. The Budget Act directed the Judicial Council to administer the program, collect and analyze required data elements to measure outcomes, and report to the Joint Legislative Budget Committee and the Department of Finance. Accordingly, this report presents information on the activities of the Pretrial Pilot Program from the time of the last report, submitted in January 2020, to the present.

## **The Judicial Council's Pretrial Pilot Program**

As part of the Budget Act of 2019, the Legislature directed the Judicial Council to administer two-year pretrial projects in local trial courts. The goals of the Pretrial Pilot 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.

In carrying out pretrial operations, pilot courts are required to (1) operate under existing law, (2) incorporate prearrestment (or at arrestment, if a hearing is required) judicial officer release decisions that are informed by a risk assessment conducted by county probation departments, and (3) collect and provide data to the Judicial Council for evaluation of the Pretrial Pilot Program.

## **Background**

In January 2019, the Chief Justice appointed the Pretrial Reform and Operations Workgroup and tasked this group with developing recommendations for the application process, selection criteria, and funding allocations for pretrial pilot projects in trial courts, among other duties. Through an extensive request for application and interview process from May to July 2019, the workgroup received over 30 applications to the program, representing approximately \$169.64 million in requested funding.

At its meeting on August 9, 2019, the Judicial Council approved funding for 16 pilot court projects.<sup>1</sup> The chosen courts represent a diversity of size, geographical location, and pretrial operations implementation readiness. Over the course of the last reporting period, which detailed

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<sup>1</sup> Superior courts in the following counties were selected for participation in the pilot project: Alameda, Calaveras, Kings, Los Angeles, Modoc, Napa, Nevada-Sierra (as a two-court consortium), Sacramento, San Joaquin, San Mateo, Santa Barbara, Sonoma, Tulare, Tuolumne, Ventura, and Yuba.

the first six months of the program, selected pilot courts entered into contracts with the Judicial Council, submitted historical data extracts, chose risk assessment tools to use in their projects, developed parameters for pretrial release decisions, and finalized contracts with county probation departments to conduct risk assessments.

During the period covered by this report, the United States became the epicenter of the global pandemic caused by an outbreak of COVID-19. On March 4, 2020, as part of growing statewide efforts in response to COVID-19, Governor Gavin Newsom declared a state of emergency in an effort to protect public health and safety as the state prepared for a broader outbreak of the virus.<sup>2</sup> This announcement supplemented and formalized many efforts by the California Department of Public Health, California Health and Human Services Agency, Governor's Office of Emergency Services, and other state agencies and departments to mitigate this public health crisis. On March 19, 2020, orders from the Governor and the California Department of Public Health directed all California residents to stay home except when performing essential jobs or shopping for necessities.<sup>3</sup>

On March 27, 2020, the Governor issued an order<sup>4</sup> giving the Judicial Council of California and the Chief Justice authority to take necessary action to respond to the health and safety crisis resulting from the COVID-19 pandemic, including by adopting emergency rules that otherwise would be inconsistent with statutes concerning civil or criminal practice or procedures. The Governor's order also suspended statutes to the extent that they would be inconsistent with such emergency rules. Under this order, the Judicial Council adopted various emergency measures to support courts in providing essential services and help to safely reduce jail populations.

Several of these measures, along with local policies adopted by individual courts in response to the crisis, have impacted the population eligible for participation in the Pretrial Pilot Program. Such measures include extending the period for holding arraignments and, most significantly, the adoption of a statewide emergency bail schedule.

On April 6, 2020, the Judicial Council approved 11 temporary emergency rules, including the adoption of a statewide emergency bail schedule that set presumptive bail at \$0 for most misdemeanors and lower-level felonies, with specified exceptions, but did not change any of the traditional bail procedures or the ability of a court to exercise discretion related to the setting of bail. The emergency rule was intended to promulgate uniformity in release and detention of arrestees throughout the state and to safely reduce jail populations and protect justice system personnel and public health.

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<sup>2</sup> State of emergency proclamation, [www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/](http://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/).

<sup>3</sup> Executive Order N-33-20, [www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf](http://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf).

<sup>4</sup> Executive Order N-38-20, [www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-N-38-20.pdf](http://www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-N-38-20.pdf).

Under the emergency rule, courts retained their ability to adjust bail in an individual case if necessary to assure the appearance of the defendant and protect public safety. The Judicial Council repealed the rule on June 10, 2020, with an effective date of June 20, 2020.

Additionally, the Judicial Council encouraged courts to adopt schedules with \$0 bail or significantly reduced bail levels for certain misdemeanor and low-level felony offenses to meet their local public health and safety conditions. Since taking this action, nine of the 17 counties participating in the pilot program have adopted local emergency bail schedules.<sup>5</sup>

As a result of both the emergency bail schedule and local policies implemented in many courts to prevent the spread of COVID-19, pilot courts observed significant reductions in booking rates and jail populations during this time. Under these temporary emergency policies, many individuals who would otherwise be eligible for program participation were cited and released in the field or released on \$0 bail upon booking without undergoing a risk assessment. The Board of State and Community Corrections reported that between February 29 and May 23, 2020, California jail populations dropped 22,000 statewide, from over 72,000 inmates to approximately 50,000, although there was wide variation among counties with some reducing their jail population by 60 percent and others by 10 percent.<sup>6</sup>

Though the long-term impact of the emergency measures taken in response to the COVID-19 crisis on program outcomes cannot yet be fully determined, data collected during this time will be reported to the Judicial Council and included in upcoming legislative reports.

### **Pilot Court Activities**

Over the course of this reporting period, responses to the COVID-19 pandemic have necessitated shifts in several implementation activities in the pilot courts. Still, pilot courts have conducted risk assessments and provided reports to judicial officers to assist in release decisions; although, the volume of assessments has been lower than originally anticipated for this time period. The number of assessments conducted varied greatly by court, reflecting the differing impact of COVID-19 on local communities.

While the shelter-in-place orders were in effect, many pilots continued to hold workgroup meetings, conduct virtual trainings, and use program funding to purchase equipment necessary for implementation and to hire staff to expand assessments to all individuals booked into jail. Additionally, several courts reported that having pretrial projects already in place during this time allowed them to more easily provide for the efficient release and monitoring of individuals released as a result of the emergency bail schedule.

Judicial Council staff are in communication with pilot courts to provide additional programmatic, legal, and technical support as courts continue to enhance their pretrial projects

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<sup>5</sup> Superior courts in the counties of Alameda, Los Angeles, Napa, Sacramento, San Mateo, Santa Barbara, Sonoma, Tulare, and Yuba have adopted local emergency bail schedules since the repeal of the statewide emergency rule.

<sup>6</sup> Board of State and Community Corrections, “County Jail Populations During COVID-19” (May 29, 2020), [www.bscc.ca.gov/wp-content/uploads/JPS-ADP-Data-Snapshot-5.29.2020.pdf](http://www.bscc.ca.gov/wp-content/uploads/JPS-ADP-Data-Snapshot-5.29.2020.pdf).

while beginning to resume operations impacted by responses to the COVID-19 crisis. Since the time of the last report, pilot courts have continued coordination efforts with local partners to implement their pretrial projects on or before June 30, 2020. It is anticipated that by the publication of this report, all 16 court projects will have achieved full implementation of their pretrial operations, as outlined in detail below.<sup>7</sup>

### **Full Program Implementation**

Full implementation is defined as meeting the requirements of the Pretrial Pilot Program outlined by the Legislature, as well as the parameters of the court's project described in proposals submitted by courts to the Judicial Council.

Pilot projects that are fully implemented have the following mandatory characteristics<sup>8</sup>:

- A judicial officer is making release decisions prearrest (or at arraignment if a hearing is required) that are informed by a risk assessment conducted by the county Probation Department for all arrestees booked and detained in jail custody.
- If risk assessments were previously carried out by another agency, responsibilities have been fully transitioned to the Probation Department prior to the project's implementation date.
- Pretrial operations are serving the entire county, unless the court has received specific approval from the Judicial Council to limit the scope to certain jails or courthouses.
- Courts are not making any local modifications to their chosen risk assessment tools.

Persons deemed ineligible for bail under article I, section 12 of the California Constitution are not assessed in implemented projects. Each arrested person eligible for release on bail under current law is 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, regardless of whether a risk assessment has been completed.

Pilot courts continue to collect and report data on all essential elements on individuals booked into county jail during each reporting period, whether or not the individual received a risk assessment. If planned data integrations are not yet achieved, pilot courts have taken the necessary steps to ensure all partners can still exchange and submit information in a timely manner.

Several pilot courts adopted a phased approach to implementing their pretrial operations, limiting assessments to certain populations or jail locations in initial phases and expanding to the entire eligible population of defendants in subsequent phases.<sup>9</sup> Courts used this phased approach to test

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<sup>7</sup> The Superior Court of Kings County implemented its pretrial operations in March 2020, but they have since been suspended due to challenges related to a recent peak in COVID-19 cases in the county. The court plans to resume operations of its project on July 6, 2020.

<sup>8</sup> The Superior Court of San Joaquin County received limited funding and has been permitted to participate in the Pretrial Pilot Program although it is not implementing prearrest review.

<sup>9</sup> Superior courts in the counties of Alameda, Sacramento, Los Angeles, Napa, Ventura, and Tulare have implemented their pretrial projects in phases.

practices on a limited population to identify and address potential challenges before rolling out the project countywide.

### ***Additional Efforts to Enhance Pretrial Operations***

In addition to successfully implementing the required components of their projects, most courts have introduced additional enhancements to strengthen pretrial operations. Such efforts include implementing, expanding, and/or automating court date reminder systems to improve court appearance rates; developing public education strategies to increase awareness of pretrial operations; and automating data processes to facilitate more efficient data sharing among agencies. Several pilot courts have contracted with external consulting groups to provide training to judicial officers and staff working on the project and general guidance on project implementation and best practices.

### ***Initial Expenditures***

Program funding continues to be distributed to pilot courts according to a defined deliverables schedule. At the time of this report, the Judicial Council has disbursed approximately 54 percent of the \$68.06 million awarded to participating pilot courts. Of these disbursements, approximately 63 percent has been spent or encumbered by the courts, in accordance with original budgets submitted to and approved by the Judicial Council. (See Attachment A for a financial summary of pilot court disbursements and spending as of June 12, 2020.)

Despite reported delays due to the COVID-19 pandemic, pilot courts continue to make progress toward appropriate monetary spending, taking the impact of the pandemic into account. Courts have used funding to hire temporary court commissioners and support staff, provide training for judicial officers and pretrial operations staff, and for data integration services to upgrade and integrate their case management systems, among other expenses.<sup>10</sup> Court resources not funded through the program are also being used to implement and enhance pretrial operations.

Most of the program funds have been allocated from courts to county probation departments to conduct risk assessments on all eligible individuals, prepare pretrial reports to inform release decisions, and monitor defendants on supervised pretrial release, as ordered by a judicial officer. Probation departments have used funding in this reporting period to hire deputy probation officers and administrative staff; purchase risk assessment case management systems and training materials; purchase software and licenses for court-date reminder systems and monitoring equipment; and provide transportation services for individuals on pretrial release, among other expenses.

### **Judicial Council Activities**

Judicial Council staff continue to follow the direction of the Pretrial Reform and Operations Workgroup (PROW) in carrying out administration of the program. While several in-person PROW meetings and events were postponed due to COVID-19 prevention efforts, PROW

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<sup>10</sup> Several courts reported that positions are being filled later than expected due to the inability to onboard new staff as a result of the impact of COVID-19 prevention efforts on court operations.

continues to meet via videoconference, and staff have worked remotely to provide pilot courts with appropriate levels of support. At the time of this report, while official program deadlines have not been affected, PROW has introduced flexibility to certain deliverables over the past few months given the unprecedented circumstances faced by courts.

### ***Program Administration***

The Pretrial Pilot Program allocates up to 10 percent of overall funding to the Judicial Council for costs associated with implementing and evaluating the program. Over the course of this reporting period, Judicial Council staff have continued to support pilot courts with legal, research, education, technical assistance, and program management support, and are working with funded projects to ensure that data can be collected and reported to the Judicial Council. Staff are also using this funding to provide pilot courts with case management system enhancements, pretrial risk assessment integration, and data warehouse integration.

### **Program management**

Judicial Council staff have continued to provide customized, flexible implementation support for pilot courts. Staff established a program management framework to support each court in its pretrial risk assessment process implementation. This was done to (1) allow for overarching governance of all participating court projects; (2) identify challenges and opportunities to mitigate or promote them; and (3) devise a comprehensive program-level approach to guiding the pilot to a successful conclusion.

To allow for the efficient and complete implementation of a pretrial process that fit into the operations of each court, Judicial Council staff assigned technical project managers to all 16 pilot court projects. In each case, the project manager adapted to the needs and requests of the court, as they worked closely with court staff and county justice system partners to support the implementation process.

A web-based portal was also developed to provide a centralized forum for all participants to collaborate and communicate. The portal is an information repository that serves as a hub for documenting meetings, progress toward completing milestones, as well as archiving tools and resources related to case management system enhancements and automated data reporting. Judicial Council staff have continuously improved and updated this portal according to the needs and suggestions of the program participants.

### **Site visits**

In November 2019, Judicial Council staff began an effort to visit all 16 pilot court projects to meet with pretrial operations staff and learn more about each court's successes, challenges, and progress toward implementation. While all visits were originally anticipated to be completed by April 2020, several were postponed due to travel restrictions in response to the COVID-19 pandemic. Judicial Council staff have completed visits to 11 pilot courts; the remaining five visits will be rescheduled or held virtually.

In light of this postponement and the impact of the COVID-19 pandemic on court operations, Judicial Council staff held calls with the court program manager of each pilot to discuss any potential challenges to program implementation and how to best support court efforts going forward.

### **Legal support**

Legal support has been provided to the pilot courts, including development of a list of offenses excluded from prearrestment release for consistent use by all of the pilots, and parameters for the use of particular risk assessment tools. Legal analysis has been provided to individual courts on a range of questions, including data governance and sharing, criminal history information, and supervision conditions.

### **Financial tracking**

Judicial Council staff are responsible for administering program funding, including reallocations and contract amendments. Funds continue to be disbursed on a quarterly basis, contingent on the court's and its justice partners' submission of agreed upon deliverables, per a standard agreement. Courts are responsible for tracking, accounting for, and reporting on all expenditures related to the program and for the performance of subcontractors, including all services and activities in connection with the work. Judicial Council staff have worked with courts to perform regular checks to ensure sufficient progress toward monetary spending.

### **Education and training**

In recognition of the essential role of education in the success of pretrial operations, Judicial Council staff have continued plans for a variety of educational events. An education workgroup comprised of four members of the Pretrial Reform and Operations Workgroup was established to launch these efforts. In collaboration with Judicial Council staff, the workgroup developed a two-year plan to produce both in-person and on-demand education resources for pilot courts and their partners.

In September 2020, the Judicial Council will hold its second Pretrial Justice Practice Institute, a mandatory two-day training event for presiding judges, court executive officers, project managers, court information officers, chief probation officers, sheriffs, corrections authorities, and other pretrial operations staff from each of the pilot counties. This year's conference will be held remotely over the course of two days. The conference will include workshops and presentations on topics identified by pilot courts and partners as potential areas of need. This virtual event will be an opportunity for courts to address common challenges and share useful implementation resources.

Judicial Council staff have worked with the PROW education workgroup to develop a series of webinars and podcasts on pretrial release and best practices to make available to pilot courts as they continue to carry out their projects. These resources cover topics including the use of bail, guidance on conditions for monitoring pretrial release, and the basics of risk assessment tools. Plans for producing other education materials are underway, including a webinar on mental health and pretrial release, and will be offered to courts later in the year. To make such

educational materials easily available to pilot courts, Judicial Council staff developed an online portal to house these on-demand resources, as well as links to current pretrial news, conferences, and training information from external sources. Building on the successful adoption of the program management portal, the education portal will also serve as a resource for pilot courts to contribute their own pretrial education materials that have proven useful in their project operations.

Judicial officers across the state have also participated in in-person roundtables to discuss the use of bail, risk assessment tools, and the legal framework of pretrial release. These roundtable discussions are being offered both to counties participating in the Pretrial Pilot Program and those not in the program but interested in having candid discussions and addressing central questions about bail and pretrial release. Roundtables have been held in four counties thus far, with at least two other visits scheduled.<sup>11</sup>

### **Information technology**

To facilitate the data integration and automation required of the Pretrial Pilot Program, Judicial Council staff have worked to secure procurement support for vendor services, as well as technical enterprise architecture design and governance services. These services aim to manage the efficient flow of data among local partners as well as between courts and the council.

***Pretrial risk assessment application procurement.*** A pretrial risk assessment application (PTRA) is a technology solution that will interface with existing court case management systems, jail management systems, and probation management systems, as well as the Judicial Council statewide data repository, the California Department of Justice, and other applicable justice partners. The Judicial Council, on behalf of the Superior Courts of California, is entering into several leveraged procurement agreements, also referred to as master agreements, with vendors that can license, implement, host, maintain, and service a PTRA. With multiple master agreements awarded, trial courts may select the vendor that best meets the court's individual requirements and provides the best value to the court and their contracted justice partners.

A request for proposals (RFP) for this service was posted in February 2020. After an extensive application and interview process, three vendors were selected to provide this service, and a notice of award was published on May 4, 2020.

***Data warehouse and integration.*** Data collection, management, transfer, analysis, and reporting are integral components of the program. An effective and economical implementation of a robust enterprise architecture was needed to allow for compliance with legislatively mandated data analysis and reporting requirements. This included the design, establishment, testing, and operationalization of a data warehouse system, a process that allows for the integration of data from pilot courts/justice partners to the Judicial Council. The council's enterprise architecture

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<sup>11</sup> Visits have been conducted to Sacramento, Kern, Alameda, and Sonoma Counties. Plans for future roundtables have been postponed due to the COVID-19 pandemic.

team provided support, along with technical services from vendors. This required forming a request for offers (RFO) for qualified vendors.

Contract negotiations are currently underway with the selected vendor, and the project is set to begin in July 2020. Pending official kick-off, Judicial Council staff efforts include (1) development of as-is enterprise architecture maps; (2) development of statewide conceptual architecture diagrams; (3) capture and registry of early data integration requirements; (4) data warehouse design and development; and (4) successful transmissions of test data.

### **Program Evaluation Plans**

While courts finalized the implementation of their projects, Judicial Council staff worked to develop a comprehensive plan to collect data and evaluate the program's ability to meet its legislative goals. As most pilot courts achieved full implementation of their pretrial projects toward the end of this reporting period, program data is not yet available for inclusion in this report. To date, one five-year historical data extract has been required of the courts. The first complete submission of post-implementation program data will be submitted by pilot courts to the Judicial Council in July 2020 and will be detailed in future legislative reports.

### ***Data Collection and Reporting***

In accordance with program requirements, Judicial Council staff have begun to work on a three-stage plan to collect, standardize, and analyze data related to outcomes of interest from the pilot counties, including information on public safety, release rates, and potential disparate impact.

Staff have already completed the first stage of the plan, which involves defining data requirements and setting up a data collection process. Data requirements include a comprehensive list of over 100 data elements collected on each individual going through the pretrial phase in all pilot courts. These requirements were provided to all courts as part of their initial applications, and each court signed off on its ability to provide the necessary data before being selected for the program. The data collection process has been established for each county and all counties have provided historical data as well as data from the first few months of the project. The next data submission is due to the Judicial Council on July 15, 2020. Courts will provide additional data every six months thereafter until January 15, 2022.

Currently, Judicial Council staff is in the process of creating a framework by which each county's data is imported, combined, and standardized to enable the analysis to accurately and fairly assess the outcomes of each project. This process requires that programmers at the Judicial Council synthesize data from 41 separate county agencies, including the jail, court, and probation departments of all 16 pilot court projects. As directed by the Legislature, the Judicial Council contacted the California Department of Justice (DOJ) to receive additional information needed to assess the projects. The Judicial Council has received this DOJ data and is in the process of using it to validate the data from the pilot courts.

Simultaneously, the Judicial Council put out an RFP for an external evaluator to independently assess the outcomes from the pretrial pilot projects. The Judicial Council has received multiple applications for the external evaluation and is in the process of selecting an evaluator.

The most recent data available for the program lags legislative report dates by approximately six months. For example, the January 2021 report will include data that covers the period from January 2020 through June 2020. Due to efforts carried out during this reporting period to reduce jail populations in response to the COVID-19 crisis, many pilot courts may have limited assessment data for the January 2020 through June 2020 period. All available data will be collected and reported in subsequent legislative reports.

### **Research Next Steps**

The next steps involve the analysis and evaluation of all the collected and standardized data from the pilot courts and their partners. Judicial Council staff have developed complex statistical models to determine the effect of each project's risk assessment and monitoring practice on pretrial release rates and public safety. Staff will also use this data to validate each of the three different risk assessment tools currently in use by pilot courts. Finally, Judicial Council staff will work closely with the selected independent evaluator on appropriate evaluation methodologies.

### **Conclusion**

Despite the unprecedented challenges faced by courts during the ongoing COVID-19 crisis, pilot courts have begun conducting risk assessments and have made necessary adjustments to continue to meet the goals and requirements of the program during this time. Through effective collaboration with their local justice system partners and administrative assistance from Judicial Council staff and program managers, all 16 pilot court projects met the program deadline to implement their pretrial operations by June 2020.

The next legislative report on the Pretrial Pilot Program is due January 1, 2021, and will include information on the activities carried out between July 2020 and January 2021, including analysis of the data collected from pilot courts during this time, as mandated by the Budget Act of 2019.

### **Attachments and Links**

1. Attachment A: Pilot Court Disbursement and Expenditure Summary
2. Attachment B: Court/Pilot Operations During COVID-19 Crisis
3. Link A: *Pretrial Pilot Program: Report to the Legislature* (Jan. 2020), [www.courts.ca.gov/documents/lr-2020-pretrial-pilot-program-ba2019.pdf](http://www.courts.ca.gov/documents/lr-2020-pretrial-pilot-program-ba2019.pdf)
4. Link B: Court Emergency Orders, news release (June 19, 2020), <https://newsroom.courts.ca.gov/news/court-emergency-orders-6794321>
5. Link C: Cal. Rules of Court, Emergency Rules Related to COVID-19 (adopted Apr. 6, 2020), [www.courts.ca.gov/documents/appendix-i.pdf](http://www.courts.ca.gov/documents/appendix-i.pdf)

## Attachment A: Pilot Court Disbursement and Expenditure Summary

The disbursement and spending summaries below detail pilot court financial activity as of June 12, 2020.

**Table 1. Pilot Court Funding Disbursements**

	<b>Court</b>	<b>Approved Award</b>	<b>Disbursement to Date</b>	<b>% Disbursed to Date</b>
Large Courts	Alameda	\$ 14,359,400	\$ 7,238,567	50%
	Los Angeles	\$ 17,296,300	\$ 10,706,984	62%
	Sacramento	\$ 9,553,041	\$ 4,776,521	50%
<b>Large Court Subtotal:</b>		<b>\$ 41,208,741</b>	<b>\$ 22,722,071</b>	<b>55%</b>
Medium Courts	San Joaquin	\$ 3,725	\$ 2,350	63%
	San Mateo	\$ 6,169,300	\$ 4,295,044	70%
	Santa Barbara	\$ 1,593,000	\$ 471,000	30%
	Sonoma	\$ 5,747,202	\$ 2,615,412	45%
	Tulare	\$ 3,671,400	\$ 2,144,888	58%
	Ventura	\$ 3,687,000	\$ 2,083,823	56%
<b>Medium Court Subtotal:</b>		<b>\$ 20,871,626</b>	<b>\$ 11,612,716</b>	<b>56%</b>
Medium/Small Courts	Kings	\$ 1,110,046	\$ 421,750	38%
	Napa	\$ 1,677,543	\$ 693,584	41%
	Nevada-Sierra	\$ 329,717	\$ 116,759	35%
<b>Medium/Small Court Subtotal:</b>		<b>\$ 3,117,306</b>	<b>\$ 1,232,093</b>	<b>40%</b>
Small Courts	Calaveras	\$ 528,743	\$ 264,318	50%
	Modoc	\$ 744,000	\$ 277,705	37%
	Tuolumne	\$ 587,965	\$ 327,240	56%
	Yuba	\$ 841,300	\$ 474,844	56%
<b>Small Court Subtotal:</b>		<b>\$ 2,702,008</b>	<b>\$ 1,344,107</b>	<b>50%</b>
<b>TOTAL:</b>		<b>\$ 67,899,682</b>	<b>\$ 36,910,787</b>	<b>54%</b>

Note: Approved awards reflect a uniform 6.25 percent decrease to all courts' initial requests. This decrease maximizes the number of courts able to participate in the pilot program.

**Table 2. Pilot Court Spending by Court Size**

	<b>Total Award</b>	<b>Funds Spent or Encumbered</b>	<b>% Spent or Encumbered</b>
Large Courts	\$ 41,208,741	\$ 15,755,250	38%
Medium Courts	\$ 20,871,627	\$ 5,722,441	27%
Medium/Small Courts	\$ 3,117,306	\$ 548,978	18%
Small Courts	\$ 2,702,008	\$ 1,108,703	41%
<b>TOTAL</b>	<b>\$ 67,899,682</b>	<b>\$ 23,135,372</b>	<b>34%</b>

## **Attachment B: Pilot/Court Operations During COVID-19 Crisis**

After the statewide shelter-in-place orders went into effect in mid-March, courts throughout the state suspended many court operations for various periods of time.<sup>12</sup> Courts began to restore court operations based on their local public health situations as of the writing of this report, though most courts continue to operate at a limited capacity. The overviews that follow detail several shifts in implementation activities in the pilot courts as a result of limited operations during this time; however, they do not represent an exhaustive list of impacts of the COVID-19 pandemic on court operations. Despite such delays, all 16 pilots successfully implemented their pretrial projects during this reporting period.

### ***Alameda***

As a result of restricted court operations, the Superior Court of Alameda County pretrial project experienced delays in filling court staff positions intended to work on the pilot, postponement of training for judicial officers and court staff, and adjustments to monitoring procedures to allow individuals on pretrial release to report remotely via telephone or videoconference. Staff involved in the project have continued to meet regularly during this time, and the final phase of the court's pretrial project was implemented in May 2020.

### ***Calaveras***

The pretrial project in Calaveras County was fully implemented as of March 11, 2020, and the court and its partners have continued to enhance project operations in the months since. During this time, assessments continued to be conducted on all individuals booked into jail, though in-person interactions with individuals on pretrial monitoring were limited to comply with court orders. The court reported that the early implementation of its pretrial project proved beneficial in the midst of unforeseeable delays and limitations.

### ***Kings***

The Superior Court of Kings County pretrial project went live on March 16, 2020, but has since been temporarily suspended due to challenges related to a recent peak in COVID-19 cases in the county. Kings County is about six weeks behind surrounding counties with regard to COVID-19 cases, and just recently experienced a substantial increase in cases. During this time, the jail, under order from the sheriff, provided cite-and-release without administering a pretrial risk assessment. The court plans to resume operations of its project on July 6, 2020.

### ***Los Angeles***

During this time, the Superior Court of Los Angeles County pretrial project completed training on its adopted risk assessment tool and pretrial operations for all judicial officers involved in the pilot. The court successfully implemented one element of its pretrial project on March 23, 2020: the countywide use of a static risk-assessment tool at the pre-arraignment stage. On June 22, the

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<sup>12</sup> Cheryl Miller, "How COVID-19 Is Impacting California Courts: Roundup of Services," *The Recorder*, June 23, 2020, [www.law.com/therecorder/2020/05/28/how-covid-19-is-impacting-california-courts-roundup-of-services/](http://www.law.com/therecorder/2020/05/28/how-covid-19-is-impacting-california-courts-roundup-of-services/).

court added the second of the two components of the pilot: an interview-based risk assessment tool used at arraignment in the Foltz courthouse.

### ***Modoc***

Restricted court operations during this time, along with delays in hiring additional probation staff to work on the pilot, forced the Superior Court of Modoc County to postpone the original implementation date of its project. Still, the court was able to fully implement its project with a manual process by April 1, 2020, and it continues to work toward creating a fully automated solution by June 2020.

### ***Napa***

The Superior Court of Napa County pretrial project was implemented on March 16, 2020, and staff continued to carry out pretrial operations during this time. All program-funded positions were filled, though the court reported a likely delay in finalizing its court-date reminder system as a result of restricted court operations.

### ***Nevada-Sierra***

The Superior Courts of Nevada and Sierra Counties are participating in the Pretrial Pilot Program as a two-court consortium. During this reporting period, the court project focused on finalizing its pretrial report delivery system and remaining pretrial documentation, and probation staff worked to monitor individuals on pretrial release both remotely and in-person. The project achieved full implementation of its pretrial operations in June 2020.

### ***Sacramento***

The Superior Court of Sacramento County pretrial project was carried out in three phases and was initially implemented in February 2020. During periods of restricted court operations, pre-arraignment reviews were temporarily suspended, but were re-implemented in late June. Arraignments were held via videoconference and probation monitoring activities involving in-person contact were also limited during this time.

### ***San Joaquin***

The Superior Court of San Joaquin County pretrial pilot project was fully implemented, as defined in the court's agreement with the Judicial Council, prior to limiting court operations during the COVID-19 pandemic.

### ***San Mateo***

The Superior Court of San Mateo County implemented its pretrial project in January 2020 during weekday court hours. Though plans to expand operations to include nights and weekends were delayed due to restricted court operations, the court achieved full implementation of its pretrial operations in June 2020. Restrictions during this time also forced delays in the hiring and training of additional staff to work on the project.

### ***Santa Barbara***

The pretrial project in the Superior Court of Santa Barbara County was fully implemented in March 2020 and continued to operate throughout this period. Due to limited court operations,

additional staff were assigned to work on assessment and supervision activities to keep pretrial operations going, and training sessions on the court's adopted risk assessment tool were postponed and/or held virtually. The court also reported delays in hiring additional probation staff during this time.

### ***Sonoma***

During periods of restricted operations, the Superior Court of Sonoma County was forced to delay implementation activities, including training for judicial officers working on the pilot, and reported delays in hiring additional probation staff to conduct assessments. The court has continued to work through such delays to ensure full implementation of its pretrial project by the end of June 2020.

### ***Tulare***

During this reporting period, the Superior Court of Tulare County entered the last phase of implementing its pretrial project by expanding assessments from three to seven days per week. The court's project became fully operational in June 2020.

### ***Tuolumne***

The Superior Court of Tuolumne County was forced to postpone training sessions for judicial officers and court staff working on the pilot and reported delays in the hiring of additional probation staff due to budgetary constraints at this time. The court rescheduled workgroup meetings to be held virtually, and successfully implemented its pretrial project in June 2020.

### ***Ventura***

The Superior Court of Ventura County successfully implemented the first phase of its project's three-phase approach in March 2020. Despite reported delays in hiring additional probation staff to work on the pilot during this time, efforts continued in the following months to expand the project to achieve full implementation by June 2020.

### ***Yuba***

Restricted court operations in the Superior Court of Yuba County forced the court to temporarily pause implementation of its pretrial project during this time. Probation hiring activities were also impacted due to limited operations. The court has since resumed its pretrial operations to become fully implemented by the end of June 2020.