

A Vision for Supportive Pretrial Services in LA County

Introduction:

Los Angeles County is home to the largest incarceration system in the country. On any given day, there are nearly 7,000 people who have not yet been convicted of charges held in the Los Angeles County jail system. Incarcerated people awaiting trial represent 45.7% of the County's current jail population¹. They remain incarcerated not because they are a danger to the community, but largely because they cannot afford to pay bail or because the County has yet to find supportive mental health diversion opportunities to help move them out of jail into a supportive program.

LA County finds itself at a crossroads— the County can either choose to prioritize investments in the future of our communities, or systems that dehumanize Angelenos of color and perpetuate cyclical poverty. While the County has committed itself to a Care First vision for Los Angeles, the jail population continues to rise and people are spending more time in jail, away from critical services and resources. Pretrial is a critical point in an individual's trajectory through the criminal legal process- the first 24hrs in the criminal legal system are often the most important.

The creation and development of an independent pretrial services agency was a priority recommendation of the 2020 Alternatives to Incarceration Workgroup Final Report², a report produced through a robust, year-long, community engagement process. The ATI Initiative was formed to implement the recommendations of the report and directed to begin the development of a new pretrial model for LA County. In March 2022, the County established the Justice, Care and Opportunities Department (JCOD) and tasked this new department with implementing and housing the County's pretrial services agency. Shifting pretrial services into an independent agency is a critical first step in implementing the ATI pretrial recommendations; however, in order to ensure the success of the County's new system, additional recommendations must be adopted in shaping JCOD.

Grounded in best practices developed by national experts, the Community Care and Support Agency (CASA) model, ATI recommendations, and continuous community engagement, **LA County's care-based pretrial services model must have the following components:**

1. The presumption of release

¹ Care First L.A.: Tracking Jail Decarceration, Vera Institute of Justice, 2022.

<https://www.vera.org/care-first-la-tracking-jail-decarceration>

² Care First, Jails Last: Health and Racial Justice Strategies for Safer Communities, 2020

https://ceo.lacounty.gov/wp-content/uploads/2020/10/1077045_AlternativestoIncarcerationWorkGroupFinalReport.pdf

2. **Care and support, and NOT supervision**
3. **A commitment to address the long-standing, pervasive racial disproportionality issues in LA County's jail system.**
4. **Making significant advances towards the closure of Men's Central Jail**

Suggestion: add a paragraph here that states what we mean by "addressing racial equity."

Several examples of why it's necessary.

- *The failure of covid releases to meaningfully impact the Black mental health population.*
- *The pretrial pilot data that was pulled during the prop25 campaign showing Black people, and Black women specifically, were remanded to custody more often than others.*
- *The fact that 65% of people designated to have died of "natural causes" in the jail were Black people.*
- *The history and coverups by LASD targeting of Black communities, including deaths in the jail, LASD sending incomplete racial discrimination data to AG, the recent ruling by federal monitors that the compliance with a constant decree against LASD practice of targeting Black people in the Antelope Valley is "in crisis" and deputy gangs that have explicit animosity against Black people.*

In order to achieve and operationalize these three anchoring components, the county should apply the following six methods:

- 1) **Articulating a Comprehensive Vision and Concrete Benchmarks for JCOD:** Community engagement is a critical part of development and implementation of an effective and care-centered pretrial model. JCOD needs to establish concrete structures—including a JCOD steering committee, a community advisory board, and community engagement workgroups—to work with community leaders and organizations. Together they should articulate a robust vision for how its pretrial model will supportively move people out of jail and into community based structures of care. Once JCOD's pretrial model is established, ongoing opportunities for community feedback must continue as outline in recommendations 88 and 76 of the Care First, Jail Last Roadmap.
 - A. JCOD must articulate a clear plan for collaboration with judicial actors, service providers, and community stakeholders for group development of a departmental vision that is robust, focused, and geared towards tackling the issue of over incarceration in Los Angeles County through a socioeconomic, gender, and racial equity lens.
 - B. Immediately set clear guidelines for the Jail Closure Implementation Team and benchmarks for decarceration with clear timelines for those benchmarks.
 - C. Work with the Board of Supervisors to establish a concrete timeline for the closure of Men's Central Jail.

- D. Develop a course of action to streamline pre-trial services and existing pilots into a centralized agency with a unified vision focused on decarceration and service provision, and report progress to community stakeholders, service providers, and judicial actors, regularly.
- E. Establish concrete service goals (i.e. how many individuals will be served monthly, quarterly, annually), determine key performance indicators (what does success look like), and design a process to track progress to goals, including the expansion of services to all individuals touched by the pretrial system.
- F. Outline and publish plans for collaboration with County departments to bridge service silos and as well as internal collaborators to fulfill the County's Anti-Racism, Diversity, and Inclusion commitment.

2) **Community Engagement and Collaboration** Community engagement is a critical part of development and implementation of an effective and care-centered pretrial model. JCOD needs to establish concrete structures—including a JCOD steering committee, a community advisory board, and community engagement workgroups—to work with community leaders and organizations. Together they should articulate a robust vision for how its pretrial model will supportively move people out of jail and into community based structures of care. Once JCOD's pretrial model is established, ongoing opportunities for community feedback must continue as outline in recommendations 88 and 76 of the Care First, Jail Last Roadmap.

- A. Establish the JCOD Steering Committee— composed of impacted individuals, community leaders and organizations, judicial stakeholders, and departmental representatives to support implementation and evaluation.
 - B. Implement ATI Recommendation #88: Establish an advisory body of impacted people to provide ongoing and continuing feedback on programs and initiatives, particularly the pretrial agency.
 - C. Implement ATI Recommendation #76- the creation of sustainably funded community engagement workgroups to evaluate the pretrial model's effectiveness.
 - D. Ensure transparency in the JCOD Director (permanent) hiring process by:
 - a. Constructing a job description and list of candidate qualifications in partnership with community stakeholders and the JCOD Steering Committee.
 - b. Publicizing job listing and conducting a nation-wide search.
 - c. Include a minimum of 2 community members on the applicant review panel.
 - d. Hosting frequent town halls for the community to provide feedback.
- 3) **Presumption of Release:** As the COVID emergency zero bail order revealed, there are thousands of people who enter the jails who can and should immediately be released.

Recommendations #55 and #56 of the ATI report recommend that the County institute a presumption of pretrial release for all individuals, especially those with mental health needs. The County's pretrial services framework *must* ground itself in a presumption of pretrial release and prioritize release at the earliest possible point in the criminal legal process. When the presumption is to detain someone, that presumption becomes the default and the barrier to release gets higher. While instituting a presumption of release requires action by the Courts and potentially the legislature, the County can still do the following:

- A. Advocate for a County-wide presumption of release without a condition other than appearance at future court proceedings.
- B. Work with the LA Superior Court to establish an expedited hearing process– with adequate legal representation.
- C. Expand funding for the Offices of the Public Defender and Alternate Public Defender to reach parity with funding for the District Attorney's Office, including expanded funding for clinical social workers, paralegals and early representation.
- D. Push for legislative changes to arraignment hearings and advocate for a change to the burden of proof whereby the Court must find by clear and convincing evidence that an individual poses a high risk of intentional nonappearance, or 2) will pose a risk of serious physical violence to an identifiable person and that no condition(s) of release could reasonably mitigate these two risks.
- E. Work with the LA Superior Court to institute the following timeline requirements between arrest and release:
 - a. Pretrial arraignment hearing within 24hrs of an individual's arrest. If no hearing within 24hrs, the individual should be immediately released.
 - b. If the prosecution seeks detainment, all evidence must be turned over to the defense at least 12 hours before the detainment hearing.
- F. Advocate for immediate medication assistance for the mental health population combined with connection to non-carceral mental health providers.

1. Care and Support not Supervision

Successful pre-trial models from across California and the country show that two components are necessary for Los Angeles' pretrial model: 1) that it be grounded in community based support, 2) without supervision. Reliance on supervision denies the constitutional presumption of innocence and failure to comply with supervisorial requirements often lead to extreme consequences such as re-incarceration pre-trial and potentially harsher sentences.³

³ Marie VanNostrand et al., *State of the Science of Pretrial Release Recommendations and Supervision*. Pretrial Justice Institute, 2011.

https://www.ncsc.org/_data/assets/pdf_file/0015/1653/state-of-the-science-pretrial-recommendations-and-supervision-pji-2011.ashx.pdf

Surveillance-based conditions to pretrial release limit the viability of community support.⁴ To implement robust and effective pre-trial services, Los Angeles County must ensure service connection is provided at the earliest point possible and is led by a Community Care and Support Agency (CASA) rather than the probation department. JCOD's pretrial model must do the following:

- Commit to reducing the pretrial population by at least 50%.
- Ensure access to early representation with coordinated support between the defense agencies and agency leading pretrial services intake.⁵
- Designate service providers as central leadership of aspects of coordination.
- Work to eliminate the use of risk assessments and replace them with a strengths and needs-based assessment led by a multidisciplinary team within 8 hours of arrest to determine a plan of support for pretrial release.
- Advocate at the state and local level for the elimination of surveillance based conditions for pretrial release, such as but not limited to electronic/GPS monitoring, drug testing, and alcohol monitoring.
- Institute synergetic coordination with service providers to provide transportation, childcare, housing support, county benefits, legal support, and immigration support. Prioritize out of custody, non-carceral substance use and mental health treatment options.
- Establish a robust court date reminder system that utilizes text, call, email, or postal mail with messages sent seven, three, and one day(s) before a scheduled court date.⁶

2. **Service Providers: Invest in Safety by Resourcing Care**

A Care First model that centers public health and safety must center community based service providers who foreground trauma-informed care approaches. Emphasis must be placed on community service providers who provide specific and tailored services for individuals with mental health and substance use needs. All service providers included in the pretrial model must be aligned with Care First and have long-standing community trust. The County and JCOD must abide by these guidelines for investment:

- Fully fund Care First Community Investment and expedite delivery of funding to community based organizations.

⁴ Raj Jayadev, The Future of Pretrial Justice is not Money Bail or System Supervision – It's Freedom and Community. DE-BUG, 2019.

<https://www.siliconvalleydebug.org/stories/the-future-of-pretrial-justice-is-not-money-bail-or-system-supervision-it-s-freedom-and-community>

⁵ The implementation of this early representation unit within the public defender's office would save San Francisco County 11,253 jail-bed days per year. The cost-savings from reducing the jail population would likely far outweigh the cost of implementing programs like this one in many jurisdictions. Alena Yarmosky, *The Impact of Early Representation: An Analysis of the San Francisco Public Defender's Pre- Trial Release Unit*. California Policy Lab, 2018.

<https://www.capolicylab.org/wpcontent/uploads/2018/06/Policy-Brief-Early-Representation-Alena-Yarmosky.pdf>

⁶ Brice Cooke, et al. *Using Behavioral Science to Improve Criminal Justice Outcomes: Preventing Failures to Appear in Court*. University of Chicago Crime Lab, 2018.

<https://www.courthousenews.com/wp-content/uploads/2018/01/crim-just-report.pdf>

- Restructure the County’s contracting processes to prioritize accessibility, streamline disbursement, and simplify reporting requirements.
- Create alternative insurance requirements for contracting applicants who may not have the resources to cover premiums at the time of application.
- Expedite funding processes for very-small to medium sized organizations to expand the pool of services providers able to meet the needs of pretrial populations, namely through Care First Community Investments (CFCI) and American Rescue Plan Act (ARPA) funding.
- Review and revise service provider rates to increase compensation parity across community-based organizations, contracted organizations, and County departments.
- Invest in the mental health workforce by increasing salaries and benefits, and providing student-loan relief for entering mental health workers.

3. Tracking Progress Through Data Collection, Utilization, and Transparency

Frequent collection and reporting of data allows for an evaluation of the effectiveness of the County’s pretrial model. Data is also a tool for accountability and will support community advocates and public defenders in their own analyses of JCOD’s development. We call on Los Angeles County and JCOD to:

- G. Build and maintain an adequate data infrastructure to ensure robust program evaluation and increase programmatic transparency.
- H. Conduct periodic data analysis to address issues of inequity and efficiency and implement evidence based practices in collaboration with the JCOD Steering Committee.
- I. Make data and outcomes analysis publicly accessible through the creation of a public facing dashboard, housed on JCOD’s departmental website.
- J. Lead monthly/quarterly data briefings with judicial actors, service providers, and community stakeholders, addressing at least: numbers of arrests, numbers of releases to pretrial agency, lengths of stay in incarceration of pretrial population, successes and challenges in reaching decarceration milestones, progress on addressing racial and ethnic disparities.
- K. Collect and publicly report data gathered from pretrial programs such as PREP 2.0 and the Judicial Council Pretrial Pilots and all pretrial individuals served through the department, its agencies, and partnerships.
- L. Mandate that the collection of data must go beyond “failure to appear” and “rearrest” numbers and include, but not be limited to the following—
 - a. Number of motions filed by prosecutors for pre-trial detention hearings
 - b. Number of pre-trial detention hearings
 - c. Types of charges filed
 - d. Results of pre-trial detention hearing
 - e. Overall case disposition

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- f. Demographic data including race, age, zip code, gender, language, income, household size, number of dependents, etc. (as reported by individuals)
- g. Top 3-5 types of needs of individuals detained pretrial
- h. Rates of re-arrest and re-conviction
- i. Failures to appear
- j. Outcomes after resolution of cases, including housing stability, employment, educational achievement, etc for 6, 12, and 24 months after disposition.

Conclusion

The County's investments into the Justice Care and Opportunity Department have the potential to transform a legal system that has, for too long, harmed low-income, unhoused, and communities of color in Los Angeles. We are at the precipice of change; to reimagine the future of Los Angeles County, it is necessary to finally invest in Care First systems and structures that reduce pretrial incarceration and help us realize the closure of Men's Central Jail.