

2023-11-07 CC AGENDA PACKET
PUBLIC COMMUNICATION RELATED TO ITEM I18 - LOS ANGELES COUNTY LAWSUIT

From: David Holop <dholop@gmail.com>
Sent: Tuesday, November 7, 2023 2:19 PM
To: ALL ELECTED OFFICIALS <ALLELECTEDOFFICIALS@elsegundo.org>
Subject: Public Comment re: Item I.18

Dear City Council and City Attorney,

I'm writing tonight in regards to Item I.18, the City Attorney Report on the "Update Regarding Los Angeles County Lawsuit ... Challenging the New 'zero/no-bail' Policy Regarding Alleged Criminal Violations in Los Angeles County."

I'm a 10-year El Segundo resident, parent, attorney, small business owner, and member of SEA Change. I spoke at the September 19th City Council meeting about the issues with the comments made at the September 5th City Council meeting on the bail policy, and I write here as follow-up to strongly express my opposition to the City joining the referenced lawsuit.

While I understand the political considerations there may be in joining this lawsuit to satisfy the "feelings" of residents that this policy is bad and contributing to "rising crime" (another falsehood not borne out by the data), I implore you to look at the evidence and do the right thing, and if your residents are expressing those feelings to you, try to educate them, rather than assuage their unfounded fears and continue down this route that does not help actually solve the larger issues regarding crime and its underlying causes, and will not improve the quality of life in our City and in our broader community.

The LA Superior Court held a press conference on Monday 10/30 to release data and share [promising information](#) (attached also) on how the new bail policy is going. In analyzing the data they have access to, they found 98% of people released starting October 1 when the policy went into place have not been rearrested. The report analyzed 5,113 bookings that occurred between Oct. 1, when the new system took effect, and Oct. 21.

According to the Report, 40% of those bookings were for serious offenses that were ineligible for zero-bail consideration; 1,213 cases were referred to a magistrate judge for further review, and of those, 64% of the arrestees were ordered to remain in custody pending arraignment.

The Report found that 85% of people released under the zero-bail system were considered low-risk offenders, while 71% of the people held in custody pending arraignment were considered medium- to high-risk.

The Report found that only 2.5% of people who were booked during the first three weeks of the program were subsequently re-arrested for another offense and re-booked. Of that 2.5%, nearly half of the re-arrestees had been arrested for a serious or violent crime and *were free only because they posted cash bail*. Only two people who were released after a review by a magistrate judge were re-booked during the first three weeks of the program, according to the report.

Moreover, both of Los Angeles's top law enforcement officials LA County Sheriff Robert Luna and LAPD Chief Moore have made positive statements about the results of the program thus far:

- [Sheriff Luna](#): "The early results of PARP are showing that individuals who don't score high on the risk assessment scale are being released with specific conditions and those who score high are staying in custody through their arraignment. I am encouraged by the collaboration between the Superior Court of Los Angeles County, our Department, LAPD, and representatives from the Los Angeles County Police Chiefs as the Superior Court shows a willingness to work with local law enforcement officials."
- [Chief Moore](#): "In summary, it appears at this early juncture that the newly instituted PARP is striving to achieve the appropriate balance between the rights of the accused and our duty to protect the City of Los Angeles."

Given what even they are saying at this point, it seems unwise, foolish, and a waste of our limited resources to join this lawsuit, especially since, as I pointed out in my prior comment, the Superior Court is actually *required* by state law to issue a bail schedule every year. This lawsuit is therefore asking a court to find the Superior Court broke the law by doing something it is required to do by law. I hope the City Attorney can explain to the Council why this makes the lawsuit quite silly and highly unlikely to succeed (as other City Attorneys, like in Diamond Bar, have explained to their Councils in deciding not to join the suit). The lawsuit is a distraction and quite clearly the product of disinformation and fearmongering. Opponents of the new bail policy have been hard at work convincing the public that these bail protocols mean an end to accountability, safety, and justice, and drowning out the factual details of the policy and years of [research in Los Angeles](#) and [in jurisdictions around the country](#) with similar policies that show that ending money bail and ensuring public safety go hand-in-hand. These fearmongers are wrong, and they are misleading us.

I ask you to do the right thing and the thing that is also best for our City and its residents and choose not to join the lawsuit.

Thank you,

David Holop

Los Angeles County's New Bail Policy: A Step Forward for Our Community

On October 1, 2023, after years of research, the Los Angeles Superior Court implemented a new bail policy, taking an important first step towards promoting public safety—and away from the two-tiered system in which wealth, not safety, determined whether someone went to jail before trial.¹

Despite claims to the contrary, the new policy is not a radical change. It builds on years of similar practices and research in Los Angeles and across the country—and it preserves significant law enforcement and judicial discretion. Here are five key facts on what the policy, termed Pre-Arraignment Release Protocols (PARP), does and does not mean for Los Angeles:

1) This policy allows people charged with low-level offenses to return home before their first court hearing.

- The new policy applies only to the period between an arrest or citation and the first court hearing (called an arraignment).
- People charged with low-level offenses, like vandalism or petty theft, will be allowed to go home, instead of being held in jail or released after paying money bail.
- For higher-level charges, like resisting arrest, people will remain in jail until their case is reviewed by a magistrate judge, who can add additional release conditions like an order to stay away from a certain person or place. Alternatively, if the magistrate judge determines a person's release would threaten public safety or make their return to court unlikely, they can keep the person in jail until their arraignment.
- For the highest-level charges—including serious or violent felonies and domestic violence offenses—nothing has changed. People charged with these offenses will either remain in jail until their arraignment or be released on money bail.
- At arraignment, nothing has changed. A judge has discretion to set money bail, impose conditions of release, or detain the person.

2) This policy promotes public safety, while pretrial incarceration often compromises it.

- Robust research shows that even 24 hours in jail is so destabilizing that it makes someone significantly more likely to be arrested again.² The new bail policy will benefit public safety by returning people home so that they can take care of their families, show up to their jobs, and access treatment and services—instead of languishing in jail.
- A very similar policy in place in Los Angeles during the pandemic (the Emergency Bail Schedule) showed positive results for public safety:
 - An analysis of the LAPD's own data shows that violent crime and property crime were lower or remained effectively unchanged while the policy was in place, compared to the two-year period before the policy.³
 - Another analysis from the Judicial Council shows a 5.8 percent decrease in rearrests for misdemeanors and a 2.4 percent decrease in felonies while the policy was in place.⁴
- Research from Kentucky, New Jersey, New York, Texas, Chicago and elsewhere shows that in places with similar policies, bail reform is consistent with public safety.⁵

- An independent federal monitor in Harris County, Texas—home to Houston—found that rearrest rates stayed largely consistent after the county adopted a policy of releasing most people charged with misdemeanors without money bond in 2019.⁶
- In Kentucky, after the court mandated release for most misdemeanors in 2017 (with an expansion to include nonviolent and nonsexual felonies in 2020), nine out of 10 people released under this policy stayed arrest-free—a rate on par with those released by a judge or released only after paying money bail.⁷
- In New York, despite the fearmongering around bail reform, a rigorous academic study found that it reduced overall re-arrest and felony re-arrest among people released under the new law.⁸ Another study found that it had virtually no effect on the crime rate.⁹
- Although critics of the new bail policy frequently cite reports by the Yolo County district attorney claiming that similar policies resulted in more crime, these reports are significantly flawed.¹⁰
 - The Yolo reports are based on a small sample size—one looked at only 100 people compared to the tens of thousands studied in Houston or Kentucky—and unlike those referenced above, the analyses did not use rigorous research protocols.¹¹

3) This policy is not a major change from the bail policies that were previously in place.

- For most of the past three years, the court had a policy recommending release for people charged with low-level offenses to help prevent the spread of COVID-19 in our overcrowded jails and in the community. For all other charges, people could have a magistrate judge review their custody status before arraignment or wait to see a judge at their arraignment.
 - As discussed above, LAPD data shows that crime overall was lower while this policy was in place, and the Judicial Council concluded that the available data “suggests an overall positive impact of the program.”¹²
- Even before the pandemic, law enforcement agencies (including the LAPD) have long had a practice of issuing citations for low-level offenses that allowed Angelenos to be released from custody before their arraignment.¹³

4) This policy does not eliminate law enforcement’s discretion to detain people for safety concerns.

- This policy does not hamstring the efforts of law enforcement agencies to preserve public safety.
 - In all felony cases—including low-level offenses for which the default is release—if a law enforcement officer thinks there is an immediate safety concern, they can choose to take the person into custody and request that a magistrate judge review the case. The same is true for misdemeanor cases related to domestic violence.¹⁴
- For higher-level charges, magistrate judges likewise have discretion to detain someone until arraignment.

5) This policy does not eliminate the money bail system.

- Under the policy, money bail can be set for any case at arraignment.
- Likewise, for many charges—including serious or violent felonies—the only option for release before arraignment is money bail.

Everyone wants to be safe, no matter their race, wealth, or where they live, and we should not have to sacrifice justice in the name of safety. Examining the evidence—including analysis of past experiences in Los Angeles and across the country, as well as robust research on bail and incarceration—makes it clear that Los Angeles County’s new bail policy is a commonsense reform that will promote both public safety and justice for all Angelenos.

Endnotes

- ¹ Superior Court of California, County of Los Angeles, "Nation's Largest Trial Court Unveils Safe and Fair Pre-Arrest Release Protocols for Non-Violent, Non-Serious Felonies and Misdemeanors," press release (Los Angeles: Superior Court of Los Angeles, 2023), perma.cc/696C-3JDZ. For the conclusion of the workgroup that led to this policy, see Pretrial Detention Working Group, *Pretrial Detention Reform: Recommendations to The Chief Justice* (San Francisco, CA: Judicial Branch of California, 2017), perma.cc/ML3L-SZVD.
- ² Core Correctional Solutions, *The Hidden Costs of Pretrial Detention Revisited* (Houston, TX: Arnold Ventures, 2022), 2, 4, perma.cc/99VE-QLG8.
- ³ Vera Institute of Justice, *The Emergency Bail Schedule is a Necessary First Step for Pretrial Safety and Justice in Los Angeles County* (New York: Vera, 2023), 1, perma.cc/4KCA-PB5R.
- ⁴ Judicial Council of California, *Pretrial Pilot Program: Final Report to the Legislature* (San Francisco, CA: Judicial Council of California, 2023), 3, perma.cc/7FMC-76SF.
- ⁵ For New Jersey bail reform, see Glenn A. Grant, *Annual Report to the Governor and the Legislature* (New Jersey: New Jersey Courts, 2020), perma.cc/KHQ2-M652; and Don Stemen and David Olson, *Is Bail Reform Causing an Increase in Crime?* (New York: Harry Frank Guggenheim Foundation, 2023), perma.cc/LEK8-LFF7. For Chicago, see Don Stemen and David Olson, *Dollars and Sense in Chicago: Examining the Impact of General Order 18.8A on Felony Bond Court Decisions, Pretrial Release, and Crime* (Chicago, IL: Safety and Justice Challenge, 2020), perma.cc/P9UK-2BZA. For more across the nation, see Sarah Staudt, "Releasing People Pretrial Doesn't Harm Public Safety," Prison Policy Initiative, July 26, 2023, prisonpolicy.org/blog/2023/07/06/bail-reform.
- ⁶ Brandon L. Garrett, Sandra Guerra Thompson, Dottie Carmicheal, et al., *Monitoring Pretrial Reform in Harris County: Third Report of the Court-Appointed Monitor* (Durham, NC: Duke University, 2021), viii, perma.cc/965M-MLH3.
- ⁷ Ashley Spalding, "New Data Helps Pave the Way for Bail Reform in Kentucky," *KyPolicy*, January 21, 2021, perma.cc/63W8-6FXW.
- ⁸ René Ropac and Michael Rempel, *Does New York's Bail Reform Law Impact Recidivism? A Quasi-Experimental Test in New York City*, (New York: John Jay College of Criminal Justice, 2023), 12, perma.cc/K9J7-JRL4.
- ⁹ Sishi Wu and David McDowall, "Does Bail Reform Increase Crime in New York State: Evidence from Interrupted Time-Series Analyses and Synthetic Control Methods," *Justice Quarterly*, 2023, doi.org/10.1080/07418825.2023.2209145.
- ¹⁰ For such criticisms, see Suzette Martin Valladares, "L.A. County in More Danger with 'Get Out of Jail Free' Policy," *The Santa Clarita Valley Signal*, October 7, 2023, perma.cc/43WF-FCNF; and Kenneth Schrupp, "Los Angeles County Zero Bail Policy for Most Crimes Goes Into Effect," *The Center Square*, October 3, 2023, perma.cc/M6E2-2NNZ.
- ¹¹ Jeff Reisig, *Yolo County: Posted Bail vs. Zero Bail Analysis* (Woodland, CA: Yolo County District Attorney's Office, 2023), perma.cc/2BPD-ZSEW; and Jeff Reisig, *Yolo County Emergency Bail Analysis*, (Woodland, CA: Yolo County District Attorney's Office, 2022), perma.cc/3YJJ-2A3N.
- ¹² Vera, *The Emergency Bail Schedule is a Necessary First Step*, 2023, 1; and Judicial Council, *Pretrial Pilot Program*, 2023, 3.
- ¹³ Correspondence from Michael R. Moore, chief of police of the Los Angeles Police Department, to Board of Police Commissioners, re: "The Los Angeles Police Department's Release from Custody Citations Issued to Persons Experiencing Homelessness and the Office of the City Attorney's Homeless Court Program Operated by the Homeless Engagement and Response Team (Heart) Report," August 1, 2018, 3, perma.cc/8GX8-2M95.
- ¹⁴ Superior Court of California, County of Los Angeles, "Misdemeanor Bail Schedule," updated October 18, 2023. perma.cc/HTV2-BSKK.

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FOR IMMEDIATE RELEASE:
October 30, 2023

EARLY DATA REVEALS SIGNIFICANT PUBLIC SAFETY BENEFITS OF NEW LOS ANGELES COUNTY PRE- ARRAIGNMENT RELEASE PROTOCOLS

***Preliminary Report on Pre-Arraignment Release Protocols in Los Angeles
County Demonstrates Individualized Risk Determinations Protect Public Safety
More Effectively Than Money Bail System***

A new report examining initial data from the first three weeks of the Court's new bail schedules, which include within them Pre-Arraignment Release Protocols (PARPs) for offenses designated by the law as non-violent, non-serious felonies and misdemeanors, reveals significant public safety benefits of the new policy compared with the previous traditional money bail system, Presiding Judge Samantha P. Jessner and Executive Officer/Clerk of Court David W. Slayton announced today.

"The Preliminary PARP Report released today demonstrates the undeniable public safety benefits of utilizing individualized risk determinations to assess conditions of release, as opposed to basing conditions of release solely on an arrested individual's ability to pay traditional money bail," said Presiding Judge Jessner. "This new system is working exactly the way it was intended – the vast majority of those determined by a magistrate to be a significant risk to public and victim safety, or a significant flight risk, are being temporarily held in jail prior to arraignment, while the vast majority of those who pose little risk to public or victim safety and are likely to return to court are being released with non-financial conditions. Under the previous money bail system, these same high-risk individuals would be able to buy their release from jail if they had access to money, and the low-risk individuals would remain in jail for days, weeks, months, or even years if they did not have access to money to purchase their release."

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PRELIMINARY PARP REPORT

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The new bail schedules, which [became effective in Los Angeles County on October 1](#), provide guidance to law enforcement as to how an arrestee who is booked into jail should be released (referred to as Cite and Release [CR] or Book and Release [BR] in the bail schedules) or referred to a magistrate for an individualized determination of that arrestee's risk to public or victim safety and likelihood of returning to Court (referred to as "MR" in the bail schedules). Furthermore, if an offense is designated as CR or BR in the bail schedules, law enforcement has the ability, through the bail deviation process pursuant to Penal Code Section 1269c, to request through a phone call a magistrate review of the arrestee prior to release if they have reason to believe the individual is an enhanced risk to public or victim safety or is unlikely to return to court. Data from the preliminary report shows that law enforcement rarely took advantage of this mechanism. As the report indicates, 97% of those booked by law enforcement for offenses designated as CR or BR in the bail schedules were not elevated for magistrate review despite the option to do so.

Those arrestees who are referred to magistrate review undergo individualized risk determinations and consideration of tailored release orders or no release prior to arraignment based on that review. Magistrates consider information about the arrestee's current offense and past criminal history, including past failures to appear in court and criminal convictions, to determine appropriate non-financial conditions of release for arrestees, if any. These individualized determinations assess the arrestee's risk to public or victim safety and their likelihood of returning to court. If the magistrate determines that no conditions exist to safely release the individual into the community, the individual is temporarily held until arraignment. Due to statutory restrictions, traditional money bail, with no individualized risk assessment of arrestees, is still available for those arrested for the most serious crimes, including murder, rape and robbery.

Key findings from the Preliminary PARP Report, which is attached to this News Release, include the following:

- The majority of individuals released under PARP - 85% - were considered low-risk;
- The majority of individuals held until arraignment under PARP - 71% - were considered medium-to-high-risk;
- The majority of those eligible for traditional money bail because they were arrested for a serious or violent crime - 52% - were considered medium-to-high risk and had the option of paying their way out of jail regardless of their risk; and
- Less than 3% of individuals booked since the PARP implementation were rebooked. Only two of those individuals rebooked were previously ordered released by a magistrate after the individualized review, while almost half of those that were rebooked were released back into the community on money bail because they were arrested for a serious or violent crime and, as a result, were not individually reviewed for risk.

The full report is available below.

-MORE-

PRELIMINARY PARP REPORT
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“Despite a significant amount of misinformation circulating regarding the new bail policy’s impact on public safety, we are encouraged that the first three weeks of data reveal the new system is actually keeping communities safer,” said Executive Officer/Clerk of Court David W. Slayton. “By providing individualized risk assessments for many of those arrested in Los Angeles County prior to their release, rather than arbitrarily releasing individuals based on whether they can afford a certain amount of money bail, this new system better ensures that those who present a significant risk are held while those who present little to no risk are released prior to trial.”

The Court remains dedicated to working collaboratively with justice partners, including law enforcement, to leverage data-informed decision-making to ensure the new bail policy continues to protect public safety while also ensuring that those arrestees, who are innocent until proven guilty, who pose little risk to public or victim safety and are likely to return to court, do not sit behind bars simply because they cannot afford to pay money bail. To that end, the Court is committed to data transparency as the new bail schedules are implemented in Los Angeles County. In addition to today’s Preliminary PARP Report, the Court will soon make a data dashboard available on its public website.

For more information, including links to the current Felony and Misdemeanor Bail Schedules, please visit www.lacourt.org/BAIL.

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PRELIMINARY REPORT

PRE-ARRAIGNMENT RELEASE PROTOCOLS

EXECUTIVE SUMMARY

Historically, most arrestees booked into jail in Los Angeles County could obtain release prior to arraignment by posting money bail, notwithstanding their risk to public safety or likelihood to return to court. The amount of money required for release was determined only by the category of the alleged offense as listed in the bail schedule. **A person's access to money determined their release status – not their risk to public or victim safety or of not appearing for court proceedings.** Put differently, a person presumed innocent until proven guilty beyond a reasonable doubt who presented little risk, but was poor, stayed in jail for days, weeks, months, or even years. A person who presented a substantial risk, but with access to money, was released back into the community within hours. Repeated studies from Los Angeles County, the State of California, and other jurisdictions across the country have shown that a system based on wealth rather than risk not only has harmful consequences for individuals booked into jail but also increases reoffending and failures to appear.

We can and should do better to ensure equal access to justice. **Access to freedom prior to conviction should not arbitrarily be based on an arrestee's access to money. Rather, access to freedom prior to conviction should be based on the individual's risk – risk to public and victim safety, and risk of flight.** This is what is required not only by the Constitution of the United States and California, but also by applicable state laws. This is what the public should demand of our criminal justice system.

Since October 1, Los Angeles County has operated pursuant to a pretrial release system that upholds the foundational principles of the Constitution and the law. The [new Pre-Arrestment Release Protocols \(PARPs\)](#) ensure the decision to release most arrestees from jail prior to conviction is **no longer determined by a person's wealth**, but instead **by their risk to public or victim safety and their likelihood of returning to court.** Where traditional bail amounts are tied only to the currently alleged crime, the PARPs now allow judges to also consider the person's criminal history and their individualized risk in determining whether release is appropriate for low-level, non-serious crimes.

“ Access to freedom prior to conviction should not arbitrarily be based on an arrestee's access to money. Rather, access to freedom prior to conviction should be based on the individual's risk – risk to public and victim safety, and risk of flight. ”

It is imperative to note that existing law prohibits the new risk-based PARP system to apply to all arrestees. Ironically, those accused of the most serious crimes, including murder, rape and robbery, remain subject to traditional money bail and can pay their way out of jail, regardless of risk to public safety.

As this report will show, **the new PARP system has already shown significant benefits to public safety.** Individuals subject to the new risk-based system are, by and large, temporarily held in jail prior to arraignment when they present a significant risk to public or victim safety or are unlikely to return to court. If the individualized determination of risk conducted by judges reveals that the arrestee is a low risk to public safety or of flight, they are released. From October 1 – 21:

- 85% of the individuals released under PARP were low risk;
- 71% of those temporarily held in jail for arraignment were medium-to-high risk.

Disturbingly, 52% of those who were eligible for traditional money bail because of prohibitions in the law regarding serious and violent crimes, were medium-to-high risk, meaning, if they had access to money, they could buy their way out of jail without any individualized determination of their risk to public safety or likelihood to return to court.

There is simply no doubt that moving away from a money-based system of release to an individualized, fact-based, and risk-based system of release, is not only good for public and victim safety; it also restores a level of fairness and equity to a system that is much maligned and flawed for lacking both.

This report summarizes available data from the first three weeks of a new approach to pretrial release by the Superior Court of Los Angeles County.

BACKGROUND INFORMATION

When a person is arrested in Los Angeles County and charged with a crime, their first appearance in court is at arraignment. Arraignment typically occurs less than 48 hours after booking but can occur up to four days after arrest if the arrest falls at the beginning of a holiday weekend. It is up to law enforcement officers to decide whether to book the person prior to arraignment into jail or to release the person in the field with a promise to appear at a future court date.

Under the traditional bail schedule model, most arrestees in Los Angeles County who were booked into jail could obtain release prior to arraignment simply by posting money bail – if they could afford to do so. The amount of money required for release was determined by the category of the alleged offense as set forth in bail schedules. Whether a person was released or stayed in jail rose and fell based upon their access to money, not based on their risk to public or victim safety or their likelihood of returning to court. People presumed innocent until proven guilty beyond a reasonable doubt who presented little risk, but were poor, stayed in jail. Those who presented significant risk, but had access to money, were released back into the community almost instantly.

In 2020, the Court adopted the Pretrial Risk Evaluation Program (PREP), a pilot program that allowed the Court to make individualized risk-based release decisions for certain arrestees. This is the same tool that the magistrate judges use today to assess risk. During the COVID-19 Pandemic, the Court adopted an Emergency Bail Schedule (EBS) pursuant to the Judicial Branch’s Emergency Rules Related to the COVID-19 Pandemic. And in May of this year, a court order issued in *Urquidi v. City of Los Angeles* found the traditional bail schedules as applied unconstitutional and prohibited the two largest law enforcement agencies in Los Angeles County (LAPD and LASD) from applying traditional bail schedules, resulting in the inconsistent pre-arraignment enforcement of bail within Los Angeles County.

Based on the Court’s experience with the PREP pilot program, experience when the EBS was in effect, the findings resulting from extensive scholarly research regarding pre-arraignment decisions, the recent court decision in *Urquidi* that has resulted in non-uniform pre-arraignment release decisions in LA County, and the experience of many other courts statewide and nationwide that have adopted innovative pretrial release protocols, on October 1, 2023, the Court adopted new bail schedules and associated PARPs, which eliminated traditional money bail for many non-violent, non-serious felonies and misdemeanors. Instead, release status for these alleged crimes is determined by an individualized determination by a judge of their risk to public and victim safety and likelihood of returning to court.

The new bail schedules and associated PARPs provide guidance to law enforcement whether an arrestee should be:

- Booked into jail and released; (Cite and Release (CR) or Book and Release (BR));
- Released only after a magistrate judge’s review (Magistrate Review – (MR)); or
- Pursuant to existing law, eligible for release on traditional money bail.

As required by law, the new bail schedules continue to provide traditional money bail eligibility for offenses that are designated by statute as **serious and violent offenses.*

**Persons arrested while out on Felony Probation, Parole or Post Release Community Supervision are referred to a magistrate judge for review.*

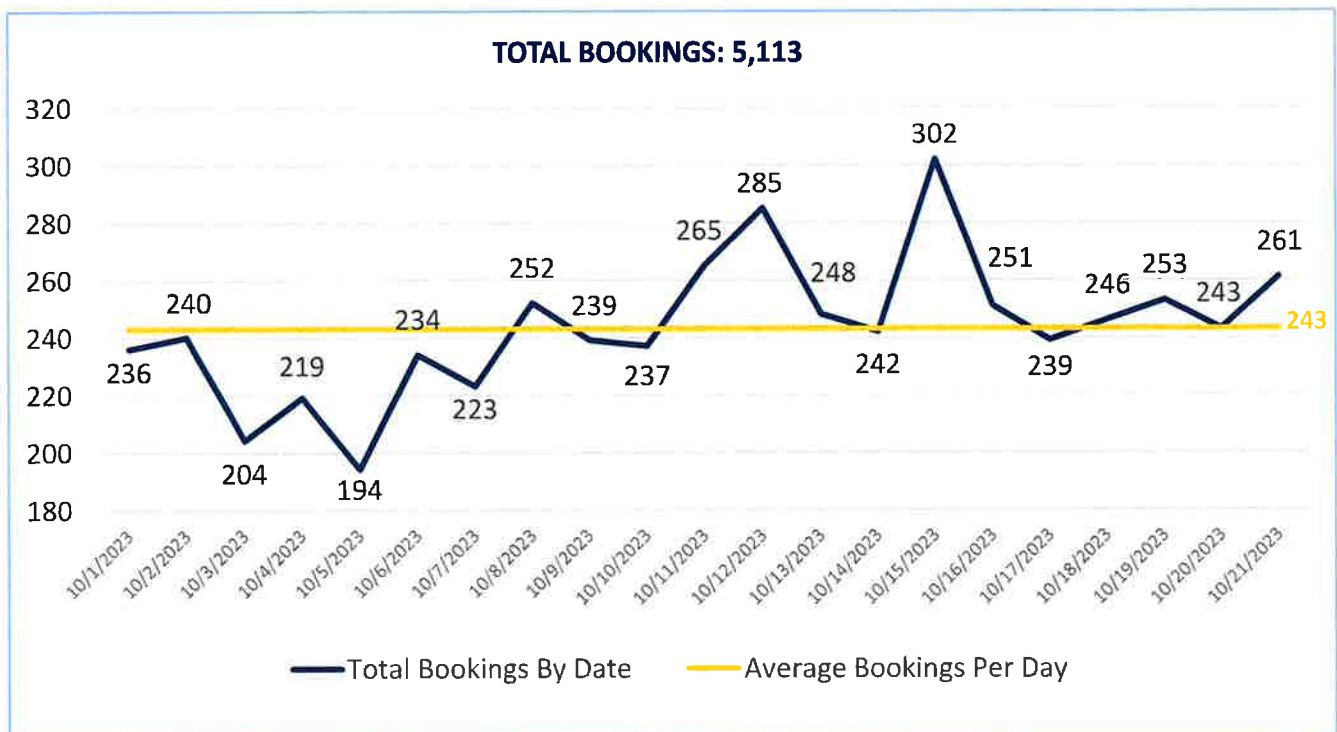
It is important to note that, as has been the case for decades, law enforcement may request review by a magistrate judge if they have additional or supplemental facts and information that would suggest a person arrested for an offense designated as CR or BR is an enhanced risk to public or victim safety or will not show up to court. This process is known as “bail deviation.” Law enforcement often has additional information about an arrestee, beyond the nature of the crime committed, that is not available to the magistrate judge at the time of the bail determination. This includes, but is not limited to, information about arrests that have not yet been formally filed as charges against the individual, particular facts about the individual’s alleged crime, and other criminal history outside of Los Angeles County. Bail deviation simply requires law enforcement to place a call to the County’s Probation Department (operating 24 hours a day, seven days a week) to request an individualized determination of risk.

For those arrestees subject to MR, the Court’s magistrate judges are available 24 hours a day, seven days a week, to conduct individualized risk assessments, which consider the offense the person was arrested for along with their criminal history and other information to determine the arrestee’s risk to the public or victim safety and their likelihood of showing up to court. Based on the individualized risk assessment conducted by the magistrate judge, the magistrate judge can order release of the individual on their own recognizance, release with non-financial conditions, or the individual held until arraignment if no release conditions exist that would protect the public or victim safety or assure the individual’s appearance in court.

DATA FROM THE FIRST THREE WEEKS OF THE NEW BAIL SCHEDULES

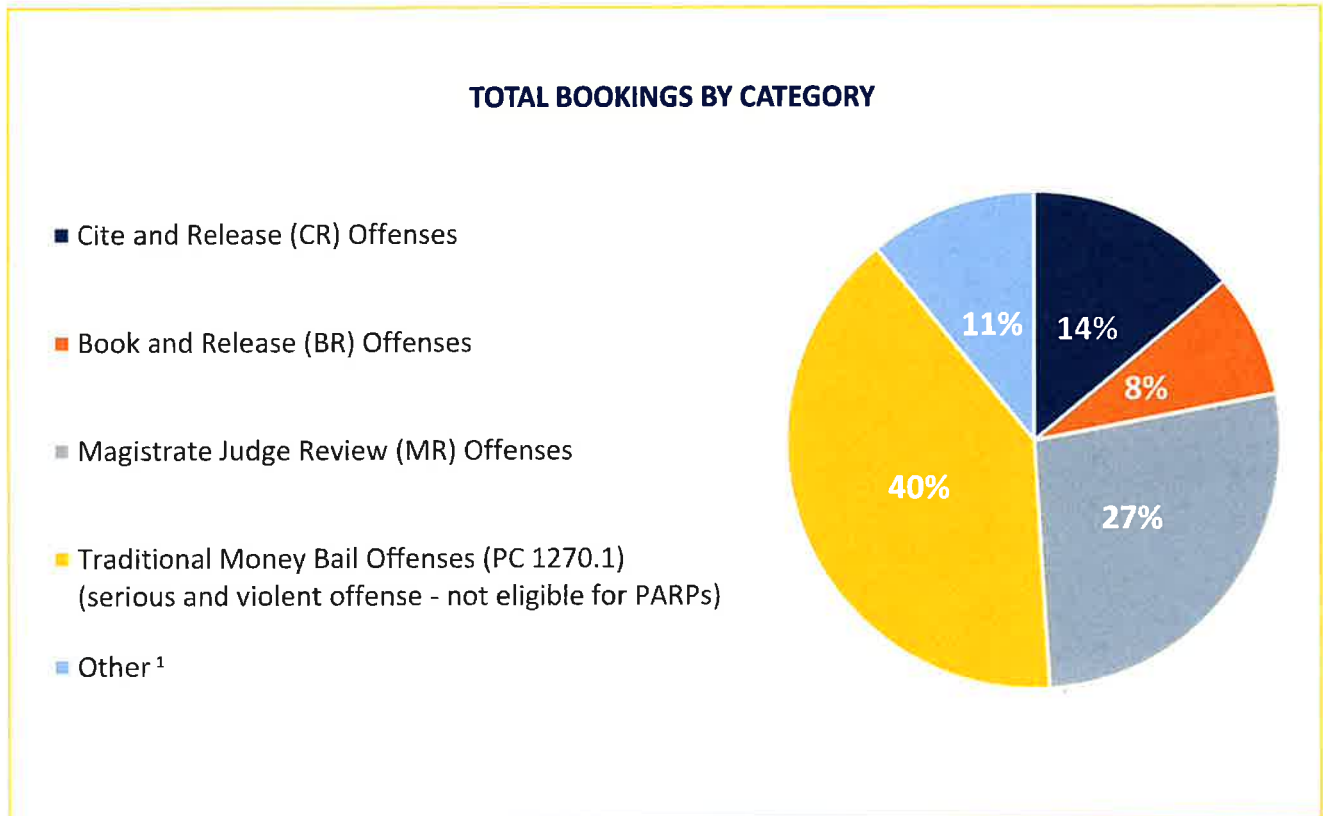
This report examines the 5,113 bookings between midnight, October 1 and 11:59 p.m., October 21, 2023.

A *booking* occurs when, after an arrest, the law enforcement officer fingerprints the individual. The data here does not count unique individuals. This sample does not include people who were cited and released in the field by law enforcement or those arrested on an arrest warrant. It does include people arrested for offenses designated as CR who are, nonetheless, booked.



The average number of daily bookings (243) is consistent with the average number of daily bookings over the previous 12-month period.

Individuals who were booked into jail fell into five main categories: CR, BR, MR, traditional money bail, and Other. The majority of the bookings were for crimes that are not eligible for review under the PARPs, meaning serious and violent crimes.



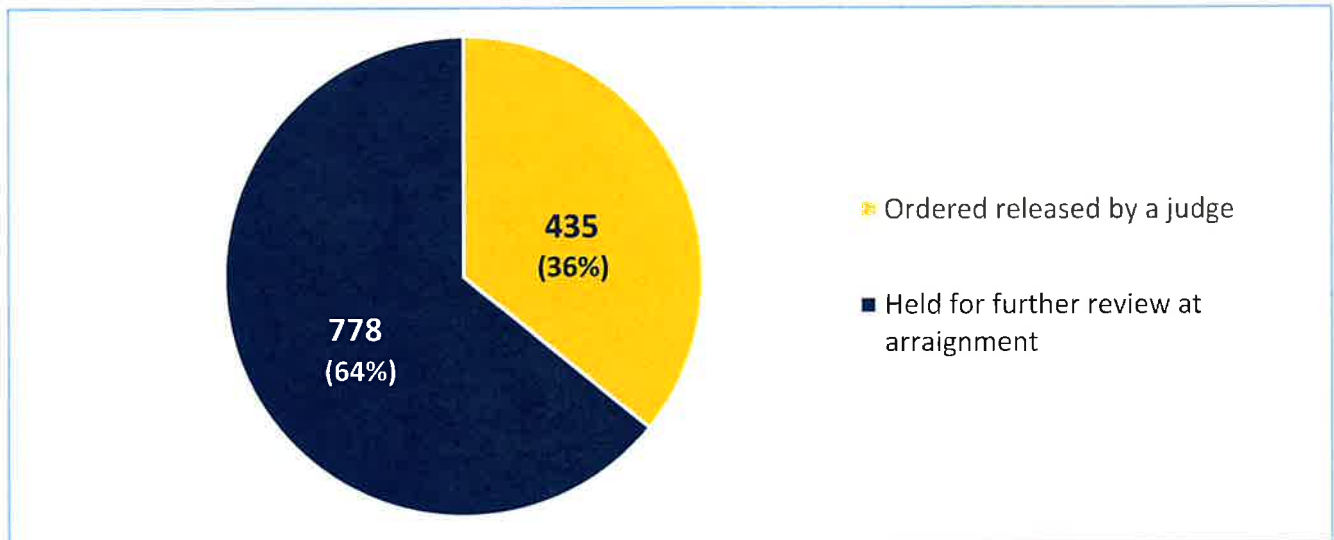
**Note that arrestees are booked at law enforcement’s discretion, and the data here consider only those persons who were actually booked by law enforcement.*

As noted previously, the bail schedules and PARPs provide the option for law enforcement to request enhanced review through bail deviation for any offense designated in the bail schedules as CR or BR. When the request is made, a magistrate judge conducts an individualized review of the arrestee’s risk and determines the appropriate release status, if any, based on the risk assessment. Despite having the option to do so, law enforcement requested enhanced review only 133 times, **or 3% of the time**. With regard to the other 97% of bookings, law enforcement did not request enhanced review and permitted the bail schedules and PARPs to operate as written.

¹ Bookings categorized as “Other” include bookings on charges that are not listed in the bail schedules. For a misdemeanor arrest charge, they are deemed CR. For a felony arrest charge, they are deemed BR.

OUTCOMES BY RELEASE CATEGORY ²

During the first three weeks after implementation of PARP, magistrate judges reviewed 1,213 bookings and assessed the risk of each arrestee for the purpose of determining the appropriate release conditions for that individual. Of those reviewed, magistrate judges ordered 64% temporarily held until arraignment because, based on their risk, there were no conditions available to the magistrate judge that would reasonably ensure the safety of the victim or public or the appearance of the arrestee at arraignment.



OUTCOMES BY RISK

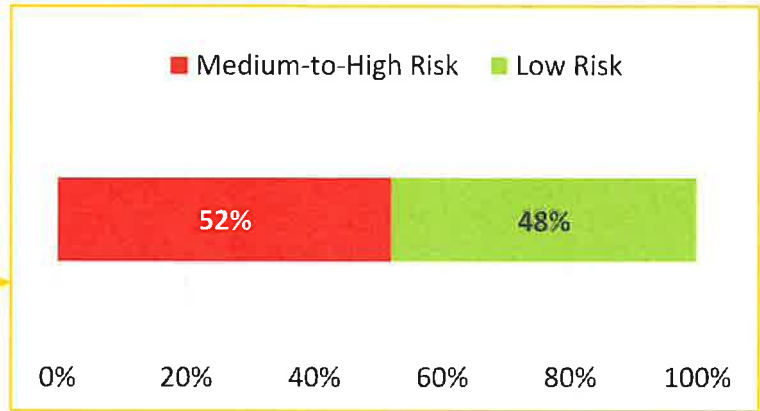
Paramount to determining the appropriate release status, if any, are public and victim safety. Therefore, data about the risk of reoffending for individuals who were eligible for release or released are informative and important. The risk of reoffending fell into three distinct outcomes based on the type of release.

Individuals who were eligible to buy their freedom through traditional money bail and who were arrested for more serious and violent offenses presented more significant risk as compared to those who were ordered released after a magistrate judge conducted an individualized determination of the arrestee's risk. Concomitantly, those who were ordered temporarily held by the magistrate judge until arraignment presented more significant risk factors. By way of comparison, prior to the imposition of PARP, pursuant to traditional bail schedules, these very same persons would have been eligible for traditional money bail and could have purchased their freedom, or they would have been released pursuant to long-standing law enforcement policies based on the category of offense. This is worthy of repetition – under the new bail schedules, those who present substantial risk cannot simply buy their way to freedom; conversely, under the old system, persons who present a substantial risk could have been back in the community within hours.

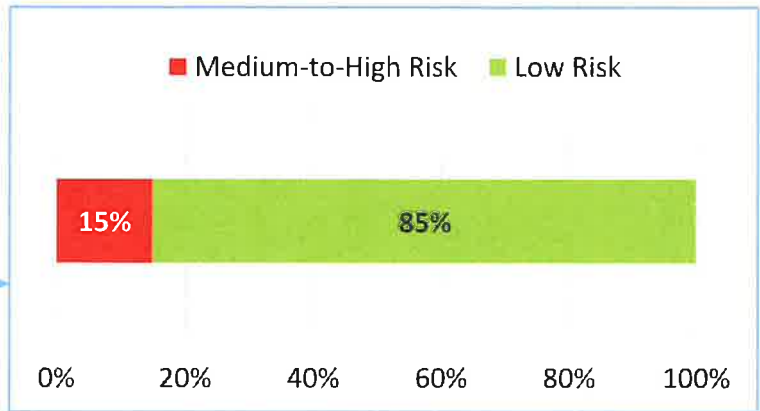
² Note that this data set does not capture the actual custody status of individuals. Individuals eligible for traditional money bail may or may not have obtained the funds to secure their release, and individuals ordered temporarily held until arraignment by the magistrate judge may have been released by law enforcement prior to arraignment. Some individuals may be released or held lawfully for other reasons.

Risk of Reoffending During Release ³

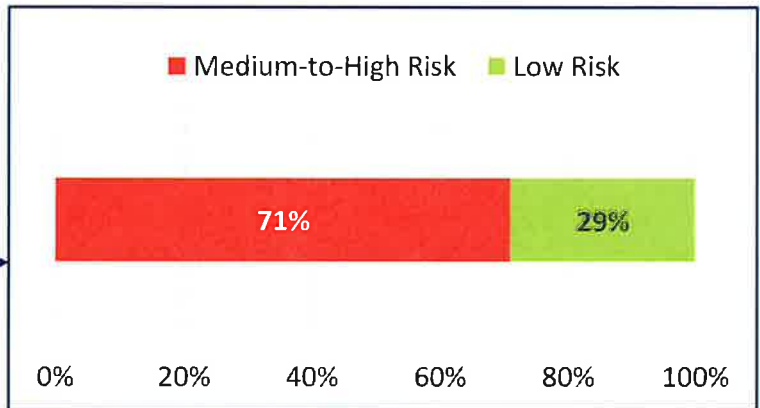
52% of those eligible for **traditional money bail** were medium-to-high risk while 48% were low risk.



15% of those ordered **released by a magistrate judge** were medium-to-high risk while 85% were low risk.



71% of those **held** were medium-to-high risk while 29% were low risk.



REARRESTS

One of the key measures to examine regarding the success of a bail system is the extent of rearrest for individuals who are released pending resolution of their case. Notwithstanding the short period in which PARP has been in effect, this data is indicative of the success of the PARPs so far.

97.5% of individuals were booked only once during the first three weeks under the new bail schedules. Nearly half of those rebooked were persons who had been released on traditional money bail, meaning they were arrested for a serious or violent offense. Only two individuals ordered released after a magistrate judge's individualized review of the arrestee were rebooked during this period.

³ Risk of reoffending is calculated on the basis of an individual's previous criminal history using a scientifically validated risk assessment tool: the Public Safety Assessment (PSA). Information on the PSA can be found here: <https://advancingpretrial.org/psa/about/>. A validation of the PSA in California can be found here: <https://www.courts.ca.gov/sb36.htm>

KEY FINDINGS

A

The PARPs enhance public safety.

Those arrestees subject to MR, either because their offense is categorized as MR or because law enforcement chooses to elevate the arrestee to MR, are now subject to a detailed judicial review which goes beyond what occurs with traditional money bail. For eligible arrestees, not only is a judge now considering the current arrest, they are also considering the person's risk to public safety and the likelihood that the person, if released, will show up for their court appearances. This results in release decisions based on reducing risk to public and victim safety and increasing likelihood of the arrestee appearing in court, not on access to money. Release decisions based on access to money rather than risk do not take into account risk to the community/public safety or risk of non-appearance at court.

B

Money bail is antithetical to public safety.

Disturbingly, the majority of those arrested and eligible for traditional money bail release (because they were arrested for a serious or violent crime) were determined to be medium-to-high risk of committing a new offense: 52%, compared to only 15% of those released under PARP.

In fact, 18% of those persons eligible for traditional money bail were at high risk of reoffending, and many of whom were rebooked after purchasing their release. This last group includes people arrested for such offenses as:

- Attempted murder;
- Robbery;
- Domestic battery or domestic violence;
- Assault with a deadly weapon; and
- Driving while under the influence and causing injury to another person.

By statute, these individuals could buy their freedom regardless of their risk to public safety or non-appearance at court.

C

Those subject to MR who were identified as medium-to-high risk were generally temporarily held for arraignment:

- Of those arrestees subject to MR who were temporarily held prior to arraignment, 71% were medium-to-high risk.

D

Those subject to MR who were identified as low risk were generally released:

- Of the people ordered released by a magistrate judge, 85% were low risk.
- Of the people held for arraignment, only 29% were low risk.
- Only two of those were rebooked for an offense after being ordered released subsequent to magistrate review.

CONCLUSION

The new PARP system appropriately and effectively balances the need for public safety with the constitutional rights of the accused. In those cases in which PARPs apply, the vast majority of arrestees who are booked and assessed by a magistrate judge as being a risk to public or victim safety, or unlikely to show up for court, are properly being temporarily held until arraignment. Alternatively, where PARPs apply, most arrestees who are booked and assessed as having little risk to the public or victim safety and likely to show up to court are being released.

Very low rearrests rates thus far are encouraging. During the sample period, an overwhelming majority of arrestees booked into jail were not rearrested, and of those who were, about half were released on traditional money bail (serious or violent offenses), not under the PARPs.

More law enforcement training may be needed. Data indicates that law enforcement is rarely availing themselves of the bail deviation option of escalating CR or BR offenses to an MR if they believe the arrestee poses a significant threat to public or victim safety or is a flight risk. When law enforcement invoked the bail deviation process, 98% of the individuals were held, indicating that law enforcement, though rarely, is using the process appropriately. Low usage of the bail deviation tool suggests that more training is needed to ensure law enforcement officers in the field understand this option and use it appropriately.

Lastly, data indicates that traditional money bail is antithetical to public safety. Of concern is the fact that nearly half the individuals arrested during the sample period were subject to traditional money bail, not PARP. Despite half of that population having a medium-to-high risk of reoffending, all of those individuals had the option of paying their way out of jail, regardless of their risk.

In conclusion, early data suggests the new PARP system is effective in protecting our communities and reducing failures to appear. What is fundamental to the new PARP system is the recognition that release decisions should be based on individualized assessments of an arrestee's risk to public and victim safety and likelihood of showing up to court and not based on a person's access to money. The Court remains committed to working collaboratively with justice partners, including law enforcement, municipalities and elected officials, to continue to improve the new system using data-informed decision-making tools and processes. The Court remains hopeful that over time, leveraging the power of collaboration and data transparency will reinforce the inherent value of a pretrial release system that does not condition release on access to financial resources, but rather on individual risk.