



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. CARIN T. FUJISAKI
Chair, Rules Committee

HON. KYLE S. BRODIE
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MR. MARTIN HOSHINO
Administrative Director
Judicial Council

July 1, 2022

Hon. Nancy Skinner
Chair, Senate Committee on Budget and Fiscal Review
Chair, Joint Legislative Budget Committee
Legislative Office Building
1020 N Street, Room 502
Sacramento, California 95814

Hon. Philip Y. Ting
Chair, Assembly Committee on Budget
Vice-Chair, Joint Legislative Budget Committee
1021 O Street, Suite 8230
Sacramento, California 95814

Re: *Pretrial Pilot Program: Report to the Legislature* (July 2022), as required under the Budget Act of 2019

Dear Senator Skinner and Assembly Member Ting:

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 2022) on the activities of the Judicial Council's Pretrial Pilot Program between July 2021 and July 2022, as well as select data on pretrial risk assessments conducted since the start of the program.

If you have any questions related to this report, please contact Shelley Curran, Director, Criminal Justice Services, at 415-865-4013 or shelley.curran@jud.ca.gov.

Sincerely,

Martin Hoshino
Administrative Director
Judicial Council

Hon. Nancy Skinner
Hon. Philip Y. Ting
July 1, 2022
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MH/SC/db/ma

Enclosures

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Erika Contreras, Secretary of the Senate
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Eric Dang, Counsel, 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 2022)

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

Date of report: July 1, 2022

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 decisionmaking. 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 fifth legislatively mandated report on the Judicial Council's Pretrial Pilot Program. It details pilot court and Judicial Council activities carried out between July 2021 and July 2022, as well as select data on pretrial risk assessments conducted in each of the 16 court projects since the start of the program.

From the start of the program through data reported as of May 2022, over 296,000 pretrial assessments have been conducted in these pilot projects. While the number of participants has increased, the results of the evaluation are consistent with the results included in the report submitted to the Legislature in July 2021. The composition of the data being collected under the program continues to be affected by the COVID-19 pandemic, and by state and local court emergency rules adopted in response to the pandemic.

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

REPORT TO THE LEGISLATURE

JULY 2022



JUDICIAL COUNCIL
OF CALIFORNIA

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 2019,¹ the Legislature allocated a total of \$75 million to the Judicial Council of California to fund the implementation, operation, and evaluation of two-year pilot projects in trial courts related to pretrial decisionmaking. In August 2019, the Judicial Council approved and distributed funding to the 16 pilot court projects selected for participation in the Pretrial Pilot Program.

As directed by the Legislature, the Judicial Council administers the program and reports regularly to the Department of Finance and the Joint Legislative Budget Committee. This is the fifth legislatively mandated report on the Judicial Council’s Pretrial Pilot Program. It details program activities carried out between July 2021 and July 2022, as well as select data on pretrial risk assessments conducted between October 2019 and the latest data available. Exact date ranges for this data vary based on differing implementation dates and available data in each pilot during this period (see Appendix C). More detailed data requirements applicable to the pilots under Senate Bill 36 (Hertzberg; Stats. 2019, ch. 589) were posted on the California Courts website in July 2021.²

Since the start of the program through data reported as of June 2022, over 290,000 assessments were reported by the pilot projects using one of several pretrial risk assessment tools. The preliminary data in this report provides demographic information, risk levels, offense types, release decisions, and supervision levels of assessed individuals. The tables also present preliminary data on outcomes in the pretrial period. The data being collected under the program continues to be affected by the COVID-19 pandemic, as well as state and local court emergency rules adopted in response to the pandemic. A final report on the pilot program will be submitted to the Legislature in July 2023.

During this reporting period, Senate Bill 129, amending the Budget Act of 2021, provided ongoing funding to the trial courts for “the implementation and operation of ongoing court programs and practices that promote the safe, efficient, fair, and timely pretrial release of individuals booked into jail.”³ In addition to pilot program activities during this period, pilot courts have used this funding to begin transitioning their pretrial operations to ensure they extend beyond the pilot and comply with the requirements of the budget bill language. The Judicial Council will submit annual reports to the Legislature evaluating these ongoing programs beginning on July 1, 2023.

¹ Assem. Bill 74 (Stats. 2019, ch. 23, item 0250-101-0001, provisions 8–17).

² SB 36 Pretrial Release: Risk Assessment Tools, www.courts.ca.gov/sb36.htm.

³ Sen. Bill 129 (Stats. 2021, sec. 4, 0250-101-0001, provision 9).

Introduction

This report fulfills the legislative mandate of the Budget Act of 2019,⁴ which allocated \$75 million to the Judicial Council to fund the implementation, operation, and evaluation of programs related to pretrial decisionmaking in at least 10 trial courts. As directed by the Legislature, the Judicial Council administers the program, collects and analyzes required data elements to measure outcomes, and reports to the Joint Legislative Budget Committee and the Department of Finance. Accordingly, this report presents information on the activities and data available for the Pretrial Pilot Program from the time of the last report, submitted in July 2021.

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 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 (PROW) 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 the allocation of approximately \$68.06 million to 16 selected pilot court projects.⁵ Pilot courts and their partners began implementation once funding began and had various official start

⁴ Assem. Bill 74 (Stats. 2019, ch. 23, item 0250-101-0001, provisions 8–17).

⁵ Superior courts of 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.

dates for their projects. As of June 30, 2020, all pretrial projects were fully operational and meeting the implementation requirements of the program.

In 2020, to address the impact of the COVID-19 pandemic, the program expenditure and reporting requirements of the Pretrial Pilot Program were extended by Senate Bill 115 (Stats. 2020, ch. 40, sec. 1, provisions 8–17), which amended the Budget Act of 2019 and the Budget Act of 2020 (Stats. 2020, chs. 6–7). Recognizing the impact of the pandemic on the pilots’ ability to produce the anticipated number of assessments and release decisions, and to expend the appropriated funding, SB 115 provides the pilot courts with an additional year, until June 30, 2022, to encumber or expend funds allocated to the program. The Judicial Council is required to provide a final report on the program’s outcomes no later than July 1, 2023. The law did not appropriate additional funding for the program. All 16 pilot courts have elected to extend their pretrial projects and will do so using the funding from their original approved awards. (A list of new program end dates for each pilot is provided in Appendix A.)

Pilot Court Activities

The Pretrial Pilot Program has now completed its third fiscal year of funding. Pilot courts and their partners used the first fiscal year of funding to set up their pretrial operations to comply with the requirements of the program. Courts and their partners have continued their pretrial operations throughout the COVID-19 pandemic, and any adjustments made to projects during this time have been in compliance with the requirements of the program:⁶

- 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.
- Courts are operating under existing law, and individuals may continue to post bail in accordance with the local bail schedule.
- If risk assessments were previously carried out by another agency, responsibilities have been fully transitioned to the probation department.
- 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 have not made any local modifications to their chosen risk assessment tools.
- Courts and justice system partners are providing required data to the Judicial Council.

Program Expenditures

Despite lower assessment rates than would have otherwise been expected due to the continuing impacts of COVID-19 and subsequent emergency rules on arrest and release,⁷ pilot courts

⁶ 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.

⁷ The COVID-19 Emergency Bail Schedule was rescinded on June 10, 2020, but courts may still keep COVID-19 emergency bail schedules or reduced bail schedules. To find local schedules, please see: <https://beta.newsroom.courts.ca.gov/covid-19-news-center/counties-covid-19-emergency-bail-schedules>.

continued to expend adequate funds during this time period in accordance with the eligible expenditures listed in their contracts with the Judicial Council.⁸ Many courts have used funds during this period to further automate data collection, conduct ability-to-pay determinations for pretrial defendants, and add or expand supportive services such as transportation and housing assistance for individuals released pretrial.

At the time of this report, the Judicial Council has disbursed 100 percent of the \$68.06 million awarded to participating pilot courts, in accordance with modified allocations approved by the Judicial Council.⁹ Of these disbursements, approximately 95 percent has been spent or encumbered by the courts, in accordance with the original budgets approved by the Judicial Council.¹⁰ (A detailed account of court expenditures as of May 16, 2022, is provided as Appendix B.)

Data Collection and Reporting

Pilot courts have spent much of this period collaborating with their justice partners to collect and prepare the quarterly data required under the program for sharing with the Judicial Council. At the time of this report, all 17 pretrial pilot courts have successfully transitioned their data reporting process from a manual process, using secured files, to an expedited submission process to a data warehouse using a standardized data dictionary. This effort has involved extensive collaboration among the courts, their partners, and Judicial Council staff in criminal justice services and information technology. Data was also collected from the California Department of Justice. This new submission process results in the ability of counties to share standardized data with the Judicial Council and has resulted in improved data quality control that will have benefits to the courts that extend beyond the pilot program.

Judicial Council Activities

Ten percent of the funding of the Pretrial Pilot Program is allocated to the Judicial Council for costs associated with implementing and evaluating the program. Judicial Council staff continue to provide pilot courts and their partners with program management and legal support, financial oversight, educational opportunities, and ongoing data integration efforts.

Expenditure Tracking

Judicial Council staff continue to monitor pilot expenditures and periodically distribute funding installments to the courts based on a set deliverables schedule. Contracts between the Judicial Council and the pilots were updated to reflect the extended program end dates of each pilot, and funding disbursements were altered accordingly.

⁸ Judicial Council of Cal., *Request for Applications: Pretrial Pilot Program*, secs. 4.5–4.6, www.courts.ca.gov/documents/pdr-rfa-RFA.pdf.

⁹ Original contracts executed with the courts at the beginning of the program specify that courts agree to “permitting the Judicial Council, at its discretion, to enable modification of the Contract Amount for reallocation as necessary, transfer of budgeted amounts from one fiscal year to another or transfer of unspent funds between courts depending on the Court’s progress on meeting the scope and goals of the program” (Exhibit B, Special Provisions, Section 7B).

¹⁰ Pilot courts have until June 30, 2023, to expend or encumber their pretrial pilot funding.

As the pilot comes to a close, staff are beginning the process of creating a detailed summary of expenditures during the pilot. This summary will include information on expenditures related to pretrial monitoring, workforce costs, and supportive services.

Education

Staff hosted several educational programs for the pilot courts during this reporting period. In September 2021, Judicial Council staff held its third annual Pretrial Justice Practice Institute, a virtual conference consisting of a series of webinars and discussions on topics related to pretrial release. Conference sessions covered topics such as strategies for reducing failure-to-appear rates, adapting pretrial operations to a virtual environment, research on the efficacy of pretrial release conditions, and pretrial risk assessment validation studies.

Presenters at the conference included judicial officers and probation officers from across the state, Judicial Council research staff, court and probation analysts, and staff of Advancing Pretrial Policy and Research. Over 180 participants from the 17 pretrial pilot courts attended these sessions, including judicial officers, court administrative and financial staff, probation officers, district attorneys, public defenders, and Judicial Council staff in the pretrial unit. Sessions were also recorded and distributed to those unable to attend the conference live.

Program Evaluation

The Budget Act of 2019 requires that pilot courts collaborate with local justice system partners to share data with the Judicial Council as required to measure the outcomes of the pilots. Staff have already completed the first stage of this process, which involves defining data requirements and setting up a data sharing process, and have begun to analyze the first official data. The data requirements include a comprehensive list of over 100 data elements collected on every individual, from booking to case disposition, in all pilot courts. At the time of this report, all pilots have complied with the data reporting requirements.

As in the last reporting period, responses to the COVID-19 pandemic continued to cause disruptions that impact the population eligible for participation in the program, including the Judicial Council's adoption of a statewide emergency bail schedule that set presumptive bail at \$0 for most misdemeanors and lower-level felonies from April 6 to June 20, 2020, and local continuations of \$0 or reduced emergency bail schedules. At the time of this report, approximately one-third of all pilot courts are still operating under local emergency or modified bail schedules that continue to affect the populations eligible for pretrial program participation.¹¹

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 the period the data was collected. Under these temporary emergency policies, many low-level arrestees 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

¹¹ Superior courts in the counties of Los Angeles, Sacramento, Santa Barbara, and Sonoma are still operating under local emergency bail schedules.

risk assessment. Crime and arrest patterns may also have been affected by the pandemic and subsequent local shelter-in-place orders. The population of assessed individuals shown in this report may therefore be different than would be seen in the absence of the pandemic, both in terms of numbers and composition.

This data includes assessments conducted by each pilot site between October 2019, when funding began, and June 2022.¹² Many courts, however, started to conduct assessments later than October 2019, with all programs fully implemented by June 30, 2020. In addition, several pilot courts adopted a phased approach to implementing pretrial operations, limiting assessments to certain populations or jail locations in initial phases and expanding in subsequent phases.

Data Reporting and Validation

During this reporting period, Judicial Council research staff have successfully begun standardizing and linking data shared through the new process from each separate court and county agency involved in the pilot, including courts, county probation departments, and jails. Data was also collected from the California Department of Justice. Still, the data processing and analysis for the program are in progress, and staff continue to conduct quality assurance and data validation.

Further, the data on pretrial outcomes in this report remains somewhat limited. Data on these outcomes includes individuals whose pretrial period is not yet complete, and who may accrue adverse outcomes before completion of the pretrial period. The short time frame for these initial reporting periods means that many programs have not been operational long enough to accurately measure outcomes. The data in this report is generally limited to data shared by probation departments; more complete data on outcomes from data joined across all agencies will be presented in the final report on the pilot program in July 2023.

Preliminary Data and Outcomes

The preliminary data on assessments and outcomes included below covers the following legislatively mandated elements:

- The number of assessed individuals by age, gender, and race or ethnicity;
- The number of assessed individuals by risk level, booking charge levels, and release decision;
- The number and percentage of assessed individuals who receive pretrial supervision by level of supervision; and
- The number and percentage of assessed individuals by supervision level who fail to appear in court as required, are arrested for a new offense during the pretrial period, or have pretrial release revoked.

¹² Date ranges of assessments vary based on the official implementation date and latest data submission date of each pilot.

Pilot courts were free to select a pretrial risk assessment tool for use in the program that fits the needs and capabilities of the court and its partners. At this time, all 16 pilots are using one of the following tools:

- Ohio Risk Assessment System: Pretrial Assessment Tool (ORAS-PAT);
- Public Safety Assessment (PSA);
- Criminal Court Assessment Tool (C-CAT);
- Virginia Pretrial Risk Assessment Instrument, Original (VPRAI-O);
- Virginia Pretrial Risk Assessment Instrument (VPRAI); or
- Virginia Pretrial Risk Assessment Instrument, Revised (VPRAI-R).¹³

All of these tools use a varying number of factors, weighted in different ways, to predict separate or combined likelihoods of one or more outcomes in the pretrial period. These outcomes can include failure to appear (FTA), new criminal activity (NCA), and new violent criminal activity (NVCA) during the pretrial period.

Table 1 below shows the number of individuals assessed using one of these tools in all pilot courts during this time.

Table 1. Number of Assessed Individuals by Tool

| Tool Name | County | Assessments |
|-----------|--|-------------|
| LOCAL | Sonoma | 2,844 |
| ORAS | Modoc, Napa, Nevada, Sierra, Ventura, Yuba | 12,236 |
| PSA | Calaveras, Los Angeles, Sacramento, Sonoma, Tulare, Tuolumne | 242,608 |
| VPRAI | San Joaquin, Santa Barbara | 8,433 |
| VPRAI-O | Kings | 1,211 |
| VPRAI-R | Alameda, San Mateo, Santa Barbara | 25,584 |

Source: Pretrial Pilot County Probation Departments. View date: June 15, 2022.

Pilot courts are permitted to change their chosen risk assessment tool as long as they do not make modifications to an existing tool and comply with the data reporting requirements of the program. Several counties appear multiple times in Table 1 because their pretrial projects have used or are currently using more than one assessment tool over the course of the pilot. During the course of its program, Santa Barbara County switched its risk assessment tool from the VPRAI to the VPRAI-R. The pretrial project in Sonoma County switched from a locally made and validated tool (the Sonoma Pretrial Risk Assessment Tool) to the PSA. The pretrial project in

¹³ For more detailed information on each risk assessment tool, including differences in VPRAI versions, see Judicial Council of Cal., *Pretrial Pilot Program: Report to the Legislature* (Jan. 2021), Attachment C, www.courts.ca.gov/documents/lr-2021-pretrial-pilot-program-BA-2019.pdf.

Los Angeles County currently involves the use of two separate tools, the C-CAT and the PSA, which it uses to assess individuals in a two-step process.¹⁴

Demographic information

Tables 2 through 4¹⁵ below show the number of individuals assessed in the program thus far by age, gender, and race or ethnicity in small, small-medium, medium, and large courts.¹⁶

Assessments in this period were conducted on 292,916 individuals, representing a 139 percent increase from the last reporting period.

Of the assessed individuals whose demographic information was reported during this period, 78 percent were male, and 17 percent were female; 21 percent were White, 44 percent were Hispanic, 24 percent were Black, and 8 percent were other or unknown race/ethnicity. Thirteen percent were ages 18–25, 37 percent were ages 26–35, 26 percent were ages 36–45, 11 percent were ages 46–55, 7 percent were over age 56, and 5 percent were an unknown age (see Tables 2 through 4).

Table 2. Number of Assessed Individuals by Gender

| Court Size | Male | Female | Other/Unknown | Total |
|-----------------------|----------------|---------------|---------------|----------------|
| Small Counties | 631 | 164 | 55 | 850 |
| Small/Medium Counties | 2,942 | 700 | 1,808 | 5,450 |
| Medium Counties | 31,978 | 7,151 | 5,598 | 44,727 |
| Large Counties | 192,165 | 41,325 | 8,399 | 241,889 |
| Total | 227,716 | 49,340 | 15,860 | 292,916 |

Source: Pretrial Pilot County Probation Departments. View date: June 15, 2022.

Table 3. Number of Assessed Individuals by Race

| Court Size | Black | White | Hispanic | Other/Unknown | Total |
|-----------------------|---------------|---------------|----------------|---------------|----------------|
| Small Counties | 16 | 620 | 88 | 97 | 850 |
| Small/Medium Counties | 327 | 1,611 | 1,239 | 2,171 | 5,450 |
| Medium Counties | 4,793 | 13,279 | 19,580 | 5,581 | 44,727 |
| Large Counties | 65,366 | 47,633 | 108,000 | 15,616 | 241,889 |
| Total | 70,502 | 63,143 | 128,907 | 23,465 | 292,916 |

Source: Pretrial Pilot County Probation Departments. View date: June 15, 2022.

¹⁴ The pretrial project in Los Angeles County operates as a two-step process employing two separate risk assessment tools: the PSA (a static tool) and the C-CAT (a dynamic tool). All eligible individuals are assessed using the PSA at bail deviation. Individuals who are not released at this stage—on bail or otherwise—are then subsequently assessed using the C-CAT.

¹⁵ Complete demographic data for these tables are captured only when booking data can be matched with assessment data. Overall, 5–8% of demographic data are classified as other/unknown, and counties with a poor match rate between assessment and bookings have higher rates of other/unknown demographic information.

¹⁶ The court-size 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).

Table 4. Number of Assessed Individuals by Age

| Court Size | 18-25 | 26-35 | 36-45 | 46-55 | 56+ | Unknown | Total |
|-----------------------|---------------|----------------|---------------|---------------|---------------|---------------|----------------|
| Small Counties | 89 | 235 | 241 | 136 | 95 | 54 | 850 |
| Small/Medium Counties | 411 | 1,506 | 1,008 | 500 | 218 | 1,807 | 5,450 |
| Medium Counties | 5,567 | 14,434 | 11,500 | 5,419 | 3,488 | 4,319 | 44,727 |
| Large Counties | 33,438 | 93,030 | 62,432 | 27,649 | 16,972 | 8,368 | 241,889 |
| Total | 39,505 | 109,205 | 75,181 | 33,704 | 20,773 | 14,548 | 292,916 |

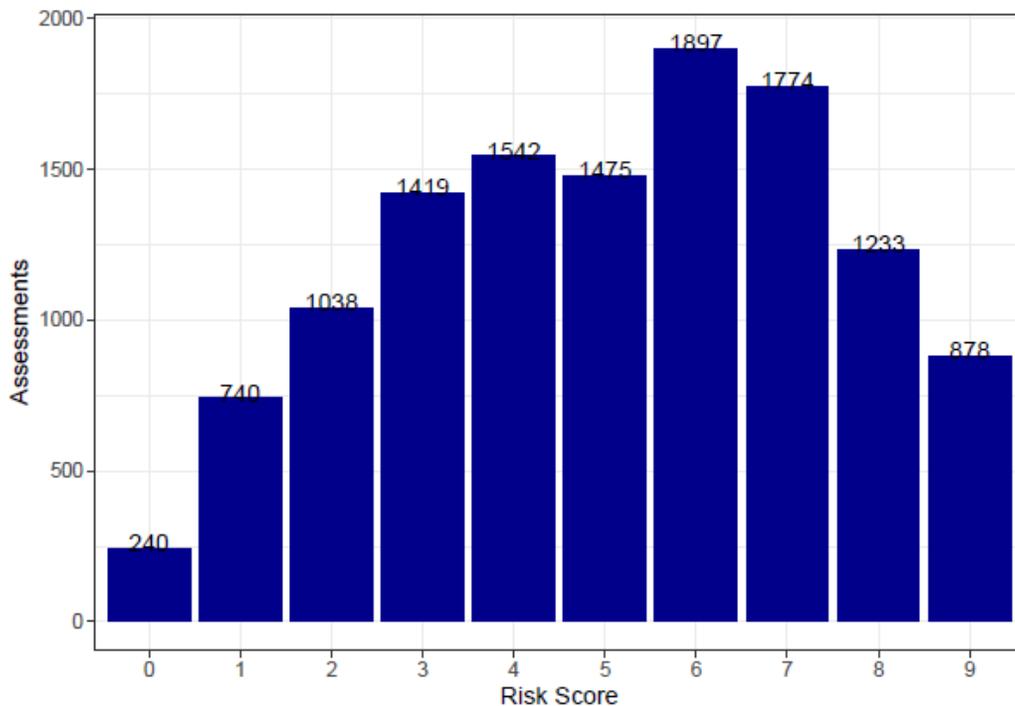
Source: Pretrial Pilot County Probation Departments. View date: June 15, 2022.

Risk levels

The next set of tables show the number of assessed individuals by risk level. The designation of risk level is not uniform across pilot courts due to the adoption of different risk assessment tools that use varying scales to assign risk to assessed individuals. The tables below are therefore grouped by courts using the same tool.

Table 5 shows data from the five pilot courts currently using the ORAS: Modoc, Napa, Nevada, Sierra, Ventura, and Yuba. During this reporting period, probation departments in these counties assessed 12,236 individuals using the ORAS-PAT.

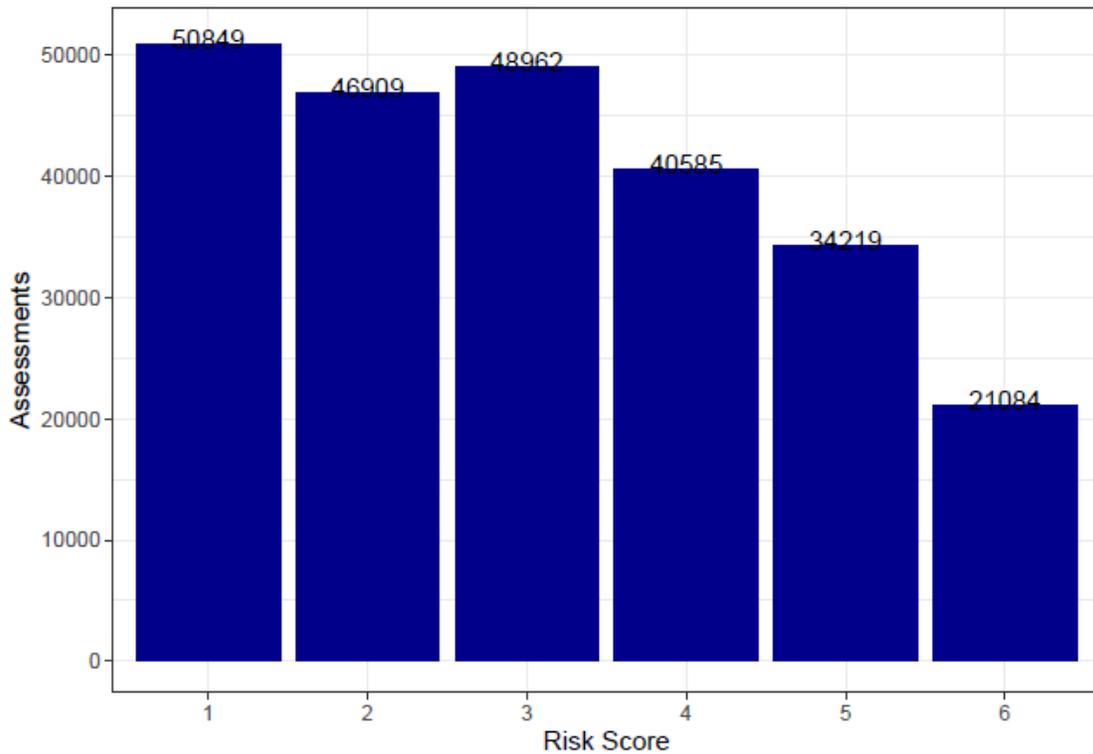
Table 5. Number of Assessed Individuals by Risk Score (ORAS)



Source: Pretrial Pilot County Probation Departments from the counties of Modoc, Napa, Nevada, Sierra, Ventura, and Yuba. View date: June 15, 2022.

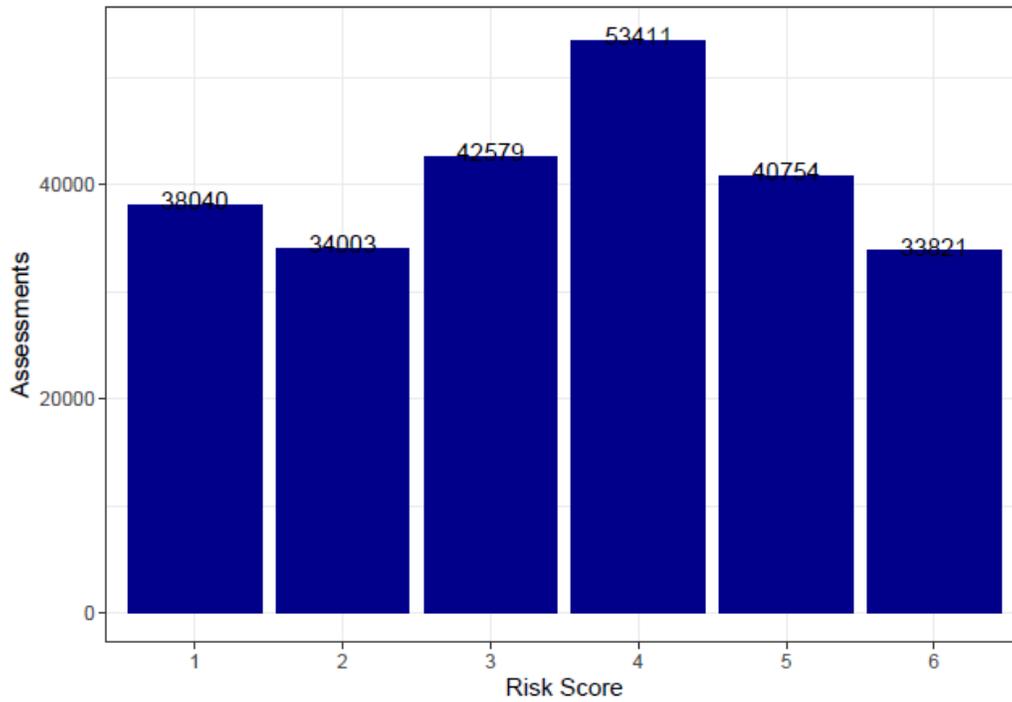
Unlike the other adopted tools, the PSA produces separate scores to indicate an individual’s likelihood to commit each outcome (FTA, NCA, and NVCA). For FTA and NCA, the tool produces a score ranging from 1 (lower risk) to 6 (higher risk). For NVCA, the tool produces a score of either 0 (lower risk) or 1 (higher risk). During this time, probation departments in these counties assessed 242,608 individuals under the program using the PSA. Tables 6 through 8 below show the number of assessed individuals by risk score for each of these three outcomes in the six counties using the PSA: Calaveras, Los Angeles, Sacramento, Sonoma, Tulare, and Tuolumne.

Table 6. Number of Assessed Individuals by Risk Score (PSA Failure to Appear)



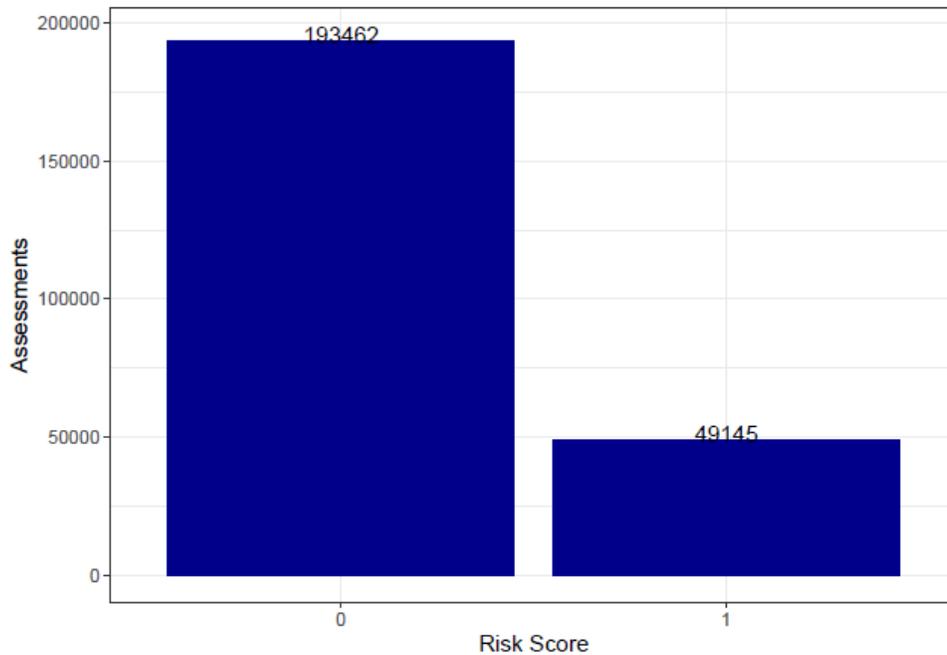
Source: Pretrial Pilot County Probation Departments from the counties of Calaveras, Los Angeles, Sacramento, Sonoma, Tulare, and Tuolumne. View date: June 15, 2022.

Table 7. Number of Assessed Individuals by Risk Score (PSA New Criminal Activity)



Source: Pretrial Pilot County Probation Departments from the counties of Calaveras, Los Angeles, Sacramento, Sonoma, Tulare, and Tuolumne. View date: June 15, 2022.

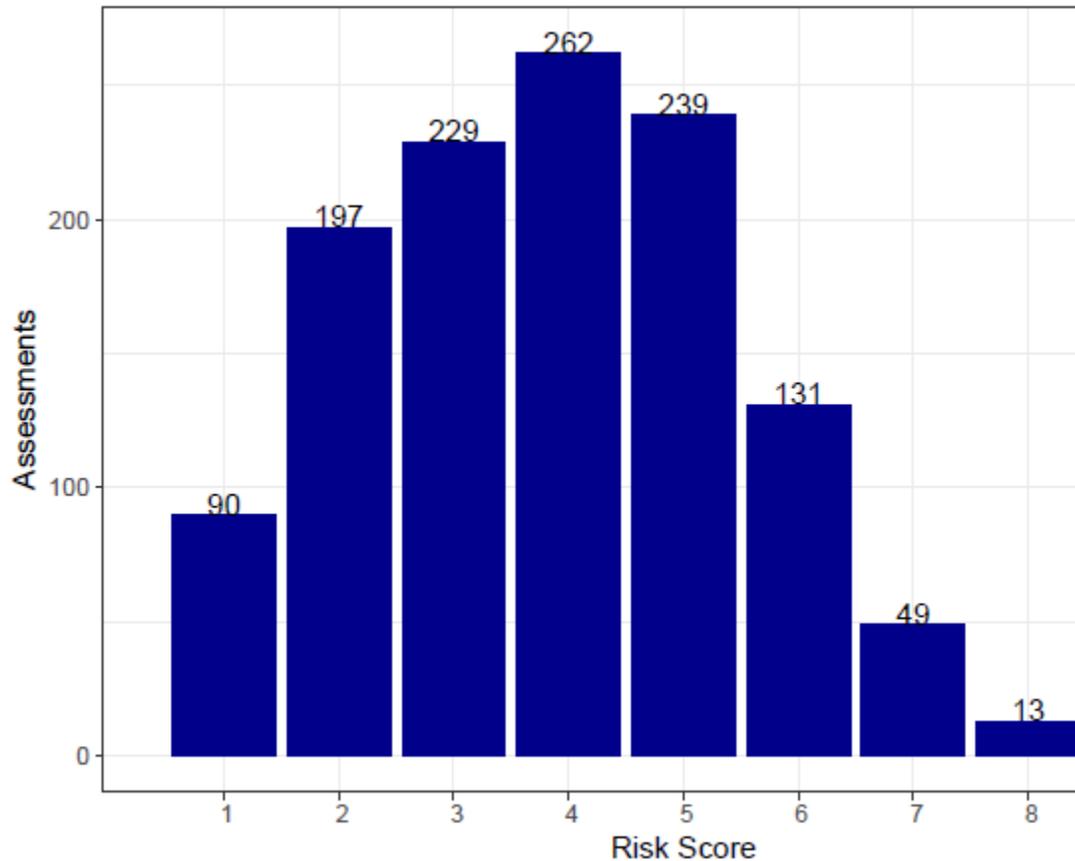
Table 8. Number of Assessed Individuals by Risk Score (PSA New Violent Criminal Activity)



Source: Pretrial Pilot County Probation Departments from the counties of Calaveras, Los Angeles, Sacramento, Sonoma, Tulare, and Tuolumne. View date: June 15, 2022.

Tables 9 through 11 below show the number of assessed individuals using the VPRAI, VPRAI-O,¹⁷ and VPRAI-R tools. Two pilot counties are using or have used the VPRAI (San Joaquin and Santa Barbara); one county uses the VPRAI-O (Kings); and three counties use the VPRAI-R (Alameda, San Mateo, and Santa Barbara).¹⁸ These courts conducted a total of 35,228 assessments using one of the three versions of the VPRAI during this time.¹⁹

Table 9. Number of Assessed Individuals by Risk Score (VPRAI-O)



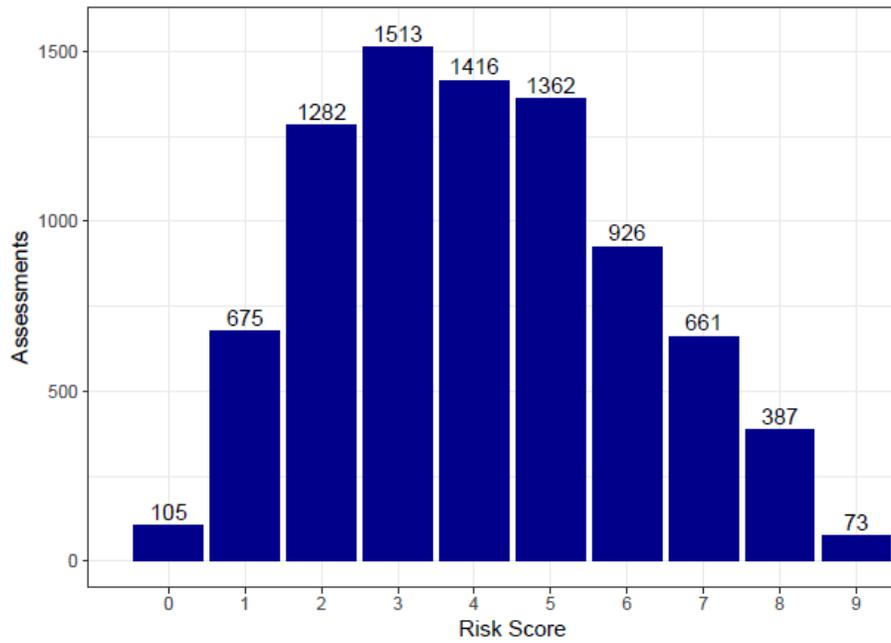
Source: Pretrial Pilot County Probation Department from Kings County. View date: June 15, 2022.

¹⁷ The descriptor “VPRAI-O” is used here to differentiate from the next version of the VPRAI, modified in 2009. This is not a term created or used by the Virginia Department of Criminal Justice Services.

¹⁸ During the course of its program, Santa Barbara County switched its risk assessment tool from the VPRAI to the VPRAI-R. Pilot courts are permitted to change their chosen risk assessment tool as long as they do not make modifications to an existing tool and comply with the data reporting requirements of the program.

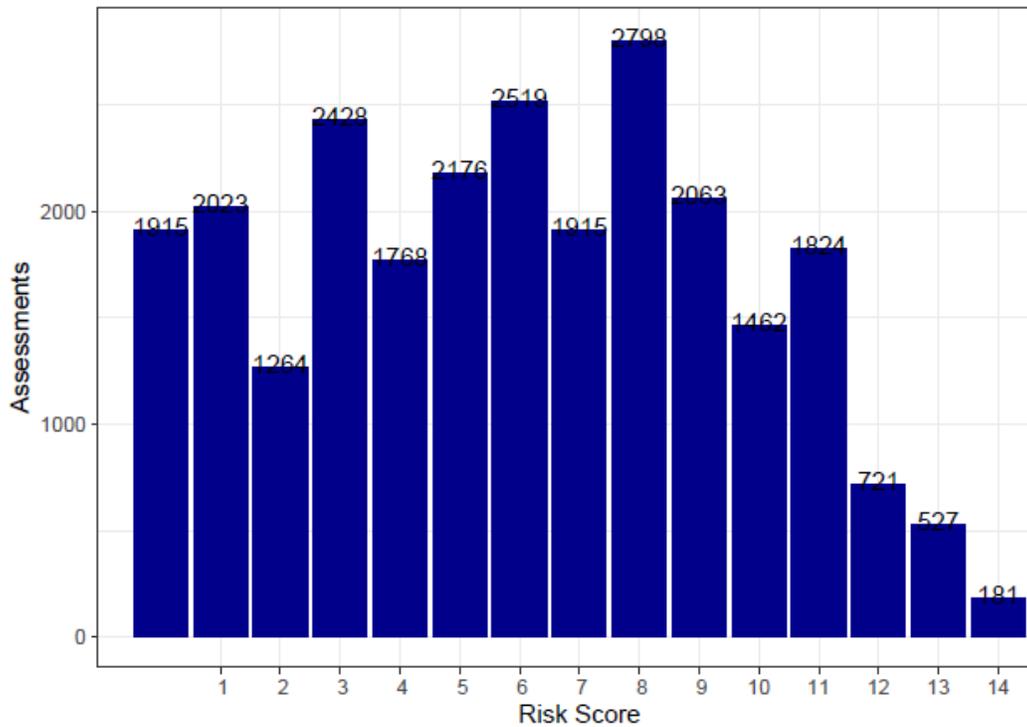
¹⁹ For more detailed information on the different versions of the VPRAI, see Judicial Council of Cal., *Pretrial Pilot Program: Report to the Legislature* (Jan. 2021), Attachment C, www.courts.ca.gov/documents/lr-2021-pretrial-pilot-program-BA-2019.pdf.

Table 10. Number of Assessed Individuals by Risk Score (VPRAI)



Source: Pretrial Pilot County Probation Departments from San Joaquin and Santa Barbara Counties. View date: June 15, 2022.

Table 11. Number of Assessed Individuals by Risk Score (VPRAI-R)



Source: Pretrial Pilot County Probation Departments from Alameda, San Mateo, and Santa Barbara Counties. View date: June 15, 2022.

Booking charge level

Of the total assessments that could be matched with booking data, 172,839 assessments were conducted on individuals with felony bookings, and 84,470 assessments were conducted on individuals with misdemeanor bookings.

Table 12. Number of Assessed Individuals by Booking Charge Level

| County | F | M | Other_Unknown | Total |
|-----------------------|----------------|---------------|---------------|----------------|
| Small Counties | 377 | 141 | 332 | 850 |
| Small/Medium Counties | 1,783 | 400 | 3,267 | 5,450 |
| Medium Counties | 22,835 | 13,360 | 8,532 | 44,727 |
| Large Counties | 147,844 | 70,569 | 23,476 | 241,889 |
| Total | 172,839 | 84,470 | 35,607 | 292,916 |

Source: Pretrial Pilot County Probation Departments. View date: June 15, 2022.

Pretrial release decision

The release decisions reported in Table 13 below represent the decisions made by judicial officers on individuals considered for release under the program. Not all individuals who are assessed, however, progress to consideration for release by a judicial officer. In most cases, this is because they have already been released. Even after being assessed, individuals may bail out—including those released under the \$0 Statewide Emergency Bail Schedule in response to the pandemic during a large portion of this reporting period—or are released as a result of their charges being dropped or dismissed. In addition, other individuals may experience further circumstances that prevent their consideration for release, or release decision data was simply missing.

Table 13 below excludes individuals assessed in Los Angeles County because, at present, data in the county has only been processed for *prearraignment* release decisions, not for subsequent release decisions made at arraignment.²⁰ Of the 123,767 individuals assessed in counties other than Los Angeles, 91,050 individuals are not shown in this table because no pretrial program release decision was made. The reasons for the absence of these decisions include: (1) the individual was already released on bail, (2) the individual had their charges dropped or

²⁰ Data provided by Los Angeles is drawn solely from prearraignment release decisions and does not include data on release decisions made at arraignment. Of the 169,149 individuals assessed in Los Angeles during this time, 102,445 individuals were not considered for prearraignment release for a variety of reasons: they may have been released on bail (the Los Angeles court has been operating under a statewide or a locally modified \$0 bail schedule for the entirety of the pilot project), had their charges dropped or dismissed, or were statutorily ineligible for consideration for prearraignment release. Of the 66,704 considered for release prior to arraignment, 4,061 individuals were granted prearraignment release. Those not released prearraignment into the program were eligible for release consideration at arraignment unless they were otherwise released from jail on bail or had their charges dropped before arraignment. Data on those granted release at arraignment will be made available in a future report.

dismissed, (3) the individual was ineligible for consideration for release, or (4) release decision data on the individual was missing.

Table 13. Number of Assessed Individuals by Pretrial Program Release Decision

| Court Size | Granted Program Release | Denied Program Release |
|-----------------------|-------------------------|------------------------|
| Small Counties | 95 | 67 |
| Small/Medium Counties | 669 | 2,010 |
| Medium Counties | 8,583 | 10,071 |
| Large Counties | 10,864 | 358 |
| Total | 20,211 | 12,506 |

Source: Pretrial Pilot County Probation Departments. View date: June 15, 2022.

Of the 32,717 pretrial release decisions made during this time, 20,211 individuals were granted pretrial program release. This includes individuals released on their own recognizance or on some form of pretrial monitoring. Individuals denied release are those that judicial officers chose not to release through the pretrial program; however, many of these individuals may still have been released on bail. Thus, the group of individuals denied program release here does not represent the number of individuals ultimately detained during the pretrial period.

Levels of pretrial supervision

The information in Table 14 below shows the number and percentage of assessed individuals by supervision level in small, small-medium, medium, and large courts. Overall, of the 20,806 individuals under some type of pretrial supervision during this time, 25 percent received basic supervision, 36 percent received moderate supervision, 27 percent received enhanced supervision, and 12 percent received an unspecified level of supervision.

Table 14. Number and Percentage of Assessed and Supervised Individuals by Supervision Level

| Court Size | Total | Basic | | Moderate | | Enhanced | | Unspecified Supervision | |
|-----------------------|---------------|------------|-------------|------------|-------------|------------|-------------|-------------------------|-------------|
| | | Percent | Count | Percent | Count | Percent | Count | Percent | Count |
| Small Counties | 112 | 23% | 26 | 24% | 27 | 33% | 37 | 20% | 22 |
| Small/Medium Counties | 748 | 4% | 30 | 5% | 40 | 2% | 17 | 88% | 661 |
| Medium Counties | 8,116 | 19% | 1522 | 25% | 2027 | 44% | 3577 | 12% | 990 |
| Large Counties | 11,830 | 31% | 3668 | 45% | 5369 | 16% | 1907 | 7% | 886 |
| Total | 20,806 | 25% | 5246 | 36% | 7463 | 27% | 5538 | 12% | 2559 |

Source: Pretrial Pilot County Probation Departments. View date: June 15, 2022.

Those classified as receiving “unspecified supervision” include individuals in counties that do not categorize supervision conditions into discrete levels. For those counties that do not use discrete supervision levels, general levels were collapsed into “basic,” “moderate,” and “enhanced” supervision, though the specific conditions included in each of these supervision

levels vary widely across counties. (The same classifications apply to the supervision levels in Table 15 below.)

Pretrial failures/revocations

Table 15 below shows the number and percentage of assessed individuals by supervision level who failed to appear in court as required or were arrested for a new offense during the pretrial period. The data in this table are limited to bookings with defendants released pretrial who have a completed pretrial period. Of the 6,022 monitored individuals with completed pretrial periods, 36 percent failed to appear (FTA) in court as required and 32 percent were arrested for a new offense (NCA) during this period.²¹ Data on failures to appear are drawn from indicators of failure to appear in local court and California Department of Justice data. New arrests are defined as new arrests during the pretrial period or new fresh arrest bookings in the same county²² and are drawn from California Department of Justice data as well as each county’s jail data.

Table 15. FTAs and New Arrests by Supervision Level

| monitor_level | Total | FTA | | New Crime | | Total Revoked | |
|----------------|-------|---------|-------|-----------|-------|---------------|-------|
| | | Percent | Count | Percent | Count | Percent | Count |
| Lowest Levels | 1,827 | 30% | 541 | 28% | 520 | 46% | 832 |
| Medium Levels | 2,398 | 42% | 1007 | 33% | 789 | 59% | 1404 |
| Highest Levels | 1,797 | 34% | 602 | 34% | 619 | 57% | 1019 |
| All Levels | 6,022 | 36% | 2150 | 32% | 1928 | 54% | 3255 |

Source: Pretrial Pilot Program Multi-Agency County Linked Data and California Department of Justice. View date: June 15, 2022.

Risk Assessment Validation and Additional Reporting Requirements

In addition to the data reporting requirements included in the Budget Bill of 2019, all pilot courts are subject to additional data requirements under Senate Bill 36 (Hertzberg; Stats. 2019, ch. 589). SB 36 establishes validation and reporting requirements for pretrial services agencies using a pretrial risk assessment tool.

Due to the impacts of the COVID-19 pandemic on the data collected under the program, the Legislature approved delaying the implementation of SB 36. The Legislature recognized that it would not be possible for the pilot projects to collect the volume of data necessary to effectively meet the requirements of SB 36 given the impact of the pandemic on arrest rates and the subsequent adoption of the statewide COVID-19 Emergency Bail Schedule (Cal. Rules of Court, Appendix, emergency rule 4; repealed effective June 20, 2020) and local emergency bail

²¹ Data quality on pretrial revocations is inconsistent and therefore is not reported in this table.

²² In-county rebooking was not calculated for counties with no jail booking types in order to avoid erroneously counting commitment bookings and other bookings that were not for fresh charges.

schedules. The Governor signed Assembly Bill 3364 (Committee on Judiciary; Stats. 2020, ch. 36, §§ 35–42) to provide a six-month extension for each of the SB 36 requirements.

Under the extension, pretrial services agencies are required to validate their pretrial risk assessment tools by July 1, 2021. Judicial Council research staff have used data collected under the Pretrial Pilot Program to conduct validation studies on all risk assessment tools used by pilot courts for which data was sufficient. These studies are now available on the court’s website, and updated validation reports for 2022 will be posted later this year. SB 36 also requires the Judicial Council to publish outcome-based data from the pretrial pilots on its website commencing June 30, 2021.²³

Under SB 36, commencing January 1, 2023, the Judicial Council is also required to provide reports to the courts and the Legislature with recommendations to mitigate bias in pretrial decisionmaking.

Senate Bill 129

Senate Bill 129,²⁴ amending the Budget Act of 2021, provided funding for “the implementation and operation of ongoing court programs and practices that promote the safe, efficient, fair, and timely pretrial release of individuals booked into jail.” (Sen. Bill 129, sec. 4, item 0250-101-0001, provision 9.) SB 129 appropriated funding of \$140 million in FY 2021–2022, and \$70 million in ongoing funding to the Judicial Council for distribution to the courts for these purposes.

Pretrial Release Funding

The purpose of the funding, as specified in SB 129, is to provide every superior court with information and resources to support judicial officers in making pretrial release decisions that impose the least restrictive conditions to address public safety and return to court, and to implement appropriate monitoring practices and provision of services for released individuals.

SB 129 authorizes the Judicial Council to retain up to 5 percent of the amount available to the superior courts for costs associated with implementing, supporting, and evaluating pretrial programs in courts. The Judicial Council’s Criminal Justice Services office is providing support to the superior courts in implementing a pretrial release program that meets SB 129 requirements, including collecting reports that include program budgets and expenditures; data on bookings, assessments, and releases; and other programmatic information. Beginning July 1, 2023, the Judicial Council is mandated to provide the Legislature with an annual report evaluating these pretrial programs and practices.

During this reporting period for the Pretrial Pilot Program, pilot courts have begun to use SB 129 funding to further enhance or expand their pretrial programs and to prepare their programs to carry on past the pilot. The pretrial pilot courts continue to serve as a valuable resource to courts

²³ SB 36 Aggregate Data Report (July 2021),

www.courts.ca.gov/documents/SB_36_Pretial_Pilot_Program_Aggregated_Data_Report.pdf.

²⁴ Sen. Bill 129 (Stats. 2021, sec. 4, 0250-101-0001, provision 9).

with newer pretrial programs and those that have not previously contracted with a county department for pretrial release and monitoring services. Judicial Council staff are in the process of conducting a final evaluation of the pilot program and will use this information to create educational resources for nonpilot courts in future years.

Conclusion

Pilot courts continue to conduct their operations in compliance with the goals and requirements of the program, as outlined by the Legislature. Though local emergency rules aimed at reducing jail populations continue to affect the number and composition of assessed individuals under the program, assessment numbers were high during this period and continue to be conducted on all eligible individuals; data collection efforts are ongoing. The data presented in this report still represents preliminary results, and data processing for the program is ongoing. In addition to this report, the Judicial Council will produce risk assessment tool validation studies and additional data on the pretrial pilots and post them on the California Courts website.

The next legislative report on the Pretrial Pilot Program is due in July 2023 and will include a final evaluation of the Pretrial Pilot Program, including both programmatic activities and outcome data.

Appendix A: Updated Program End Dates

| County | Original Program End Date | New Program End Date |
|---------------|----------------------------------|-----------------------------|
| Alameda | 6/30/2021 | 6/30/2022 |
| Calaveras | 6/30/2021 | 6/30/2022 |
| Kings | 6/30/2021 | 6/30/2022 |
| Los Angeles | 6/30/2021 | 6/30/2022 |
| Modoc | 6/30/2021 | 6/30/2022 |
| Napa | 6/30/2021 | 6/30/2022 |
| Nevada-Sierra | 6/30/2021 | 6/30/2022 |
| Sacramento | 6/30/2021 | 6/30/2022 |
| San Joaquin | 6/30/2021 | 6/30/2022 |
| San Mateo | 6/30/2021 | 6/30/2022 |
| Santa Barbara | 6/30/2021 | 12/31/2021 |
| Sonoma | 6/30/2021 | 6/30/2022 |
| Tulare | 6/30/2021 | 6/30/2022 |
| Tuolumne | 6/30/2021 | 6/30/2022 |
| Ventura | 6/30/2021 | 6/30/2022 |
| Yuba | 6/30/2021 | 6/30/2022 |

Appendix B: Pilot Court Disbursement and Expenditure Summary

The disbursement and spending summaries below detail pilot court financial activity as of May 16, 2022.

Table 1. Pilot Court Funding Disbursements

| | Court | Approved Award | Disbursement to Date | % Disbursed to Date | Program End Date |
|-------------------------------------|---------------|-----------------------|-----------------------------|----------------------------|-------------------------|
| Large Courts | Alameda | \$16,981,452 | \$16,981,452 | 100% | 6/30/2022 |
| | Los Angeles | \$11,481,277 | \$11,481,277 | 100% | 6/30/2022 |
| | Sacramento | \$11,234,172 | \$11,234,172 | 100% | 6/30/2022 |
| Large Court Subtotal: | | \$39,696,901 | \$39,696,901 | 100% | |
| Medium Courts | San Joaquin | \$3,725 | \$2,069 | 56% | 6/30/2022 |
| | San Mateo | \$5,369,300 | \$5,369,300 | 100% | 6/30/2022 |
| | Santa Barbara | \$1,593,000 | \$1,593,300 | 100% | 12/31/2021 |
| | Sonoma | \$6,461,077 | \$6,461,077 | 100% | 6/30/2022 |
| | Tulare | \$3,806,853 | \$3,806,853 | 100% | 6/30/2022 |
| | Ventura | \$4,445,834 | \$4,445,834 | 100% | 6/30/2022 |
| Medium Court Subtotal: | | \$21,679,789 | \$21,678,133 | 99.9% | |
| Small-Medium Courts | Kings | \$1,241,487 | \$1,241,487 | 100% | 6/30/2022 |
| | Napa | \$2,051,919 | \$2,051,919 | 100% | 6/30/2022 |
| | Nevada-Sierra | \$375,712 | \$375,712 | 100% | 6/30/2022 |
| Small-Medium Court Subtotal: | | \$3,669,118 | \$3,669,118 | 100% | |
| Small Courts | Calaveras | \$618,743 | \$618,743 | 100% | 6/30/2022 |
| | Modoc | \$744,000 | \$744,000 | 100% | 6/30/2022 |
| | Tuolumne | \$649,831 | \$649,831 | 100% | 6/30/2022 |
| | Yuba | \$841,300 | \$841,300 | 100% | 6/30/2022 |
| Small Court Subtotal: | | \$2,853,874 | \$2,853,874 | 100% | |
| TOTAL: | | \$67,899,682 | \$67,898,026 | 99.99% | |

Note: 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).

Note: Original contracts executed with the courts at the beginning of the program specify that courts agree to “permitting the Judicial Council, at its discretion, to enable modification of the Contract Amount for reallocation as necessary, transfer of budgeted amounts from one fiscal year to another or transfer of unspent funds between courts depending on the Court’s progress on meeting the scope and goals of the program” (Exhibit B, Special Provisions, Section 7B). Accordingly, select funding disbursements were modified during this reporting period as a result of changing funding needs of certain pilot courts.

Table 2. Pilot Court Expenditure by Court Size

| | Total Award | Funds Spent or Encumbered | % Spent or Encumbered |
|---------------------|---------------------|----------------------------------|------------------------------|
| Large Courts | \$39,696,901 | \$39,259,394 | 99% |
| Medium Courts | \$21,679,789 | \$19,655,891 | 91% |
| Small-Medium Courts | \$3,669,118 | \$3,249,723 | 89% |
| Small Courts | \$2,853,874 | \$2,519,723 | 88% |
| TOTAL | \$67,899,682 | \$64,684,731 | 95% |

Appendix C: Pilot Court Data Assessment Date Ranges

| County | Start Date | End Date |
|---------------|------------|------------|
| Alameda | 05/08/2020 | 05/25/2022 |
| Calaveras | 10/10/2019 | 01/10/2022 |
| Kings | 03/16/2020 | 01/19/2022 |
| Los Angeles | 03/23/2020 | 12/31/2021 |
| Modoc | 04/22/2020 | 06/16/2021 |
| Napa | 01/15/2020 | 06/13/2022 |
| Nevada | 05/01/2020 | 01/20/2022 |
| Sacramento | 10/21/2019 | 05/15/2022 |
| San Joaquin | 10/01/2019 | 01/19/2022 |
| San Mateo | 01/27/2020 | 06/01/2022 |
| Santa Barbara | 01/04/2020 | 01/12/2022 |
| Sierra | 07/18/2020 | 10/25/2021 |
| Sonoma | 10/01/2019 | 05/31/2022 |
| Tulare | 10/01/2019 | 12/31/2021 |
| Tuolumne | 07/01/2021 | 12/25/2021 |
| Ventura | 10/01/2019 | 03/31/2022 |
| Yuba | 01/02/2020 | 03/28/2022 |

Note: At the date of this report, data up to December 2021 was due. Transition to a new Probation Case Management System resulted in a shortened reporting period in Modoc for calendar year 2021. All other pilots have complete data through the end of calendar year 2021. The time intervals for data submission vary by county, accounting for the differences in assessment end dates.