



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 21-112

For business meeting on July 9, 2021

Title

Report to the Legislature: Pretrial Pilot Program

Agenda Item Type

Action Required

Effective Date

July 9, 2021

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

July 1, 2021

Recommended by

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Executive Summary

The Budget Act of 2019 earmarked \$75 million to the Judicial Council to launch and evaluate two-year pretrial projects in local trial courts. As directed by the Legislature, the projects aim to increase the safe and efficient release of arrestees before trial; use the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances; validate and expand the use of risk assessment tools; and assess any bias. Criminal Justice Services staff recommend that the Judicial Council receive *Pretrial Pilot Program: Report to the Legislature* and direct the Administrative Director to submit this report to the Joint Legislative Budget Committee and the Department of Finance. The Budget Act of 2019 mandates that this report be submitted each January and July through 2022. This is the fourth legislative report on the program and documents the activities of pilot courts and Judicial Council administration of the program carried out between January and July 2021. It also presents select data on pretrial risk assessments conducted on individuals in all pilot projects since the start of the program.

Recommendation

Criminal Justice Services staff recommend that the Judicial Council, effective July 9, 2021:

1. Receive *Pretrial Pilot Program: Report to the Legislature* (July 2021); and
2. Direct the Administrative Director to submit this report to the Joint Legislative Budget Committee and the Department of Finance.

This legislatively mandated report is included as Attachment A.

Relevant Previous Council Action

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

Ultimately \$75 million was included in the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23, item 0250-101-0001, provisions 8–17) and allocated to the Judicial Council to fund the implementation, operation, and evaluation of programs or efforts related to pretrial decisionmaking in at least 10 courts. PROW undertook an extensive process to solicit and review applications for funding from the superior courts.

From that process, PROW selected 16 court projects and recommended that the Judicial Council approve (1) funding allocations and distribution to those courts, (2) authorization of further pilot program funding opportunities for the courts, and (3) authorization of Judicial Council staff to undertake pilot program grant administration activities. The Judicial Council approved these recommendations at its meeting on August 9, 2019.

On March 27, 2020, the Governor issued an order¹ 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. Several of these measures adopted by the Judicial Council, 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. 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. 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. The Judicial Council repealed the rule on June 10, 2020, with an effective date of June 20, 2020. At the time of this report, approximately half of all pilot courts are still operating under local emergency or

¹ Executive Order N-38-20, www.gov.ca.gov/wp-content/uploads/2020/03/3.27.20-N-38-20.pdf.

modified bail schedules that continue to affect the populations eligible for pretrial program participation.²

On November 13, 2020, the Judicial Council heard from PROW chair Justice Marsha G. Slough, who gave an update on the work of PROW and presented a report with the workgroup's recommendations for the use of pretrial risk assessment tools.³

Analysis/Rationale

As part of the Budget Act of 2019, the Legislature directed the Judicial Council to develop and administer for trial courts a program that incorporates pretrial pilot projects. The goals of the program, as set by the Legislature, are to (1) increase the safe and efficient prearrest and pretrial release of individuals booked into jail; (2) implement monitoring practices with the least restrictive interventions necessary to enhance public safety and return to court; (3) expand the use and validation of pretrial risk assessment tools that make their factors, weights, and studies publicly available; and (4) assess any disparate impact or bias that may result from the implementation of these programs. The council is required to submit this report on the program in July 2021 to the Joint Legislative Budget Committee and the Department of Finance, as mandated by the Budget Act.

Policy implications

No policy implications are associated with this report.

Comments

Comments were not solicited for this legislatively mandated report.

Alternatives considered

Alternatives were not considered for this legislatively mandated report.

Fiscal and Operational Impacts

The Budget Act of 2019 allocated up to 10 percent of the \$75 million in funding to the Judicial Council for costs associated with implementing and evaluating these programs and for administrative support. Judicial Council staff continue to use this funding to provide pilot courts with legal, research, educational/technical, tool validation, programmatic, business process reengineering, information technology, data exchange, and project management support.

Attachments and Links

1. Attachment A: *Pretrial Pilot Program: Report to the Legislature* (July 2021)

² Superior courts in the counties of Alameda, Los Angeles, Napa, Sacramento, San Mateo, Santa Barbara, Sonoma, and Tulare are still operating under local emergency bail schedules.

³ Judicial Council of Cal., Pretrial Reform and Operations Workgroup Rep., *Pretrial Reform: Pretrial Reform and Operations Workgroup Update and Recommendations on Use of Pretrial Risk Assessment Instruments* (Nov. 13, 2020), <https://jcc.legistar.com/View.ashx?M=F&ID=8870018&GUID=AFC468B3-B307-45AC-9AB2-A77DE0A692C9>.



Pretrial Pilot Program

REPORT TO THE LEGISLATURE

JULY 2021



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CRIMINAL JUSTICE SERVICES

JUDICIAL COUNCIL OF CALIFORNIA

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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 fourth legislatively mandated report on the Judicial Council's Pretrial Pilot Program. It details program activities carried out between January and July 2021, as well as select data on pretrial risk assessments conducted between October 2019 and March 2021. Exact date ranges for this data vary based on differing implementation dates and available data in each pilot during this period. Additional data requirements applicable to the pilots under Senate Bill 36 (Hertzberg; Stats. 2019, ch. 589) will be provided on the California Courts website in July 2021.

Since the start of the program through data reported as of March 30, 2021, over 122,000 individuals were assessed by the pilot projects using one of several pretrial risk assessment tools. The preliminary data in this report provide 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 composition of 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.

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

Introduction

This report fulfills the legislative mandate of the Budget Act of 2019,² 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 January 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.³ Pilot courts and their partners began implementation once funding began and had various official start

² Assem. Bill 74 (Stats. 2019, ch. 23, item 0250-101-0001, provisions 8–17).

³ 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 requirement of the program.

Last year, 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, section 1, Provisions 8-17), which amended the Budget Act of 2019 and the Budget Act of 2020 (Stats. 2020, ch. 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 an interim report to the Legislature on July 1, 2022, on select data elements collected in the program, as well as 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 second 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:⁴

- A judicial officer is making release decisions prearrest (or at arrest 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 release⁵, pilot courts

⁴ 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.

⁵ The COVID-19 Emergency Bail Schedule was rescinded on June 10, 2020 but courts may still keep COVID-19 emergency bail schedule 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.⁶ Many courts have used funds during this period to expand or make improvements to their court date reminder systems aimed at increasing court appearance rates.

At the time of this report, the Judicial Council has disbursed approximately 90 percent of the \$68.06 million awarded to participating pilot courts. Of these disbursements, approximately 67 percent has been spent or encumbered by the courts, in accordance with the original budgets approved by the Judicial Council. (A detailed account of court expenditures as of May 7, 2021, is provided as Appendix B.)

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.

Education

Staff hosted several educational programs for the pilot courts during this reporting period. On April 14, 2020, a faculty composed of Judicial Council research staff, a member of the Pretrial Reform and Operations Workgroup, and a judicial officer in a pilot court led a training on entitled “Effectively Communicating Risk at the Pretrial Stage.” This session presented best practices for accurately conveying and interpreting the results of a pretrial risk assessment tool and discussed how the effective communication of these results can provide judges with a better understanding of the actual risk posed by a defendant when making pretrial release decisions.

On April 22, 2021, a panel of representatives from the court and probation departments of the pilot counties led a training entitled “Lessons Learned for Starting, Strengthening, and Maintaining Pretrial Release Programs.” This session addressed ways that pretrial programs can be sustained and discussed important factors for implementing or expanding a pretrial program, including funding, collaboration, risk assessment, technology, and data collection. The next educational event for the pilots, planned for September 2021, will include a series of sessions

⁶ Judicial Council of Cal., *Request for Applications: Pretrial Pilot Program*, sections 4.5, 4.6, www.courts.ca.gov/documents/pdr-rfa-RFA.pdf.

covering topics such as strategies for reducing failure-to-appear rates, adapting pretrial operations to a virtual environment, and research on the efficacy of pretrial release conditions.

Data collection

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 submission to the Judicial Council. Judicial Council information technology staff continue to work with a selected vendor to create and implement a data warehouse system to facilitate the extensive data integration involved in the program. As this system is being finalized, pilot courts and their partners continue to submit required data through a manual process using secured files. Pilot courts are working simultaneously with Judicial Council staff to validate their data and identify discrepancies as they arise.

Program Evaluation

The Budget Act of 2019 requires that pilot courts collaborate with local justice system partners to make data available to 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 collection process, and have begun to analyze the first official submissions of 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 this time, all pilots have complied with the data reporting requirements.⁷

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 half 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.⁸

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 were 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 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.

⁷ Data from Tulare County are not included in this report due to delays in data reporting.

⁸ Superior courts in the counties of Alameda, Los Angeles, Napa, Sacramento, San Mateo, Santa Barbara, Sonoma, and Tulare are still operating under local emergency bail schedules.

This data includes assessments conducted by each court between October 2019, when funding began, and March 2021.⁹ 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 from each separate court and county agency involved in the pilot, including courts, county probation departments, jails, and 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 are somewhat limited. Data on these outcomes include 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.

Preliminary data and outcomes

The preliminary data on assessments and outcomes included below cover 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.

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);

⁹ Date ranges of assessments vary based on the official implementation date and latest data submission date of each pilot.

- Virginia Pretrial Risk Assessment Instrument (VPRAI); or
- Virginia Pretrial Risk Assessment Instrument, Revised (VPRAI-R).¹⁰

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
CCAT	Los Angeles	4,447
LOCAL	Sonoma, Tuolumne	2,960
ORAS	Modoc, Napa, Nevada, Ventura, Yuba	5,067
PSA	Calaveras, Los Angeles, Sacramento, Sonoma, Tuolumne	92,791
VPRAI	San Joaquin, Santa Barbara	8,530
VPRAIO	Kings	691
VPRAIR	Alameda, San Mateo, Santa Barbara	7,921
All	All	122,407

Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021).

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 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.¹¹

¹⁰ 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.

¹¹ 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.

Demographic information

Tables 2 through 4 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.¹²

Assessments in this period were conducted on 122,407 individuals, representing a 231 percent increase from the last reporting period.

Of the assessed individuals whose demographic information was reported during this period, 82 percent were male and 18 percent female; 22 percent were white, 47 percent were Hispanic, 25 percent were black, and 6 percent were other or unknown race/ethnicity. Twenty-two percent were ages 18–25, 38 percent were ages 26–35, 23 percent were ages 36–45, 11 percent were ages 46–55, and 6 percent were over age 56 (see Tables 2 through 4).

Table 2. Number of Assessed Individuals by Gender

Court Size	Male	Female	Other/Unknown	Total
Small	742	246	0	988
Small/Medium	1,424	323	38	1,785
Medium	16,243	3,904	29	20,176
Large	81,452	17,823	183	99,458
Total	99,861	22,296	250	122,407

Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021).

Table 3. Number of Assessed Individuals by Race

Court Size	Black	White	Hispanic	Other/Unknown	Total
Small	12	785	108	83	988
Small/Medium	177	738	722	148	1,785
Medium	2,943	6,712	9,255	1,266	20,176
Large	27,279	19,028	47,775	5,376	99,458
Total	30,411	27,263	57,860	6,873	122,407

Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021).

¹² 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

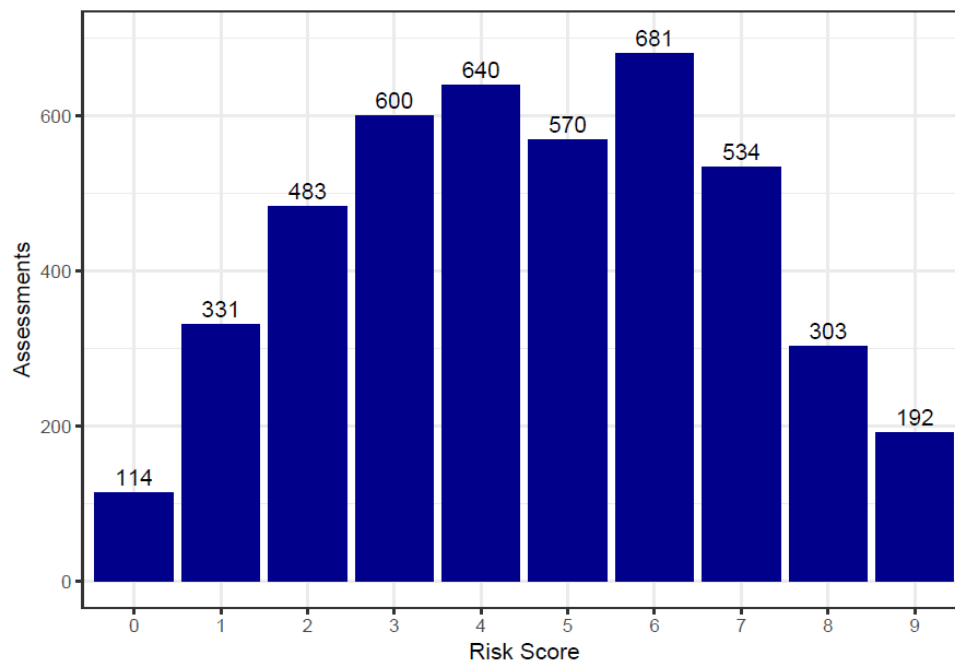
Court Size	18-25	26-35	36-45	46-55	56+	Unknown	Total
Small	141	356	263	144	73	11	988
Small/Medium	321	596	311	171	63	323	1,785
Medium	4,508	7,117	4,842	2,354	1,348	7	20,176
Large	22,407	38,614	22,202	10,210	5,834	191	99,458
Total	27,377	46,683	27,618	12,879	7,318	532	122,407

Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021).

Risk levels

The next set of tables shows 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.

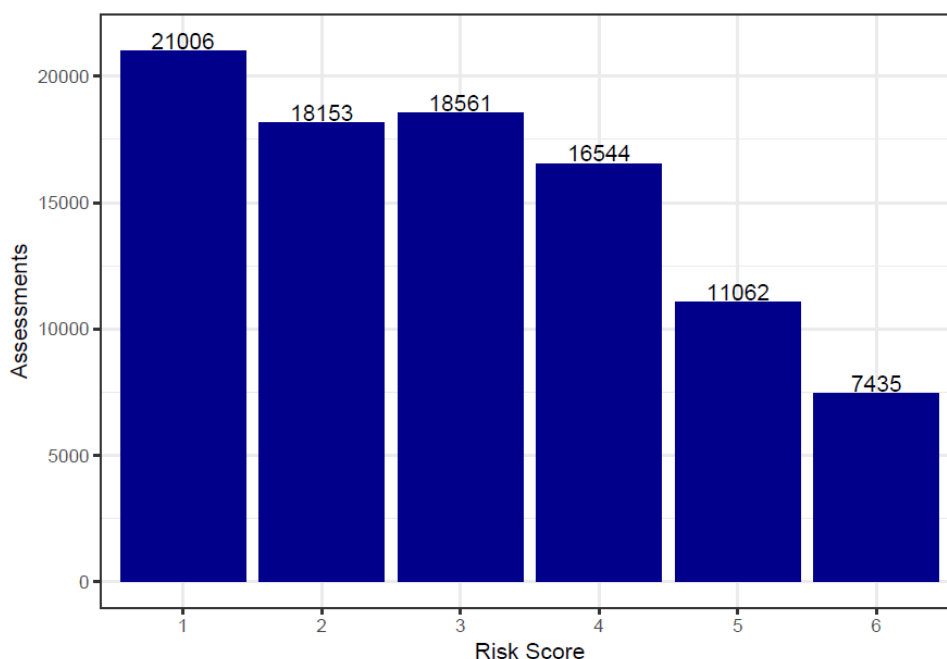
Table 5 shows data from the five pilot courts currently using the ORAS: Modoc, Napa, Nevada, Ventura, and Yuba. During this reporting period, probation departments in these counties assessed 5,067 individuals using the ORAS-PAT.

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

Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021) from the counties of Modoc, Napa, Nevada, Ventura, and Yuba.

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 92,791 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, and Tuolumne.¹³

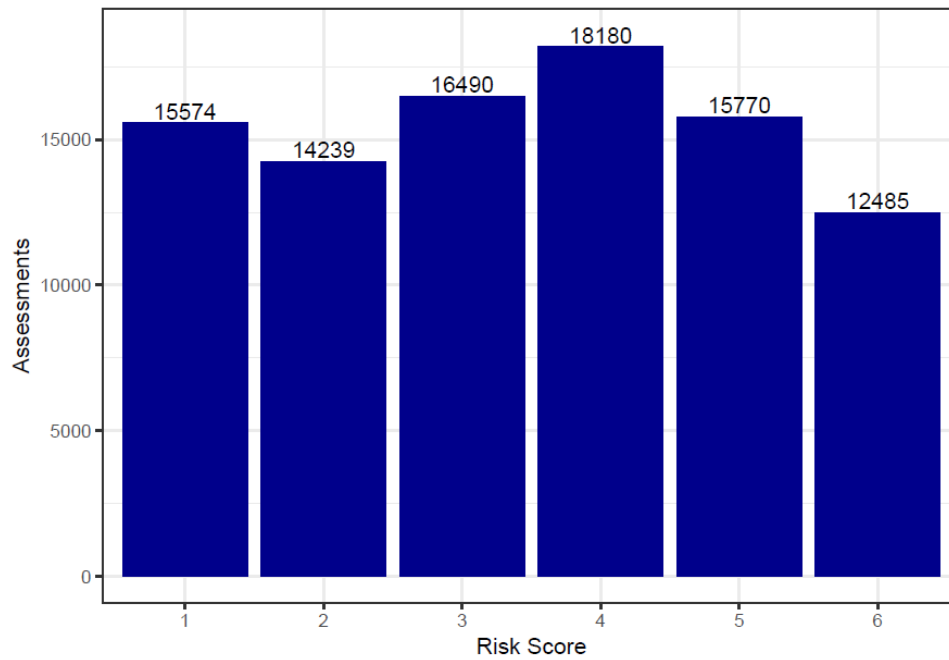
Table 6. Number of Assessed Individuals by Risk Score (PSA Failure to Appear)



Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021) from the counties of Calaveras, Los Angeles, Sacramento, Sonoma, and Tuolumne.

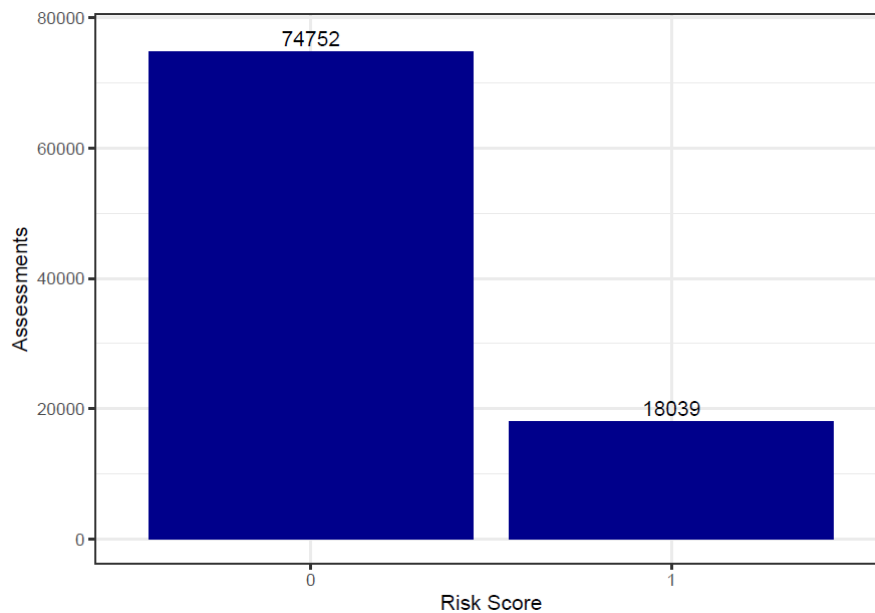
¹³ Data from Tulare County is not included in this report due to delays in data reporting.

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



Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021) from the counties of Calaveras, Los Angeles, Sacramento, Sonoma, and Tuolumne.

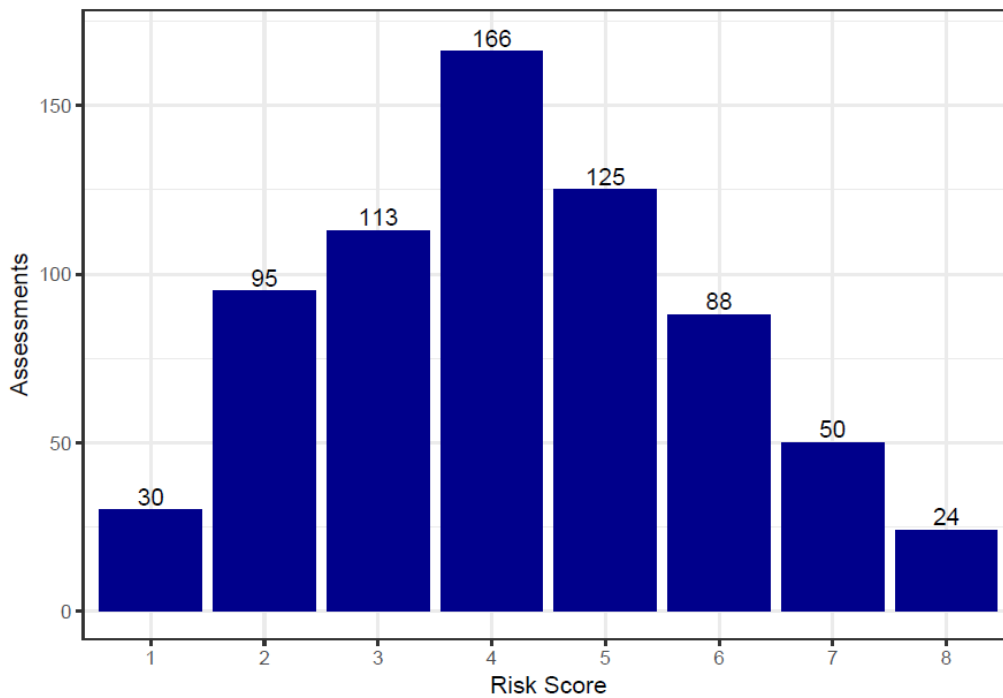
Table 8. Number of Assessed Individuals by Risk Score (PSA New Violent Criminal Activity)



Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021) from the counties of Calaveras, Los Angeles, Sacramento, Sonoma, and Tuolumne.

Tables 9 through 11 below show the number of assessed individuals using the VPRAI, VPRAI-O,¹⁴ 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).¹⁵ These courts conducted a total of 17,142 assessments using one of the three versions of the VPRAI during this time.¹⁶

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



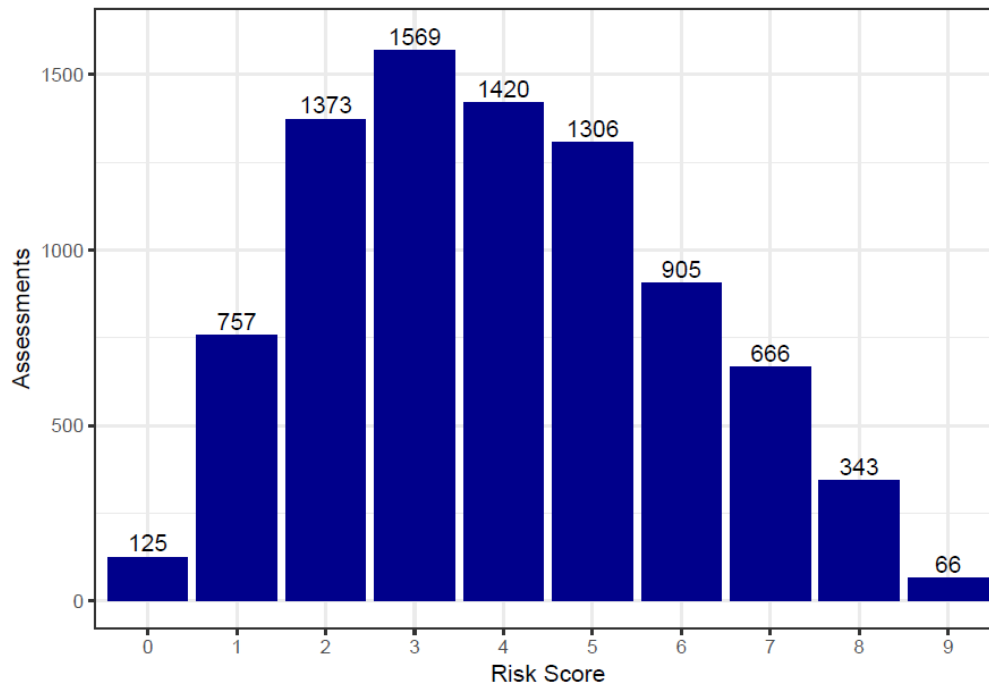
Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021) from Kings County.

¹⁴ 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.

¹⁵ 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.

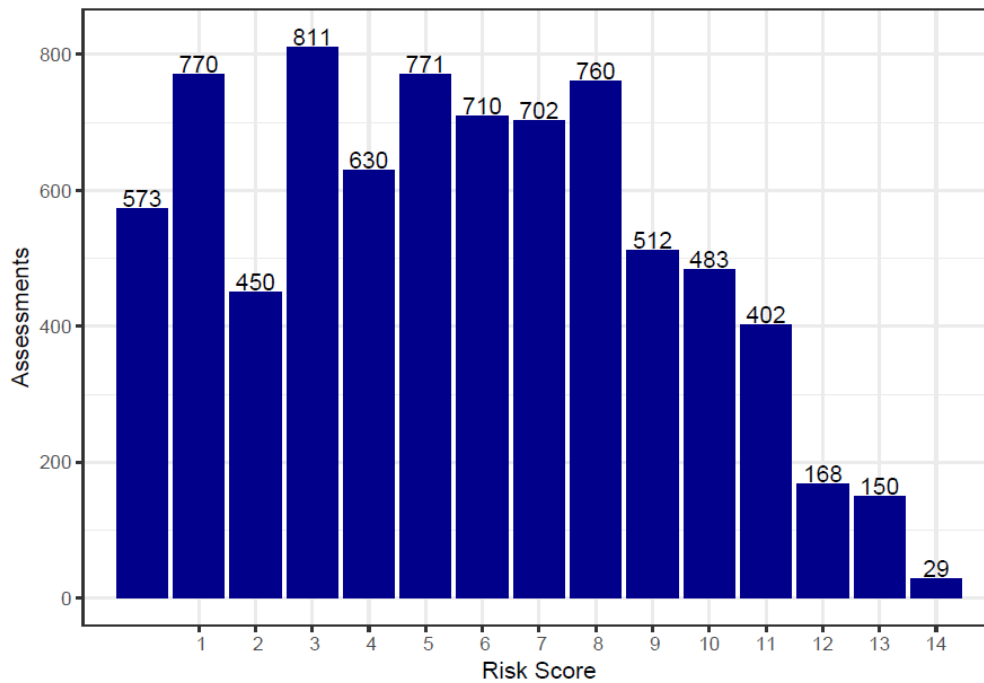
¹⁶ For more detailed information on the different versions of the VPRAI, see Judicial Council of Cal., *Pretrial Pilot Program: Report to the Legislature* (Jan. 2021), Attachment C, www.courts.ca.gov/documents/lr-2021-pretrial-pilot-program-BA-2019.pdf.

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



Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021) from San Joaquin and Santa Barbara Counties.

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



Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021) from Alameda, San Mateo, and Santa Barbara Counties.

Booking charge level

Of the total assessments that could be matched with booking data, 43,750 assessments were conducted on individuals with felony bookings and 15,429 assessments were conducted on individuals with misdemeanor bookings. Data collected on booking charge level are taken from a different source than assessment data. As a result, assessments that did not match booking data are not included in the table below.

Table 12. Number of Assessed Individuals by Booking Charge Level

County	Felony	Misdemeanor	Other_Unknown	Total
Small	719	358	47	1,124
Small/Medium	864	320	9	1,193
Medium	11,154	6,136	53	17,343
Large	31,013	8,615	6,425	46,053
Total	43,750	15,429	6,534	65,713

Source: Pretrial Pilot Program Multi-Agency Linked Data (10/01/2019 through 3/31/2021) from all pilot counties.

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 were simply missing.

Table 13 below excludes individuals assessed in Los Angeles County because, at present, data in the county have only been processed for *prearrest* release decisions, not for subsequent release decisions made at arraignment.¹⁷ Of the 44,523 individuals assessed in counties other than Los Angeles, 33,225 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

¹⁷ Data provided by Los Angeles are drawn solely from prearrest release decisions and do not include data on release decisions made at arraignment. Of the 77,884 individuals assessed in Los Angeles through March 31, 2021, 49,295 individuals were not considered for prearrest 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 prearrest release. Of the 26,714 considered for release prior to arraignment, 1,875 individuals were granted prearrest release. Those not released prearrest 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.

individual was already released on bail, (2) the individual had their charges dropped or dismissed, (3) the individual was ineligible for consideration for release, or (4) release decision data on the individual were missing.

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

Court Size	Granted Program Release	Denied Program Release
Small	334	165
Small/Medium	322	438
Medium	2,364	2,407
Large	3,059	2,209
Total	6,079	5,219

Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021).

Of the 11,298 pretrial release decisions made during this time, 6,079 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 4,849 individuals under some type of pretrial supervision during this time, 15 percent received basic supervision, 37 percent received moderate supervision, 33 percent received enhanced supervision, and 15 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	329	42%	138	22%	72	26%	84	11%	35
Small/Medium	297	2%	5	2%	6	2%	5	95%	281
Medium	2,116	16%	338	25%	534	41%	868	18%	376
Large	2,107	12%	258	55%	1166	30%	639	2%	44
Total	4,849	15%	739	37%	1778	33%	1596	15%	736

Source: Pretrial Pilot Program Probation Data (10/01/2019 through 3/31/2021).

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 2,779 monitored individuals with completed pretrial periods, 30 percent failed to appear (FTA) in court as required and 40 percent were arrested for a new offense during this period.¹⁸ 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 and are drawn from California Department of Justice data.

Table 15. FTAs and New Arrests by Supervision Level

Supervision Level	Total	FTA		New Arrest	
		Percent	Count	Percent	Count
Basic	684	24%	165	32%	222
Moderate	947	28%	268	38%	364
Enhanced	1,148	36%	408	45%	522
All Levels	2,779	30%	841	40%	1108

Source: Pretrial Pilot Program Multi-Agency Linked Data (10/01/2019 through 3/31/2021) from all pilot counties.

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

¹⁸ Data quality on pretrial revocations is inconsistent and therefore is not reported in this table.

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. These studies will be available on the courts' websites by July 1, 2021. SB 36 also requires the Judicial Council to publish outcome-based data from the pretrial pilots on its website commencing June 30, 2021. Several of these data elements are included as an appendix to this report.

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.

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, assessments are being conducted on all eligible individuals and data collection efforts are ongoing. The data presented in this report still represent 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 by July 1, 2021.

The next legislative report on the Pretrial Pilot Program is due in January 2022 and will include information on the activities carried out between July and December 2021, as well as the same measures presented in this report using data collected from the pilots and their partners over a longer period of time.

Appendix A: Updated Program End Dates

County	Original Program End Date	New Program End Date
Alameda	6/30/2021	12/21/2021
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	12/31/2021
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	9/30/2021
Tulare	6/30/2021	6/30/2022
Tuolumne	6/30/2021	6/30/2022
Ventura	6/30/2021	9/30/2021
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 7, 2021.

Table 1. Pilot Court Funding Disbursements

	Court	Approved Award	Disbursement to Date	% Disbursed to Date	Program End Date
Large Courts	Alameda	\$14,359,400	\$12,579,192	88%	12/31/2021
	Los Angeles	\$17,296,300	\$15,099,861	87%	6/30/2022
	Sacramento	\$9,553,041	\$9,553,041	100%	6/30/2022
Large Court Subtotal:		\$41,208,741	\$37,232,094	90%	
Medium Courts	San Joaquin	\$3,725	\$2,350	63%	6/30/2022
	San Mateo	\$6,169,300	\$5,128,046	83%	6/30/2022
	Santa Barbara	\$1,593,000	\$1,343,667	84%	12/31/2021
	Sonoma	\$5,747,202	\$5,747,202	100%	9/30/2021
	Tulare	\$3,671,400	\$3,162,563	86%	6/30/2022
	Ventura	\$3,687,000	\$3,419,804	93%	9/30/2021
Medium Court Subtotal:		\$20,871,626	\$18,803,632	90%	
Small-Medium Courts	Kings	\$1,110,046	\$791,391	71%	6/30/2022
	Napa	\$1,677,543	\$1,546,348	92%	12/31/2021
	Nevada-Sierra	\$329,717	\$258,731	78%	6/30/2022
Small-Medium Court Subtotal:		\$3,117,306	\$2,596,470	83%	
Small Courts	Calaveras	\$528,743	\$440,601	83%	6/30/2022
	Modoc	\$744,000	\$584,127	79%	6/30/2022
	Tuolumne	\$587,965	\$518,438	88%	6/30/2022
	Yuba	\$841,300	\$719,148	85%	6/30/2022
Small Court Subtotal:		\$2,702,008	\$2,262,314	84%	
TOTAL:		\$67,899,682	\$60,894,510	90%	

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).

Table 2. Pilot Court Expenditure by Court Size

	Total Award	Funds Spent or Encumbered	% Spent or Encumbered
Large Courts	\$41,208,741	\$27,247,575	66%
Medium Courts	\$20,871,627	\$14,314,536	69%
Small-Medium Courts	\$3,117,306	\$1,802,943	58%
Small Courts	\$2,702,008	\$1,896,583	70%
TOTAL	\$67,899,682	\$45,261,637	67%

Appendix C: Pilot Court Data Reporting Date Ranges

County	Start Date	End Date
Alameda	1/21/2020	3/30/2021
Calaveras	10/10/2019	3/30/2021
Kings	3/16/2020	3/30/2021
Los Angeles	3/23/2020	3/30/2021
Modoc	4/9/2020	3/30/2021
Napa	1/1/2020	3/30/2021
Nevada	5/1/2020	3/30/2021
Sacramento	10/22/2019	3/30/2021
San Joaquin	10/1/2019	3/30/2021
San Mateo	1/27/2020	3/30/2021
Santa Barbara	1/1/2020	3/30/2021
Sonoma	10/1/2019	3/30/2021
Tulare	1/2/2020	3/30/2021
Tuolumne	6/30/2020	3/30/2021
Ventura	10/3/2019	3/30/2021
Yuba	1/2/2020	3/30/2021

Note: Data date ranges vary based on pilot implementation dates and available data. Data reporting end dates represent the latest data collection date for this report; however, data for many counties ends at an earlier date.