



Board Agenda Item 35

DATE: September 24, 2024

TO: Board of Supervisors

SUBMITTED BY: Kirk Haynes, Chief Probation Officer

SUBJECT: Agreement with the Superior Court of California for Pretrial Program Services

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute the retroactive Memorandum of Understanding with the Superior Court of California, County of Fresno (Court), to expand the Probation Department's Pretrial Services Program effective July 1, 2024 for a standard term of three years with two optional one-year extensions, total possible revenue to the County not to exceed \$8,935,925; and**
- 2. Authorize the Chief Probation Officer, or designee, to accept any additional funding allocation from the Court.**

There is no additional Net County Cost associated with the recommended actions, which will approve a retroactive agreement with the Court. Costs associated with the Pretrial Program Services are funded with Judicial Council of California Pretrial Release Program Funding (Senate Bill 129 Budget Act of 2021) revenue. This legislation requires the Court to contract for these services with a County Department that does not make arrests or prosecute criminal offenses. Approval of the recommended actions will allow the Probation Department to enter into a revenue agreement with the Court for the Court's Pretrial Program, utilizing these funds to complete assessments and monitor defendants identified by the Court. The Probation Department's allocated portion of the funds is \$6,433,868. The Court's portion of the grant funding is \$2,502,057. However, the Court has indicated that it may provide the Probation Department with part of its allocation. Therefore, the total possible compensation amount described above includes the total possible allocation under the recommended agreement if the Court provides part of its allocation to the Probation Department. This item is countywide.

ALTERNATIVE ACTION(S):

If your Board were to not approve the recommended actions, the Probation Department will need to delete additional positions in the Pretrial Program and the Court will need to return these funds to the Judicial Council.

RETROACTIVE AGREEMENT:

This recommended Agreement is retroactive to July 1, 2024 due to the length of time required to negotiate, prepare, and receive approval from the Court for the agreement. This item is being brought to your Board in accordance with agenda item processing timelines.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Senate Bill 129 Budget

Act of 2021 provides funding to the Judicial Council for the purpose of expanding Pretrial Programs in counties. The recommended agreement is fully offset with this funding source. The base amount of the agreement is \$6,433,868 and if additional funding is available, the total maximum compensation will be approximately \$8,935,925. Sufficient appropriations and estimated revenues are included in the Probation Department's FY 2024-25 Adopted Budget for Org 3430 in the amount of \$8,935,925.

DISCUSSION:

On September 9, 2019, the Community Corrections Partnership (CCP) approved the pilot expansion of Probation's Pretrial Program for FY 2019-20 to operate 24 hours a day, seven days a week in order to increase the number of pretrial risk assessments to all individuals detained in the Fresno County Jail System as allowed by local policy and law. The initial CCP Plan included the formation of a Pretrial Program to help jail overcrowding by providing alternatives to incarceration.

Pursuant to SB 129 of the Budget Act of 2021, the Court received funding from the Judicial Council of California for Pretrial Release programming. On March 22, 2022, your Board approved a retroactive agreement with the Court to expand Probation's Pretrial Program services. The funds provided allowed the Pretrial Program to add additional staff, increase pre-arraignment and pretrial risk assessments facilitating diverted bed space at the Jail with the goal of reducing federal overcrowding releases, and increase monitoring from 600-650 defendants to 1000 defendants.

The Pretrial Program operates by gathering information regarding a defendant and putting that information into a pretrial risk assessment report. The goal of the assessment is to determine the risk that each defendant poses to the community upon release, including the risk of failing to appear for a court hearing. After each assessment is completed, the Department submits a pretrial report to the Court for judicial review. The pretrial risk assessment, with an automation portal to include texts to defendants of court date reminders, and the integration with the Fresno County Sheriff's Department, has enhanced service delivery and efficiency to the justice system. The goal of the Program is to enhance the Department's safe and efficient method to release defendants, pre-arraignment and at their arraignment hearing, by providing reports to judicial officers.

The current Pretrial program is staffed to supervise 1143 defendants. The current staffing for the program includes three Assistant Deputy Chief Probation Officers (ADC), seventeen Deputy Probation Officers (DPOs), fifteen Probation Technicians, one Program Technician, and two Office Assistants. SB 129 of the Budget Act of 2021 provided for funding to remain constant for three years, and beginning with the fourth year and going forward, the Judicial Council's Pretrial Release Program retains funding, but at a much lower level.

Continuation of the current program anticipates future state funding for pretrial programs. If no alternative funding is identified, affected positions would be deleted at the end of the recommended agreement.

The recommended agreement deviates from the County's standard agreement language by having automatic extensions for two additional one-year periods unless written notice of non-renewal is given by either party. The agreement also differs from the County's model contract in that it contains a mutual hold harmless clause. This has the effect of making each party responsible for losses arising from their own negligent or wrongful performance, or failure to perform. The mutual hold harmless clause has been reviewed by Risk Management and has been deemed to be acceptable for this agreement between public entities.

REFERENCE MATERIAL:

BAI # 13, March 22, 2022
BAI # 9, October 8, 2019

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with Superior Court of California

CAO ANALYST:

Fine Nai