

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.7
(ID # 17630)

MEETING DATE:

Tuesday, December 07, 2021

FROM : DISTRICT ATTORNEY:

SUBJECT: DISTRICT ATTORNEY and PUBLIC DEFENDER: Approval and Acceptance of the Board of State Community Corrections (BSCC) County Re-Sentencing Pilot Program Funds that Provides the Riverside County District Attorney's Office with \$1,050,000, the Riverside County Public Defender's Office with \$715,000, and \$250,000 for the District Attorney to Contract with a Community-Based Organization. All Districts. [\$2,015,000 - State of California 100%]; For 4/5 Vote.

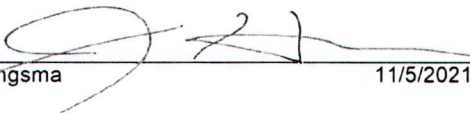
RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and accept funds for the County Re-Sentencing Pilot Program from the State of California Board of State and Community Corrections (BSCC) in the amount of \$1,050,000 for the District Attorney's Office, \$715,000 for the Public Defender's Office, and \$250,000 for the District Attorney to contract with a community-based organization; and
2. Approve and direct the Auditor-Controller to make the budget adjustments on the attached Schedule A's.

ACTION:4/5 Vote Required, Policy


Steven Harmon, Public Defender

11/4/2021

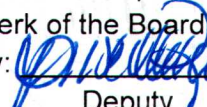

Jared Haringsma

11/5/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: December 7, 2021
xc: D.A., Pub. Defender

Kecia R. Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$235,494	\$671,667	\$2,015,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: State of California 100%			Budget Adjustment: Yes	
			For Fiscal Year: FY 22-25	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Governor of the State of California recently signed into law Assembly Bill 128 which added Section 1170.01 to the Penal Code to establish support and to evaluate a collaborative approach for exercising prosecutorial re-sentencing discretion. \$18,000,000 in appropriations have been allocated to nine (9) participating counties within the State of California for this pilot program. Each participating county pilot site is to include a county district attorney's office and a county public defender's office.

The duties of the participating district attorney's office within this program will be to develop and implement a written policy that outlines the factors, criteria, and processes that will be used to identify, investigate, and recommend individuals for recall and re-sentencing. Funding under the pilot program is to be used for the purposes of re-sentencing individuals, ensuring adequate staffing of deputy district attorneys, paralegals, and data analysts who will coordinate obtaining records and case files, support data entry, assist in the preparation and filing of pleadings, coordinate with victim services, and any other tasks required to complete the processing and facilitation of re-sentencing recommendations and to comply with the requirements of the pilot program.

Provisions within the statute allocate specified amounts for the Riverside County Office of the District Attorney and Riverside County Public Defender's Office. The Riverside County District Attorney's Office has received an allocation of \$1,050,000 and the Public Defender's Office has received an allocation of \$715,000 under the County Re-sentencing Pilot Program. An additional \$250,000 has been allocated to each District Attorney's Office to contract with a community-based organization that will be determined at a future date.

The term of the pilot program is three (3) years beginning on September 1, 2021 and ending September 1, 2024.

The attached Board of State Community Corrections (BSCC) Disbursement Letters have been reviewed and approved as to form by County Counsel.

Impact on Residents and Businesses

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

There are no anticipated impacts to Riverside County Residents or Businesses.

ATTACHMENTS:

- BSCC Distribution Letter DA
- BSCC Distribution Letter PD
- Schedule A - Budget Adjustment DA
- Schedule A - Budget Adjustment PD
- Summary of County Resentencing Pilot Program



Heydee Koury, Sr Accountant - Auditor 11/18/2021



Gregory T. Priamos, Director County Counsel 11/18/2021



STATE OF CALIFORNIA
BOARD OF STATE AND COMMUNITY CORRECTIONS



GAVIN NEWSOM
 Governor

LINDA M. PENNER
 Chair

2590 VENTURE OAKS WAY, SUITE 200 • SACRAMENTO CA 95833 • 916.445.5073 • BSCC.CA.GOV

KATHLEEN T. HOWARD
 Executive Director

October 22, 2021

Riverside County District Attorney's Office
 Attn: Emily Hanks
 3960 Orange Street
 Riverside, CA 92501

To whom it may concern,

Attached you will find a warrant for funds being distributed to your agency per the Budget Act of 2021.

This disbursement is being made in accordance with Assembly Bill 128, Chapter 21, Statutes of 2021, Item 5227-115-0001, Provision 2(d) which provides that the Riverside County District Attorney's Office will receive \$1,050,000 for the County Resentencing Pilot Program. Detailed requirements for participation in the County Resentencing Pilot Program are set forth in Penal Code section 1170.01, which was added by Assembly Bill 145, Chapter 80, Statutes of 2021.

In addition, pursuant to Provision (4) of Item 5227-115-0001, included in this disbursement is an additional \$250,000 to allow district attorneys' offices to contract with a community-based organization pursuant to subdivisions (b) and (c) of Penal Code section 1170.01.

For questions regarding the evaluation requirements set forth in Penal Code section 1170.01, please contact one of the following individuals at the RAND Corporation:

Lois Davis	(310) 393-0411 x 7330	imdavis@rand.org
Melissa Labriola	(703)-413-0100 x 5573	labriola@rand.org

If you have any questions regarding this funding distribution, please contact Lee Sutter, Chief Fiscal Officer, at Lee.Sutter@bscc.ca.gov or (916) 712-2887.

Thank you,

LINDA PENNER
 Board Chair
 Board of State and Community Corrections

FORM APPROVED COUNTY COUNSEL
 BY 11/18/21
 RYAN D. YABKO DATE



LINDA M. PENNER
Chair

KATHLEEN T. HOWARD
Executive Director

STATE OF CALIFORNIA
BOARD OF STATE AND COMMUNITY CORRECTIONS
2590 VENTURE OAKS WAY, SUITE 200 • SACRAMENTO CA 95833 • 916.445.5073 • BSCC.CA.GOV



GAVIN NEWSOM
Governor

October 22nd, 2021

Riverside County Office of the Public Defender
Attn: Judith Gweon
4075 Main Street Suite 100
Riverside, CA 92501

To whom it may concern,

Attached you will find a warrant for funds being distributed to your agency per the Budget Act of 2021.

This disbursement is being made in accordance with Assembly Bill 128, Chapter 21, Statutes of 2021, Item 5227-115-0001, Provision 2(h) which provides that the Riverside County Public Defender will receive \$715,000 for the County Resentencing Pilot Program. Detailed requirements for participation in the County Resentencing Pilot Program are set forth in Penal Code section 1170.01, which was added by Assembly Bill 145, Chapter 80, Statutes of 2021.

For questions regarding the evaluation requirements set forth in Penal Code section 1170.01, please contact one of the following individuals at the RAND Corporation:

Lois Davis	(310) 393-0411 x 7330	imdavis@rand.org
Melissa Labriola	(703)-413-0100 x 5573	labriola@rand.org

If you have any questions regarding this funding distribution, please contact Lee Sutter, Chief Fiscal Officer, at Lee.Sutter@bscc.ca.gov or (916) 712-2887.

Thank you,

LINDA PENNER
Board Chair
Board of State and Community Corrections

FORM APPROVED COUNTY COUNSEL
BY 11/18/21
RYAN D. YABKO DATE

Schedule "A"
District Attorney – BSCC County Resentencing Pilot Program

Increase Appropriations:

10000-220 010 0000-510040	Regular Salaries	\$ 122,500
10000-220 010 0000-518100	Budgeted Benefits	<u>52,500</u>
		\$ 175,000

Increase Estimated Revenue:

10000-220 010 0000-755180	CA – From Other St Govt Agencies	\$ 175,000
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Schedule "A"
Public Defender – BSCC County Resentencing Pilot Program

Increase Appropriations:

10000-2400100000-510040	Regular Salaries	\$ 41,720
10000-2400100000-518100	Budgeted Benefits	<u>18,774</u>
		\$ 60,494

Increase Estimated Revenue:

10000-2400100000-755180	CA – From Other St Govt Agencies	\$ 60,494
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2021-22 State Budget County Resentencing Pilot Program

AB 128 (Main Budget Bill) – Appropriation for County Resentencing Pilot Program

5227-115-0001— For local assistance
Board of State and Community Corrections 18,000,000

- \$18 million appropriation shall be used for the County Resentencing Pilot Program established pursuant to AB 145, public safety trailer bill. [See *relevant excerpt below*.]
- Funds shall be made available for encumbrance or expenditure until January 20, 2025.
- Funds directed to the following nine counties, with specified amounts for the DA and PD:

Los Angeles County	\$2.2 million – District Attorney \$700,000 – Public Defender
Santa Clara County	\$1.16 million – District Attorney \$750,000 – Public Defender
San Francisco City/County	\$1.1 million – District Attorney \$750,000 – Public Defender
Riverside County	\$1.05 million – District Attorney \$715,000 – Public Defender
Contra Costa County	\$1.05 million – District Attorney \$750,000 – Public Defender
San Diego County	\$1 million – District Attorney \$650,000 – Public Defender
Yolo County	\$717,000 – District Attorney \$415,000 – Public Defender
Merced County	\$478,000 – District Attorney \$320,000 – Public Defender
Humboldt County	\$355,000 – District Attorney \$240,000 – Public Defender
All District Attorneys offices named above	\$250,000 – per recipient DA to contract with a CBO (except in SF City and County, this same amount to Sentencing Planners) pursuant to language in AB 145 (below). Unpent funds revert to General Fund.

- Additionally, \$1.35 million will be made available to RAND Corporation to complete an evaluation of the pilot program.

**Excerpt from AB 145 – Public Safety Trailer Bill
Implementing Provisions for County Resentencing Pilot Program**

SEC. 3.

Section 1170.01 is added to the Penal Code, to read:

<p>General purpose of pilot</p>	<p>(a) The County Resentencing Pilot Program (pilot) is hereby established to support and evaluate a collaborative approach to exercising prosecutorial resentencing discretion pursuant to paragraph (1) of subdivision (d) of Section 1170. Participants in the pilot shall include a county district attorney’s office, a county public defender’s office, and may include a community-based organization in each county pilot site.</p>
<p>Duties of participating DA offices</p>	<p>(b) Each participating district attorney’s office shall do all of the following: (1) Develop and implement a written policy which, at minimum, outlines the factors, criteria, and processes that shall be used to identify, investigate, and recommend individuals for recall and resentencing. The district attorney’s office may take into account any input provided by the participating public defender’s office or a qualified contracted community-based organization in developing this policy. (2) Identify, investigate, and recommend the recall and resentencing of incarcerated persons consistent with its written policy. (3) Direct all funding provided for the pilot be used for the purposes of resentencing individuals pursuant to the pilot, including, but not limited to, ensuring adequate staffing of deputy district attorneys, paralegals, and data analysts who will coordinate obtaining records and case files, support data entry, assist in the preparation and filing of pleadings, coordinate with victim services, and any other tasks required to complete the processing and facilitation of resentencing recommendations and to comply with the requirements of the pilot.</p>
<p>Role of qualifying CBO through contract with DA</p>	<p>(c) A participating district attorney’s office may contract with a qualifying community-based organization for the duration of the pilot. The community-based organization shall have experience working with currently or formerly incarcerated individuals and their support networks, and shall have expertise in at least two of the following areas: (1) Supporting and developing prerelease and reentry plans. (2) Family reunification services. (3) Referrals to postrelease wraparound programs, including, but not limited to, employment, education, housing, substance use disorder, and mental health service programs. (4) Restorative justice programs.</p>

Affirmation of prosecutor's continuing authority under Penal Code 1170(d)(1)	(d) Nothing in this section shall be construed to limit the discretion or authority granted to prosecutors under paragraph (1) of subdivision (d) of Section 1170.
Duties/eligible uses of funding for public defender's offices	(e) All funding provided to a participating public defender's office shall be used for the purposes of supporting the resentencing of individuals pursuant to the pilot, including, but not limited to, ensuring adequate staffing of deputy public defenders and other support staff to represent incarcerated persons under consideration for resentencing, identifying and recommending incarcerated persons to the district attorney's office for resentencing consideration, and developing reentry and release plans. A participating public defender's office may provide input to the county district attorney's office regarding the factors, criteria, and processes to be used by the district attorney in their exercise of discretion under paragraph (1) of subdivision (d) of Section 1170.
Details regarding DA data tracking/use of required template for pilot evaluation	<p>(f) Each participating district attorney's office shall utilize the same template developed by the evaluator to identify and track specific measures consistent with the goals of this section. The template shall be finalized no later than October 1, 2021. The measures shall include, but not be limited to, the following:</p> <p>(1) A summary of expenditures by each entity receiving funds.</p> <p>(2) A summary of any implementation delays or challenges, as well as steps being taken to address them.</p> <p>(3) The total number of people incarcerated in state prison on the first day of each reporting year for convictions obtained in the reporting county.</p> <p>(4) The factors and criteria used to identify cases to be considered for prosecutor-initiated resentencing.</p> <p>(5) The total number of cases considered by a pilot participant for prosecutor-initiated resentencing. For each case, information collected shall include the date the case was considered, along with the defendant's race, ethnicity, gender, age at commitment, categories of controlling offenses, date of prison admission, earliest possible release date or minimum eligible parole date, and date of birth.</p> <p>(6) The total number of prosecutor-initiated resentencing recommendations by the pilot participant to the court for recall of sentence, date of referral, and information on the defendant's race, ethnicity, gender, age at commitment, groups of controlling offenses, age at time of recall consideration, time served, and time remaining.</p> <p>(7) The total number of prosecutor-initiated resentencing recommendations by the pilot participant in which the court responded, the date the court considered each case referred, how many cases the court considered, and information on the defendant's race, ethnicity, gender, age at commitment, groups of controlling offenses, age at time of recall consideration, time served, and time remaining.</p> <p>(8) The total number of prosecutor-initiated resentencing recommendations denied by the court, and for each case the date of the denial and the reasons for the denial, and information on the defendant's</p>

	<p>race, ethnicity, gender, age at commitment, groups of controlling offenses, age at time of recall consideration, time served, and time remaining.</p> <p>(9) The total number of people who were resentenced, the date of resentencing, and information on the defendant's race, ethnicity, gender, age at commitment, groups of controlling offenses, age at time of recall consideration, time served, and time remaining.</p> <p>(10) The total number of people released from state prison due to prosecutor-initiated resentencing by the pilot participant, how many were released from state prison and the date of release, and information on the defendant's race, ethnicity, gender, age at commitment, groups of controlling offenses, age at time of recall consideration, time served, and time remaining.</p>
Timeline for data submission to evaluator	(g) The participating district attorneys' offices shall provide the data listed in subdivision (f) to the evaluator on a quarterly basis.
Additional specification on data reporting to permit comparison across pilot sites	(h) To the extent possible, the evaluation of data reported by the participating district attorneys' offices shall be conducted in a manner that allows for comparison between the pilot participant sites. This includes, but is not limited to, collection and reporting of data at the individual case level using the same definitions. Each pilot participant shall provide any information necessary to the evaluator's completion of its analysis.
Required participation of relevant state entities in providing data for evaluation	(i) Notwithstanding any other law, state entities, including, but not limited to, the Department of Corrections and Rehabilitation, the State Department of Social Services, and the Department of Child Support Services, shall provide any information needed for the completion of the evaluator's analysis.
Duties of evaluator	<p>(j) The evaluator shall do all of the following:</p> <p>(1) For each case considered by a pilot participant, calculate the time served by an individual and the time remaining on their sentence.</p> <p>(2) Analyze the data and prepare two preliminary reports and a final report to the Legislature. The first preliminary report shall be submitted to the Legislature on or before October 1, 2022. The second preliminary report shall be submitted to the Legislature on or before October 1, 2023. The final report shall be submitted to the Legislature on or before January 31, 2025.</p> <p>(3) As part of the evaluation, the evaluator shall conduct, at minimum, four assessments, as follows:</p> <p>(A) An implementation assessment shall be conducted to determine if pilot activities were implemented as intended. This assessment shall include semi-structured in-depth interviews with all relevant stakeholders, including, but not limited to, representatives from the district attorney agencies, public defender agencies and community-based organizations participating in the pilot jurisdictions. The assessment shall document the different strategies the pilot sites used, the development and implementation of the written resentencing policies and procedures, which cases</p>

	<p>were prioritized for resentencing and the referral process, and factors that facilitated or hindered implementation.</p> <p>(B) A cost study that shall estimate the resources required to implement the pilot activities, to include both new expenditures on personnel and other goods and services, and the reallocation of resources from prior activities to the pilot activities. The assessment shall include total cost and cost per case.</p> <p>(C) An assessment of the estimated amount of time by which an individual’s earliest possible release date or minimum eligible parole date was advanced due to prosecutor-initiated resentencing, including a descriptive analysis of the process of cases from initial recommendation to final resentencing outcomes to document points of attrition in the process and allow for comparison between individuals based on age, gender, race, offense, and county. This assessment shall include a description of recidivism outcomes for individuals released from prison, based on definitions created in collaboration with pilot participants. This assessment shall include a calculation of the total number of days of incarceration avoided, and amount of time by which the person’s earliest possible release date or minimum eligible parole date was advanced due to prosecutor-initiated resentencing for those individuals released from prison using data maintained by the Department of Corrections and Rehabilitation data systems.</p> <p>(D) An assessment which compares, to the extent feasible, records at the individual case level with county or state administrative data files that capture utilization of government benefit and social service programs, such as Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, and other government cash or in-kind social services, and court-ordered child support and visitation. The evaluator shall document changes in these indicators at the individual case level during the evaluation period, in order to determine whether any observed changes can be attributed to the pilot. The evaluator shall combine the descriptive information on outcomes from the third and fourth evaluation components with the cost analysis findings from the second component to estimate the potential for cost savings to state and local governments from the pilot activities. The evaluator shall, using the data collected from the pilot, estimate the potential for cost savings to state and local governments from the pilot activities.</p>
<p>Definition of pilot and evaluation terms</p>	<p>(k) The pilot term shall begin on September 1, 2021, and end on September 1, 2024. The evaluation term shall begin on September 1, 2021, and end on January 31, 2025.</p>