Judicial Council *of* California

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-006
For business meeting on: May 12, 2023

Title
Pretrial Release: Year 1 Report to the Legislature, 2023

Rules, Forms, Standards, or Statutes Affected
None

Recommended by
Judicial Council staff
Francine Byrne, Director
Criminal Justice Services

Agenda Item Type
Action Required

Effective Date
May 12, 2023

Date of Report
April 21, 2023

Contact
Deirdre Benedict, Supervising Analyst
415-865-7543
Deirdre.benedict@jud.ca.gov

Executive Summary

The Budget Act of 2021 (Senate Bill (SB) 129, Skinner, Stats. 2021, ch. 69) allocated $140 million to the Judicial Council to fund the implementation and operation of ongoing court programs and practices that promote safe, efficient, fair, and timely pretrial release of individuals booked into jail. The Judicial Council is required to submit annual reports on program progress. Criminal Justice Services staff recommend that the Judicial Council approve the *Pretrial Release: Year 1 Report to the Legislature, 2023* and direct the Acting Administrative Director to submit it to the Legislature, as required under SB 129. The report documents the Pretrial Release Program activities of the Judicial Council and the courts in the initial year of the program.

Recommendation

Criminal Justice Services staff recommend that the Judicial Council, effective May 12, 2023:

1. Approve *Pretrial Release: Year 1 Report to the Legislature, 2023*; and

2. Direct the Acting Administrative Director to submit this report to the Legislature on or before July 1, 2023, as required by Senate Bill 129.

This legislatively mandated report is included as Attachment A.

Relevant Previous Council Action

In October 2021, the Judicial Council approved the allocation methodology to support the Pretrial Release Program implementation and operation for all trial courts for fiscal years 2021–22 and 2022–23.[1] There has been no other Judicial Council action taken related to the program set forth in SB 129; however, the council previously acted on the Pretrial Pilot Program that was implemented through the Budget Act of 2019 (Assembly Bill 74, Ting, Stats. 2019, ch.23) and laid the foundation for the statewide expansion of the program. The Judicial Council received and submitted to the Legislature five Pretrial Pilot Program reports and one report on mitigating bias in pretrial processing.[2]

Analysis/Rationale

In the Budget Act of 2019, the Legislature funded and authorized the Judicial Council to develop, implement, and assess a pretrial pilot program. This pilot was geared towards increasing the safe and efficient release of arrestees before trial by using the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances. The pilot program informed the Legislature's decision to implement the Pretrial Release Program statewide in the Budget Act of 2021, and the Judicial Council was directed to fund the implementation and operation of ongoing trial court pretrial programs and practices in all 58 of California's trial courts. The purpose of the program, as set by the Legislature, is to support (1) judicial officers in making pretrial release decisions that impose the least restrictive conditions to address public safety and return to court; and (2) the implementation of appropriate monitoring practices and provisions for released individuals.

This is the first legislatively mandated report on the Judicial Council's Pretrial Release Program. The report describes the first year of initial implementation, expenditures, and activities carried out from July 2021 through June 2022. It presents preliminary data on booking, release, and demographic characteristics of arrestees. The report also summarizes Judicial Council support for all 58 trial courts to comply with the legislative requirements through training and education, data collection and analyses, and financial tracking. It provides background on the program and its authorizing legislation and describes the allocation methodology used to distribute funding to the courts. It describes court activities including the

---

[1] Judicial Council of Cal., Judicial Branch Budget Com. Rep., *Allocations and Reimbursements to Trial Courts: Pretrial Release Funding and Allocation Methodology* (July 22, 2022) (circulated as CO-22-04), *https://jcc.legistar.com/View.ashx?M=A&ID=990216&GUID=06D10A3C-ACA7-4A95-A2D0-C04D6FBA3BF6.*

[2] Pretrial Pilot Program reports: *www.courts.ca.gov/documents/Pretrial-Pilot-Program-Leg-Report_Jan-2020.pdf*; *www.courts.ca.gov/documents/Pretrial-Pilot-Program-Leg-Report_July-2020.pdf*; *www.courts.ca.gov/documents/Pretrial_Pilot_Program_Leg_Report_January_2021.pdf; www.courts.ca.gov/documents/lr-2021-pretrial_pilot_program_Legislative_Report_July-2021.pdf*; *www.courts.ca.gov/documents/lr-2022-pretrial-pilot-program-2022-BA-2019.pdf*. Bias Mitigation in Pretrial Processing, https://www.courts.ca.gov/documents/lr-2023-bias-mitigation-pretrial-processing-PEN-1320.35.pdf.

implementation of pretrial risk assessment tools and court reminder systems. The report also identifies program challenges encountered and innovative usage of funding in some jurisdictions.

Policy implications
There are no policy implications associated with this annual report.

Comments
Comments were not solicited for this annual report.

Alternatives considered
Alternatives were not considered for this annual report.

Fiscal and Operational Impacts

The Budget Act of 2021 allocated a total of $140 million to support the Judicial Council, the courts, and justice system partners in their pretrial release efforts. Spending from the initial year of the project was less than expected due to the COVID-19 pandemic and implementation delays; however, the programs are now operational, and the spending levels are increasing. The Legislature will continue to allocate $70 million annually to support pretrial projects, and the Judicial Council will monitor expenditures and communicate with the courts to ensure the programs are efficient and properly resourced.

Attachments and Links

1. Attachment A: *Pretrial Release: Year 1 Report to the Legislature, 2023*

Pretrial Release Program

YEAR 1 REPORT TO THE LEGISLATURE, 2023

Judicial Council *of* California

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Patricia Guerrero
Chief Justice of California and
Chair of the Judicial Council

Millicent Tidwell
Acting Administrative Director
Judicial Council

OPERATIONS AND PROGRAMS DIVISION

Robert Oyung
Acting Chief Deputy Director and Chief Operating Officer

CRIMINAL JUSTICE SERVICES

Francine Byrne
Director

Martha Wright
Manager

Deirdre Benedict
Supervising Analyst

Amber Larson
Associate Analyst and
Primary Author of Report

TABLE OF CONTENTS

EXECUTIVE SUMMARY **1**

INTRODUCTION **2**

BACKGROUND **2**

THE JUDICIAL COUNCIL'S PRETRIAL RELEASE PROGRAM FUNDING USE AND METHODOLOGY **3**

Allocation Methodology *3*

Funding Floor 4

JUDICIAL COUNCIL PROGRAM ADMINISTRATION ACTIVITIES **4**

Direct Assistance to the Courts *4*

Education and Training *5*

Data Collection and Analyses *5*

Expenditure Tracking *5*

COURT ACTIVITIES **6**

Program Implementation *6*

Initial Court Expenditures *7*

Implementation of Pretrial Risk Assessment Tools *7*

Court Reminder Systems *8*

Preliminary Data *8*

CHALLENGES AND INNOVATIONS **9**

COVID-19 ..... *9*

Data Collection and Sharing *9*

Staffing *10*

Decreased Funding for Pilot Courts *10*

Innovative Use of Funding *10*

Alpine 10

Sonoma 10

San Diego 11

PROGRAM EVALUATION 11

Financial Oversight and Management *11*

Data Collection and Narrative Reporting *11*

Site Visits *11*

CONCLUSION 12

APPENDIX A: PILOT COURTS 13

APPENDIX B: 2021–22 PRETRIAL RELEASE ALLOCATIONS 14

APPENDIX C: TOTAL FUNDING FLOOR ALLOCATIONS FOR SMALL COURTS 16

APPENDIX D: EXPENDITURES 17

APPENDIX E: BOOKING DEMOGRAPHIC DATA COLLECTED 18

Executive Summary

To support timely and equitable access to justice, the judicial branch implemented its pretrial release program in the following two phases:

1. The Pretrial Pilot Program (Pilot Program) provided one-time funding for the implementation or expansion of pretrial services in 17 courts through the Budget Act of 2019. The Judicial Council will submit a report to the Legislature on the Pilot Program in July 2023.

2. The Pretrial Release Program (Program) provided ongoing funding for all of California's courts for pretrial program implementation, continuation, or expansion through the Budget Act of 2021. Courts that were not part of the Pilot Program received one-time implementation money as well as ongoing funding.

The Pretrial Release Program is the focus of this report.

The amended Budget Act of 2021 (Sen. Bill 129; Skinner, Stats. 2022, ch. 69), provided ongoing funding to the trial courts for the "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." This Pretrial Release Program builds upon the work of the Pretrial Pilot Program mentioned above.

This is the first legislatively mandated report on the council's Pretrial Release Program. During the initial reporting period, pilot courts used funding from SB 129 to transition their pretrial operations to ensure they extend beyond the pilot and comply with the requirements of the budget bill language. Nonpilot courts worked towards the implementation and operation of the Program. All courts reported financial and programmatic activities to the council as required.

This report presents information on the first year of initial implementation, expenditures, and activities carried out between July 2021 and June 2022, as well as data on booking and release outcomes and demographic characteristics of individuals who were arrested. The report summarizes the outreach, training and education, and data collection activities provided to the courts by the Judicial Council. It provides background on the Program and the authorizing legislation and describes the allocation methodology used to distribute funding to the courts. It summarizes court activities including the implementation of risk assessment tools, court reminder systems, expenditure tracking, challenges encountered, and innovative usages of funds.

Introduction

In an effort to support timely and equitable access to justice, California, like much of the nation, has been addressing issues related to pretrial detention and release. The judicial branch implemented its pretrial release program in two phases:

1. The Pretrial Pilot Program (Pilot Program) provided one-time funding for the implementation or expansion of pretrial services in 17 courts. The Legislature authorized funding for the Pilot Program from July 2019 through December 2022. The Judicial Council will submit a report to the Legislature evaluating the Pilot Program in July 2023.[1]

2. The Pretrial Release Program (Program) provided ongoing funding for all of California's courts for pretrial program implementation, continuation, or expansion beginning in July 2021. Courts that were not part of the Pilot Program received one-time implementation money as well as ongoing funding.

The Pretrial Release Program is the focus of this report.

The Budget Act of 2021 (SB 129) allocated $140 million to the Judicial Council 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."[2] The Pretrial Release Program expands upon the Pretrial Pilot Program funded through the 2019 Budget Act (Assem. Bill 74; Ting, Stats. 2019, ch. 23). The Judicial Council administers the Program through the allocation and expenditure tracking of funding to all 58 trial courts, the development and execution of a training and technical assistance program, and the collection and analyses of data to evaluate the Program.

This report fulfills the SB 129 requirement to submit an annual report to the Legislature beginning in July 2023. This report includes background on the Program and its authorizing legislation, describes the allocation methodology used to distribute funding to the courts, summarizes council support and court activities, identifies Program challenges and innovations, and describes evaluation plans in the first year of the Program.

Background

The Budget Act of 2019 funded the Pilot Program and allowed for implementation in 17 pilot courts. The Pilot Program goals were to increase the safe and efficient release of individuals before trial, use the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances, validate and expand the use of pretrial risk assessment tools, and assess any bias in the tools.[3] The Legislature created the statewide expansion of the Pilot

[1] A map displaying the 17 pilot court programs can be found in Appendix A.
[2] Sen. Bill 129 (Stats. 2021, ch. 69, item 0250-101-0001, provision 9).
[3] Assem. Bill 74 (Stats. 2019, ch. 23, item 0250-101-0001, provisions 8–17).

Program through the Budget Act of 2021, which provided ongoing funding to all the courts to implement or expand their pretrial programs in their respective jurisdictions. Information gathered and lessons learned during the Pilot Program have informed the implementation and ongoing administration of the Program.

The Judicial Council's Pretrial Release Program Funding Use and Methodology

The purpose of the Program, as set forth in the legislation, is to support:

- Judicial officers in making pretrial release decisions that impose the least restrictive conditions to address public safety and return to court; and
- Implementation of appropriate monitoring practices and provision of services for released individuals.

All trial courts were granted $70 million in ongoing funding for the Program beginning in fiscal year (FY) 2021–22; nonpilot courts were also provided a one-time implementation allocation of an additional $70 million. In accordance with SB 129, funding may be used for a variety of activities, including costs associated with judicial officer pretrial release decisions, basic aggregate-level data sharing capabilities, court reminder systems, ability-to-pay assessments, supportive services, and monitoring practices. Funds may also be used for any related pretrial decisionmaking tools that address public safety, appearance in court, and the efficient and fair administration of justice.

Allocation Methodology

The Judicial Council is responsible for distributing the allocations using both one-time and ongoing funding formulas identified by the Legislature based on an allocation methodology approved by the council at its October 2021 meeting.[4] (Please see Appendix B for 2021–22 Pretrial Release Allocations.)

SB 129 specifies two formulas for the Judicial Council to use in distributing Program funding:

- ***One-time implementation funding for non-Pretrial Pilot Program courts***
  In FY 2021–22, $70 million was distributed to the courts that did not receive Pilot Program funding to support implementation and Program startup activities, with funding allocated to the courts based on each county's relative proportion of the state's 18 to 25 years of age population. The funds are available for encumbrance or expenditure for three fiscal years, until June 30, 2024.
- ***Ongoing annual funding for all courts***

[4] Judicial Council of Cal., Advisory Com. Rep., *Allocations and Reimbursements to Trial Courts: Pretrial Release Funding and Allocation Methodology* (Oct. 1, 2021), https://jcc.legistar.com/LegislationDetail.aspx?ID=5072889&GUID=69326281-6CA2-4571-B97B-1938646C2FDB.

The Judicial Council was mandated to distribute $70 million in funding to *all* trial courts based on each county's relative proportion of the state's 18 to 25 years of age population. All ongoing funds allocated through SB 129 must be expended or encumbered by the end of the fiscal year (June 30) in which they are allocated.

Funding Floor

A minimum funding floor of $200,000 was recommended and approved for both funding formulas in FY 2021–22 and FY 2022–23. This floor is to ensure that small and medium courts have the resources necessary to comply with the legislation despite having relatively small populations. The appropriate funding floor was identified based on an analysis of planned budgets and actual spending by small courts participating in the Pilot Program and is equivalent to the floor used in similar programs.[5] (Please see Appendix C for Total Funding Floor Allocations for Small Courts.)

Judicial Council Program Administration Activities

The Judicial Council retains approximately $1 million annually (the equivalent of 5 percent of the funding that may be retained by the trial courts) to assist with implementing, supporting, and evaluating the Program. Council staff conduct ongoing basic aggregate data collection and reporting activities and provide courts and their justice system partners with program management and implementation support, financial oversight, and educational opportunities. Additional detail on council activities is presented below.

Direct Assistance to the Courts

Judicial Council staff assist all 58 trial courts in their compliance with requirements set forth by SB 129. Staff distributed a Pretrial Program Guidance Memo and hosted a webinar describing court reporting responsibilities.[6] Courts were encouraged to share this document with their pretrial service providers to ensure partners were aware of the requirements of the Program.

Staff provided guidance to the courts about recent bail-related case law, including *In re Humphrey* (2021) 11 Cal.5th 135 and *In re Brown* (2022) 76 Cal.App.5th 296. Staff coordinated a webinar presented to judicial officers and hosted by Judge Richard Couzens (Ret.), Superior Court of Placer County, and Judge Lisa Rodriguez, Superior Court of San Diego County. This webinar reviewed procedures for setting, modifying, and denying bail based on the holdings of *Humphrey* and *Brown*. Judge Couzens authored a memo on *Humphrey* that staff distributed to judicial officers to further support pretrial decisionmaking. The webinar and related materials were made available to judicial officers directly on the Judicial Resources Network, the intranet of the California judicial branch. The Judicial Council held office hours to answer questions

[5] The California Community Corrections Performance Incentives Act of 2009 (SB 678), *https://www.courts.ca.gov/documents/lr-2022-CA_Community_Corrections_Performance_Incentives_Act_2022_Penal-Code-1232.pdf.*

[6] Materials, including the memorandum, for the webinar were posted on the Judicial Resources Network, an internal judicial branch website accessible by the courts.

from courts and created a comprehensive frequently asked questions document for ongoing inquiries regarding the Program.

Education and Training

Staff hosted several educational programs for the courts during this reporting period. In May 2022, Judicial Council staff held a webinar*, Pretrial Release Funding—Overview of Program Guidance Memorandum*, in which the Program's memorandum was reviewed, and questions were answered regarding the court's role in the Program.

The Judicial Council helped develop and facilitate a virtual, six-part pretrial series hosted by Chief Probation Officers of California in partnership with Advancing Pretrial Policy and Research. The series was designed and attended by probation and court staff, judicial officers, and relevant justice partners. Topics covered best pretrial practices and procedures to produce successful outcomes for individuals on pretrial release. This included procedures before and at arraignment as well as pretrial support and evaluation. These sessions focused on topics such as strategies for reducing failures-to-appear in court, adapting pretrial operations to a virtual environment, research on the efficacy of pretrial release conditions, and pretrial risk assessment validation studies.

Data Collection and Analyses

Data provided for this report was collected between July 1, 2021, and June 30, 2022, and focused on demographic, booking, and release information from the courts and their pretrial partners. Courts submit quarterly data through two different processes to the Judicial Council. The Program requires courts to submit aggregate-level, summary data; whereas the Pilot Program required participating courts to submit individual-level data that enables Judicial Council staff to conduct more sophisticated analyses. Pilot courts are continuing to submit the individual-level data that is aggregated by Judicial Council staff for the purpose of basic reporting.[7] While aggregate-level data satisfies the reporting requirements of the Program, individual-level data can support more detailed analysis.[8] Data collected by the courts is presented in the Court Activities section and Appendix E of this report.

Expenditure Tracking

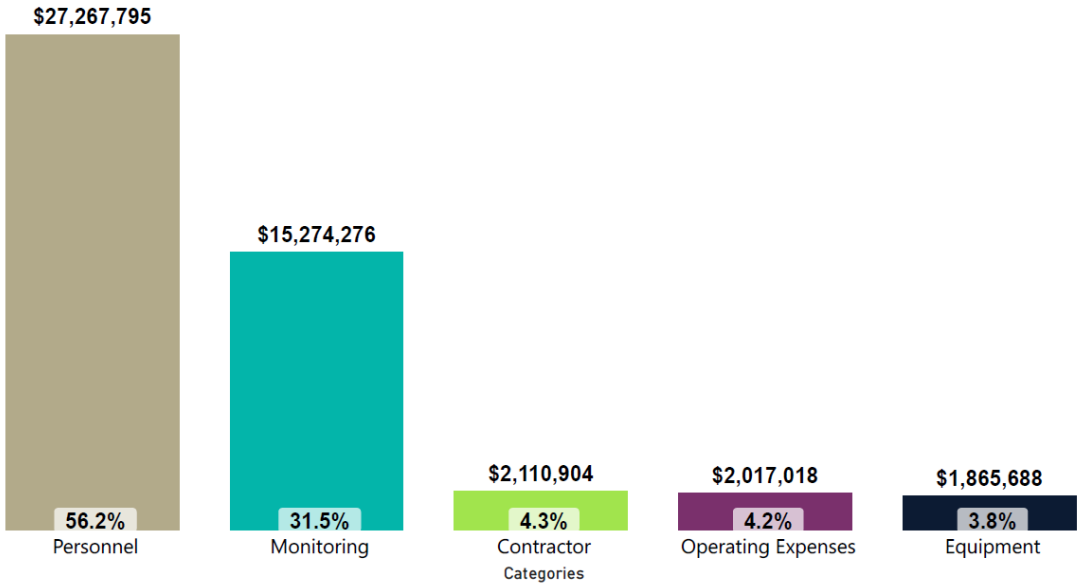
To ensure funding allocations are optimized, the Judicial Council requires the courts to submit itemized projected spending proposals in a budget summary and a program description detailing courts and pretrial service providers' plans for the Program. Judicial Council staff monitor Program expenses. Courts in need of budget modifications worked with Judicial Council staff to

[7] Data submitted by pilot courts is used to fulfill risk assessment tool reporting and validation requirements under SB 36 (Hertzberg; Stats. 2019, ch. 589). See the "Pretrial Release: Risk Assessment Tools (SB 36)" page on the California Courts website: *https://www.courts.ca.gov/sb36.htm*.

[8] While aggregated data reports fulfill mandatory SB 129 reporting requirements on Program activities, individual-level data is better suited for answering analytical questions about Program efficacy and fairness. One nonpilot court (Santa Clara) is transitioning to the submission of individual-level data in FY 2023–24. Other nonpilot courts are encouraged to voluntarily submit individual-level data. Courts that chose to do so will be provided with analyses and tool validation reports created by the Judicial Council.

ensure that changes aligned with Program goals. Per legislation, pretrial service providers are the greatest expender of funds and receive at least 70% of courts' pretrial allocation. The rest of the court funding is largely used for court staffing. A detailed breakdown of the costs associated with the pretrial service provider allocation distribution can be found in Figure 1. The categories used in Figure 1 are defined as follows: (1) personnel consists of salaries and benefits of pretrial service provider staff; (2) monitoring consists of electronic tracking services, Global Positioning Systems (GPS) services, and associated equipment costs; (3) contractors consist of IT contractors, other county contractors, and/or consulting contractors; (4) operating expenses consists of travel costs, supplies costs, and other costs necessary for program operation; and (5) equipment consists of major and minor equipment such as computers and vehicles.

Figure 1. Ongoing Pretrial Service Provider Budget by Category



Court Activities

The Program completed its first fiscal year of operations. Nonpilot courts and their county partners used the first fiscal year of funding to implement and comply with the requirements of the Program. Pilot courts adjusted their policies and procedures as necessary to sustain their programs under SB 129 funding. Trial courts are required to report quarterly to the Judicial Council on their pretrial activities, allocation expenditures, and aggregate data summaries.

Program Implementation

Disbursement of funding to the courts for the Program began in October 2021 after approval by the Judicial Council. Although some courts cited a variety of implementation challenges, all court programs were fully operational with varying degrees of pretrial release services in place by the end of FY 2021–22. Several jurisdictions had locally implemented pretrial programs with varied policies, procedures, and services prior to the passage of SB 129; however, in many cases, these were county-led programs with varying levels of court involvement. SB 129 specifically

called on the courts to be the drivers of the Program in their jurisdictions. As a result, many courts hired staff and instituted more robust court-centered programs. Some courts expanded their programs to include substance use treatment, voluntary mental health treatment, and wraparound services promoting the compliance of people on pretrial release.

Courts were required to contract with county agencies for the administration of pretrial services. All courts contracted with their local probation office with the exception of the Superior Courts of Santa Clara and San Francisco Counties, which contracted with alternative pretrial service providers as permitted by the legislation.[9] Courts report that collaboration with partners is essential in administering the Program and complying with its reporting requirements. Collaboration efforts include convening regular meetings and participating in educational opportunities to strengthen relationships with pretrial service and community-based partners.

Initial Court Expenditures

Courts expended funds during this reporting period in accordance with the eligible expenditures as defined by SB 129. After subcontracting with probation or another pretrial service entity, the courts report staffing to be the bulk of their expenditures. Efforts related to the integration, sharing, and collection of data, and to implement court reminder systems were commonly reported expenses. Some courts and their partners have used funds to add or expand supportive services, such as transportation and housing assistance for individuals released on the Program.

At the time of this report, the Judicial Council has disbursed 100 percent of the $140 million allocated to the courts. Of these disbursements, approximately 11 percent of one-time and 22 percent of ongoing funding has been spent by the courts, in accordance with the court budgets approved by Judicial Council staff. Courts encountered delays in program implementation, largely related to residual impacts of the COVID-19 pandemic. At the beginning of the Program, courts received the full allocation of funds and contracted with their pretrial service providers. Courts reported invoice submission delays from pretrial service providers due to staffing issues recognized throughout the state. Collectively, these issues caused delays in court spending. (Please see Appendix D for Expenditures.) Despite delays, programs have now been implemented in all counties and it is expected that spending will be at anticipated levels in subsequent years.

Implementation of Pretrial Risk Assessment Tools

The Program provided funding to enable any county in the state to implement the use of a pretrial risk assessment tool to provide information to judicial officers making pretrial detention and release decisions. Pretrial risk assessment tools use actuarial algorithms to assess the likelihood that an arrested person will fail to appear in court as required or will commit a new offense during the pretrial period. Actuarial algorithms use data to identify factors associated with the target outcome and assign them points based on the strength of the association. These

[9] Senate Bill 129 specifically provides that the Superior Court of Santa Clara County may contract with the Office of Pretrial Services in that county, and that the Superior Court of San Francisco County may contract with the Sheriff's Office and the existing not-for-profit entity that is performing pretrial services in the city and county for pretrial assessment and supervision services.

points are one factor that judicial officers can use in their decisionmaking while they evaluate the potential risk of releasing arrested individuals, and determine the need for and level of supervision.

The courts worked with justice system partners to select validated tools that met their local needs, and several tools are in use throughout the state, including Public Safety Assessment (used or being implemented in 27 counties); Virginia Pretrial Risk Assessment Instrument, including revised versions (used in 14 counties); or Ohio Risk Assessment System (used in 15 counties). One court uses a locally created and validated tool, and the remaining court is in the process of identifying and implementing a validated tool for the program.

Court Reminder Systems

Individuals on pretrial release are responsible for coming to court for their hearings. Most counties developed systems to remind people of their hearing dates and times. Some courts developed automated systems, while others (mainly smaller courts) relied upon staff to make reminder phone calls, texts, or emails. Of the courts that have not implemented a court reminder system, reporting shows that plans are being made to include these services in the future.[10]

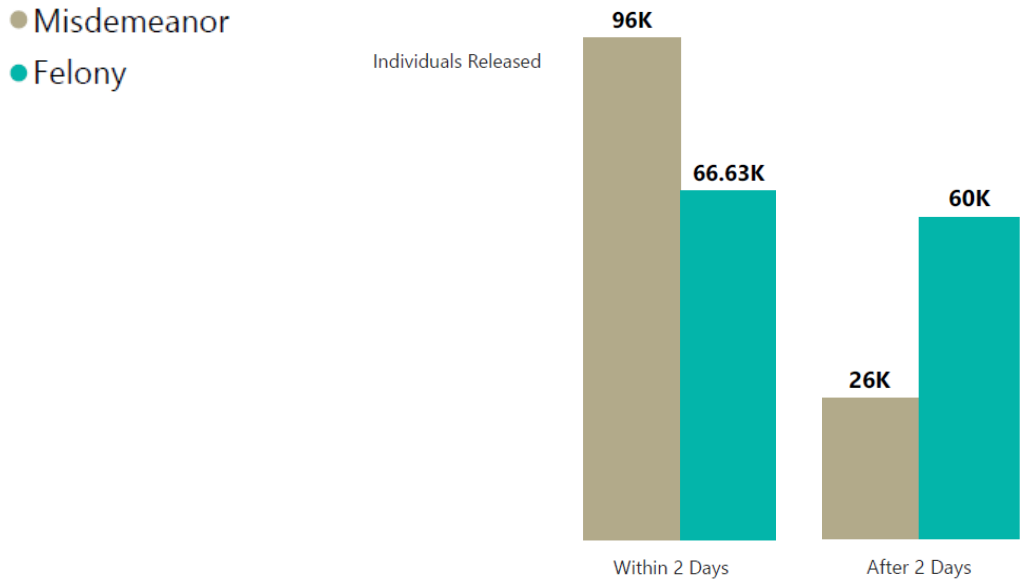
Preliminary Data

To fully understand the context in which the pretrial programs are operating, courts provide data on all jail bookings in the county. In year one, quarterly data reports aggregated specific demographic values, booking, and release information. (See Appendix E for a detailed look at the age, gender, and race of individuals booked into county jails across the state.)

Courts provided data on individuals released within two days of arrest, and after two days of arrest as a proxy for determining those released prearraignment versus those released at or after arraignment. This is a rough estimation, and caution should be exercised in making general inferences from this data. Figure 2 displays the number of individuals booked and their release status in FY 2021–22. Of the 425,774 bookings reported by the courts, 162,521 individuals were released within two days of booking. Further, 177,301 individuals were not released, and that number includes individuals held on warrants, ineligible for release, and/or those who have not posted bail, and individuals released after the data submission date.

[10] Court reminder systems have been proven to increase appearance rates for individuals on pretrial release. Studies indicate court reminder systems can decrease failure-to-appear rates by 26 percent, with corresponding reductions in court costs associated with failures-to-appear. Cost analysis in one study in Multnomah County, Oregon, determined the net estimated costs avoided were as much as $264,000 in six months of program implementation. Multnomah County, *Court Appearance Notification System: Process and Outcome Evaluation* (Mar. 2006), p. 1, *https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/budget/documents/12_cans.pdf*.

Figure 2. Breakdown of Releases



Challenges and Innovations

Courts and their pretrial service providers reported challenges and program innovations during the implementation and initial operation of the Program. Listed here are the most common challenges and innovations reported during the first fiscal year of the Program.

COVID-19

Courts reported that state and local responses to the COVID-19 pandemic—including changes in arrest patterns and the implementation of a zero-bail policy—continued to cause population eligibility disruptions. Public health concerns impacted arrest patterns, and arrest rates were affected by the statewide response and citizen mobility related to the COVID-19 pandemic.[11] As a public health measure in response to COVID-19, the Judicial Council adopted a statewide emergency bail schedule in mid-April 2020, setting presumptive bail at $0 for most misdemeanors and lower-level felonies. Local continuations of $0 or reduced bail skewed data and the courts' initial arraignment procedures and decisions under the Program. Thirty-one courts continued the zero-bail policy voluntarily after the order was lifted on June 20, 2020, affecting the courts' ability to assess people who may have been eligible for pretrial services.

Data Collection and Sharing

Courts reported that all justice partners involved in data collection and sharing encountered challenges making the necessary changes to their case management systems. Courts are using SB 129 funds to update their case management systems and are working with their IT staff to

[11] Premkumar, Sloan, Lofstrom, Hayes, "Assessing the Impact of COVID-19 on Arrests in California," *Public Policy Institute of California* (Feb. 2023), www.ppic.org/publication/assessing-the-impact-of-covid-19-on-arrests-in-california/.

develop comprehensive data collection and sharing systems. Courts continue to have conversations with their justice partners to support the continuity of data collection and compliance for data reporting requirements under SB 129.

Staffing

Most courts reported challenges in hiring and/or funding staff to fill the needs of their Program. Courts reported that pretrial release service providers struggled to recruit and train qualified personnel, and some courts reported that pretrial staff experienced extensive workloads causing programmatic adjustments. These staffing challenges are reflective of state and national trends related to employment after the COVID-19 pandemic. During this reporting period, the state experienced more job openings than unemployment.[12] Most courts and justice partners continue to search and recruit for vacant positions.

Decreased Funding for Pilot Courts

Most pretrial pilot courts were forced to downsize their programs or source funding from county agencies due to the decreased funding allocated under SB 129, as compared to funding allocated under the Pilot Program. In some cases, courts and their county partners redesigned their pretrial programs to operate at a greatly reduced cost and capacity by decreasing staff and increasing technological efficiency. This caused disruptions in supervision, decreasing the number of people being supervised pretrial. Some pilot counties redirected their efforts to supervise their highest-risk populations and scaled back services for those on own-recognizance release.

Innovative Use of Funding

Some courts have reported innovative usage of funds with the intent to promote public safety through connecting individuals released pretrial with voluntary supportive services. Examples of these funding innovations in a small, medium, and large county are presented below.

Alpine

Alpine County is the smallest county and court in California. With Program funding, this court contracted with probation to fund behavioral health treatment services that may improve individuals' ability to appear in court as scheduled, such as in-patient and out-patient mental health and substance use disorder treatment for individuals on pretrial release. Individuals that were deemed too risky for pretrial release or present with behavioral health needs may receive appropriate secondary assessments and receive additional services based on assessment results. Due to the size of the county, the court contracted with surrounding counties' qualified service providers.

Sonoma

Sonoma is a midsize county and court in California. The Superior Court of Sonoma County is using funds to conduct data analyses focused on examining and addressing potential racial,

[12] Bohn, Mejia, Hsieh, Lafortune, "A Tight Labor Market: Challenges for Business, Opportunities for Workers?," (blog) *Public Policy Institute of California* (Nov. 21, 2022), *www.ppic.org/blog/a-tight-labor-market-challenges-for-business-opportunities-for-workers/*.

ethnic, and gender bias in the pretrial system. Through data collection and analyses funded by SB 129, the Sonoma court plans to meet the needs of its pretrial population and address any bias identified within its Program.

San Diego
San Diego is one of the largest counties and courts in California. In FY 21-22, the Superior Court of San Diego County began developing a plan to require individuals on pretrial release to meet directly with their pretrial service provider for a secondary evaluation and needs assessment after release. When implemented, this needs assessment will identify community service or treatment needs, and referrals to appropriate services will be made for the individual. For example, individuals on pretrial release with mental health needs will have access to an onsite mental health clinician. Peer support services are being created to improve communication and collaboration and provide individuals on pretrial release with a community-based support system.

The court collaborated with county agencies to co-locate services for individuals on pretrial release. When visiting these offices, individuals on pretrial release will be met with phone charging ports, connections to community services, access to treatment providers, and referrals to other community agencies. Operation of this service is anticipated by FY 2023–24.

Program Evaluation

The Judicial Council is responsible for fund allocation, programmatic oversight, and evaluation of the Program funded by SB 129. Council staff work with courts to collect information on their programs through financial oversight and management, qualitative and quantitative data collection, and site visits, as described below.

Financial Oversight and Management
To oversee and manage fiscal activities of the Program, council staff require the courts to submit an annual budget detail sheet and a budget justification narrative. Judicial Council staff review expenditures quarterly and use data visualization tools and dashboards to monitor, track, and display the courts' progress. These tools are made available to courts interested in tracking their own progress.

Data Collection and Narrative Reporting
In the second year of the Program, courts will continue to submit quarterly reports to provide an overview of their programs. The quarterly reports have been updated to include additional Program details from the courts and modified to clarify release data and include data points from pretrial service providers. All data collected from pilot and nonpilot courts will continue to be aggregated for Program analysis.

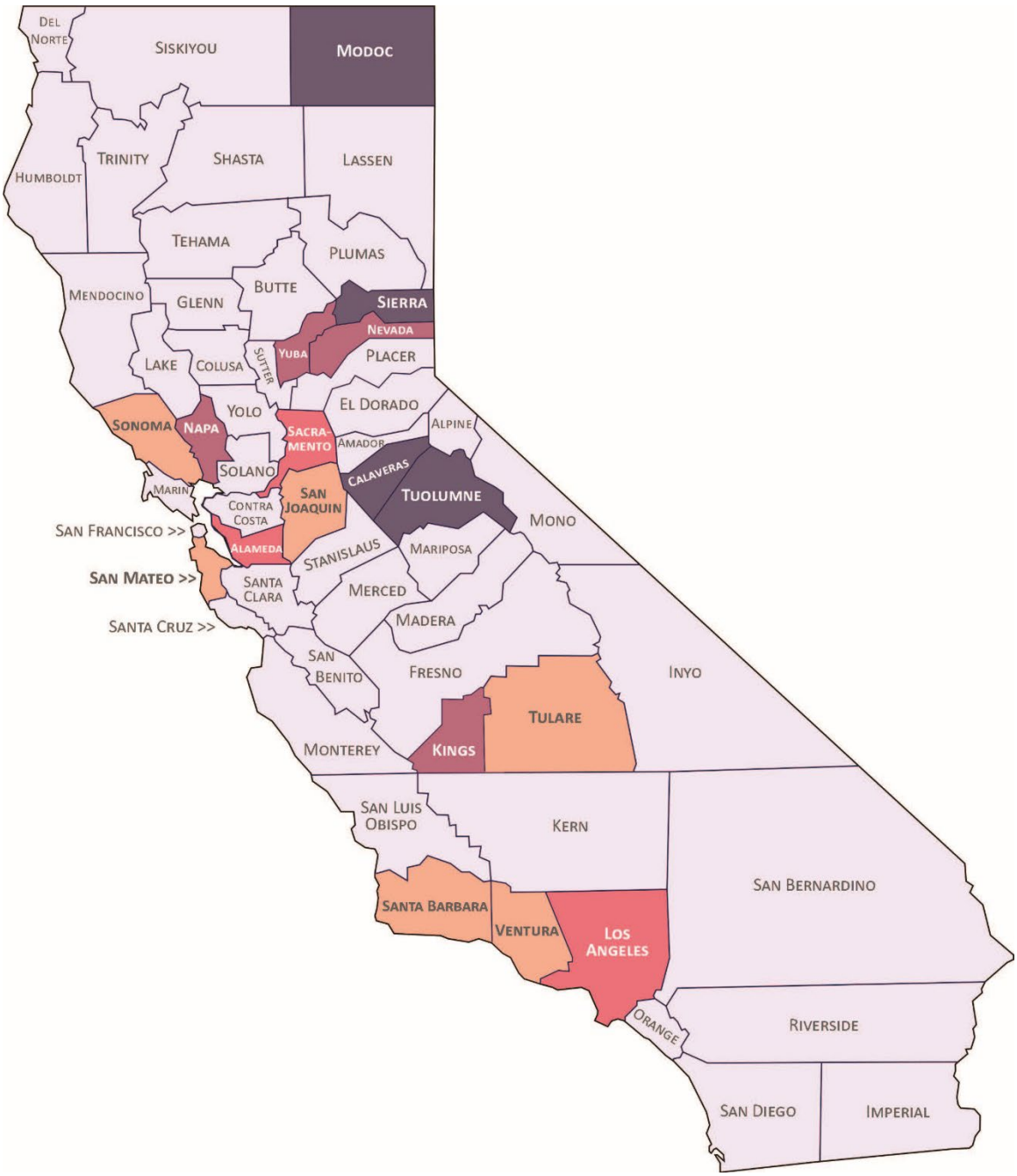
Site Visits
During the first Program year, council staff did not conduct in-person site visits due to COVID-19 restrictions across the state. In the second year, staff will conduct site visits to observe the proceedings of the courts' Programs and their pretrial partners' activities. Site visits will allow

staff to observe the Program from an operational level and support collaboration between the council and court staff. They will aid in the identification of best practices and provide a forum to discuss and address program challenges.

Conclusion

Courts continue to conduct their operations in compliance with the goals and requirements of the Program, as outlined by the Legislature. Although implementation has been slower than anticipated due to COVID-19–related delays, with the continued support of the Legislature, courts will pursue best practices and procedures to reduce the number of individuals incarcerated who have not been convicted of a crime and to preserve public safety. The next legislative report on the Pretrial Release Program is due in July 2024.

Appendix A: Pilot Courts



Appendix B: 2021–22 Pretrial Release Allocations

All Courts	One-Time Allocation	Ongoing Allocation	Total Allocation
Alameda		$2,424,169.00	$2,424,169.00
Alpine	$200,000.00	$200,000.00	$400,000.00
Amador	$200,000.00	$200,000.00	$400,000.00
Butte	$1,040,835.00	$568,879.00	$1,609,714.00
Calaveras		$200,000.00	$200,000.00
Colusa	$200,000.00	$200,000.00	$400,000.00
Contra Costa	$2,972,504.00	$1,624,651.00	$4,597,155.00
Del Norte	$200,000.00	$200,000.00	$400,000.00
El Dorado	$431,072.00	$235,606.00	$666,678.00
Fresno	$3,152,051.00	$1,722,784.00	$4,874,835.00
Glenn	$200,000.00	$200,000.00	$400,000.00
Humboldt	$549,091.00	$300,111.00	$849,203.00
Imperial	$578,636.00	$316,259.00	$894,895.00
Inyo	$200,000.00	$200,000.00	$400,000.00
Kern	$2,905,466.00	$1,588,011.00	$4,493,477.00
Kings		$289,658.00	$289,658.00
Lake	$200,000.00	$200,000.00	$400,000.00
Lassen	$200,000.00	$200,000.00	$400,000.00
Los Angeles		$16,959,835.00	$16,959,835.00
Madera	$476,671.00	$260,529.00	$737,200.00
Marin	$535,380.00	$292,617.00	$827,997.00
Mariposa	$200,000.00	$200,000.00	$400,000.00
Mendocino	$206,368.00	$200,000.00	$406,368.00
Merced	$966,927.00	$528,483.00	$1,495,410.00
Modoc		$200,000.00	$200,000.00
Mono	$200,000.00	$200,000.00	$400,000.00
Monterey	$1,389,290.00	$759,330.00	$2,148,620.00
Napa		$211,133.00	$211,133.00
Nevada		$200,000.00	$200,000.00
Orange	$9,345,068.00	$5,107,638.00	$14,452,705.00
Placer	$911,479.00	$498,178.00	$1,409,657.00
Plumas	$200,000.00	$200,000.00	$400,000.00
Riverside	$7,518,215.00	$4,109,153.00	$11,627,368.00
Sacramento		$2,298,378.00	$2,298,378.00
San Benito	$200,000.00	$200,000.00	$400,000.00
San Bernardino	$7,183,250.00	$3,926,075.00	$11,109,325.00

All Courts	One-Time Allocation	Ongoing Allocation	Total Allocation
San Diego	$10,980,689.00	$6,001,602.00	$16,982,291.00
San Francisco	$1,965,994.00	$1,074,533.00	$3,040,528.00
San Joaquin		$1,253,873.00	$1,253,873.00
San Luis Obispo	$1,365,825.00	$746,505.00	$2,112,330.00
San Mateo		$980,104.00	$980,104.00
Santa Barbara		$1,221,093.00	$1,221,093.00
Santa Clara	$5,197,369.00	$2,840,673.00	$8,038,042.00
Santa Cruz	$1,293,278.00	$706,854.00	$2,000,132.00
Shasta	$443,611.00	$242,460.00	$686,072.00
Sierra		$200,000.00	$200,000.00
Siskiyou	$200,000.00	$200,000.00	$400,000.00
Solano	$1,244,196.00	$680,027.00	$1,924,223.00
Sonoma		$714,244.00	$714,244.00
Stanislaus	$1,644,899.00	$899,036.00	$2,543,935.00
Sutter	$266,756.00	$200,000.00	$466,756.00
Tehama	$200,000.00	$200,000.00	$400,000.00
Trinity	$200,000.00	$200,000.00	$400,000.00
Tulare		$820,183.00	$820,183.00
Tuolumne		$200,000.00	$200,000.00
Ventura		$1,390,308.00	$1,390,308.00
Yolo	$1,385,078.00	$757,028.00	$2,142,107.00
Yuba		$200,000.00	$200,000.00
		Total:	**$137,900,000.00**

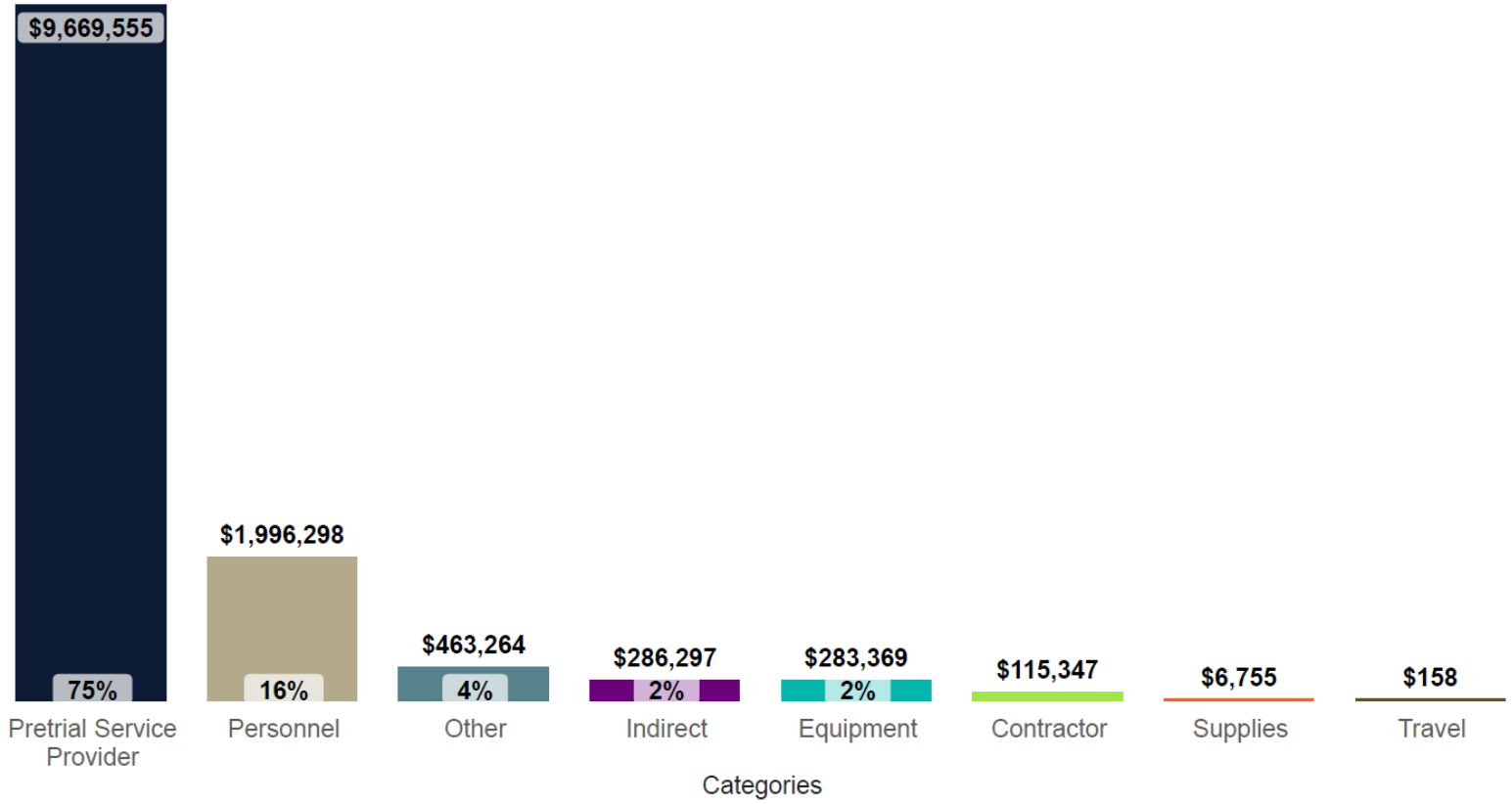
Appendix C: Total Funding Floor Allocations for Small Courts

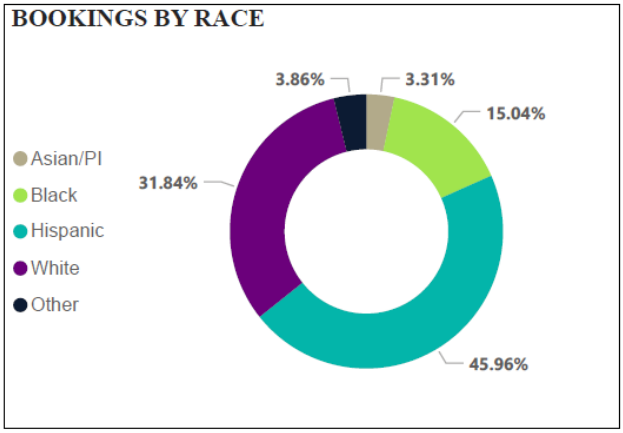
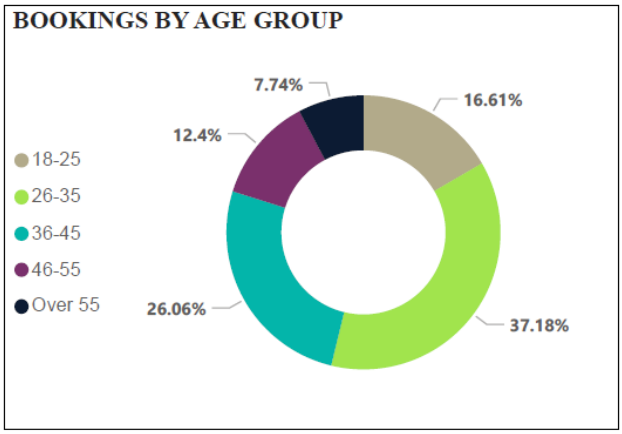
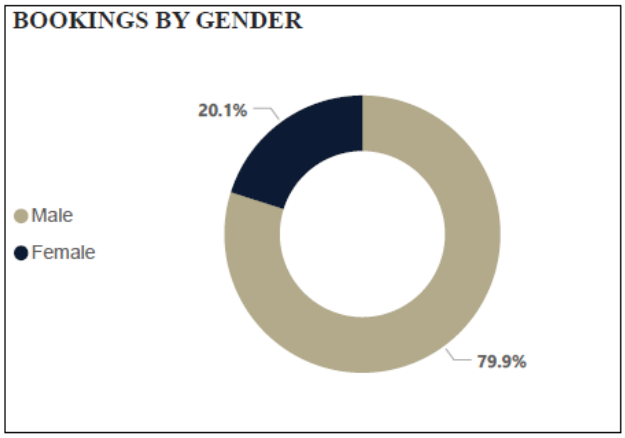
(One-time and ongoing funds combined)

Courts	Funding Floor Allocation	Nonfunding Floor Allocation	Overall Expenditure	Nonfloor % Expended
Alpine	$400,000.00	$3,451.00	$43,421.00	1258.22%
Amador	$400,000.00	$116,049.00	$0.00	
Calaveras	$400,000.00	$51,949.00	$0.00	
Colusa	$400,000.00	$98,187.00	$0.00	
Del Norte	$400,000.00	$97,984.00	$101,616.00	103.71%
Glenn	$400,000.00	$128,886.00	$136,365.00	105.80%
Inyo	$400,000.00	$59,065.00	$0.00	
Lake	$400,000.00	$221,695.00	$180,397.00	81.37%
Lassen	$400,000.00	$182,724.00	$160,926.00	88.07%
Mariposa	$400,000.00	$48,104.00	$3,354.00	6.97%
Mendocino	$400,000.00	$118,581.00	$8,950.00	7.55%
Modoc	$400,000.00	$7,551.00	$57,249.00	758.16%
Mono	$400,000.00	$86,872.00	$94,237.00	108.48%
Nevada	$400,000.00	$111,813.00	$107,754.00	96.37%
Plumas	$400,000.00	$53,990.00	$690.00	1.28%
San Benito	$400,000.00	$291,263.00	$48,169.00	16.54%
Sierra	$400,000.00	$2,511.00	$193,375.00	7701.12%
Siskiyou	$400,000.00	$150,198.00	$18,347.00	12.22%
Sutter	$400,000.00	$153,281.00	$0.00	
Tehama	$400,000.00	$243,768.00	$195,156.00	80.06%
Trinity	$400,000.00	$34,860.00	$28,519.00	81.81%
Tuolumne	$400,000.00	$68,307.00	$200,077.00	292.91%
Yuba	$400,000.00	$131,901.00	$41,163.00	31.21%

Appendix D: Expenditures

Total Actuals by Category



All categories, except Pretrial Service Provider, are court-related categories.

Appendix E: Booking Demographic Data Collected