

The Honorable Toni G. Atkins
Senate President Pro Tempore

The Honorable Nancy Skinner
Chair, Senate Budget and Fiscal Review
Committee

The Honorable Maria Elena Durazo
Chair, Subcommittee No. 5 on Public Safety,
the Judiciary, Labor, and Transportation
Senate Budget and Fiscal Review Committee

Subject: Reject Governor's \$140 million Probation-led Pretrial Initiative

Dear Pro Tem Atkins and Senators Skinner and Durazo,

Everyone deserves the presumption of innocence. In fact, this is our Constitutional right. In practice, 3 in 4 persons in CA county jails are held pre-trial, meaning they have not been convicted. We appreciate the Governor's urgency to improve the state's existing pretrial system (2nd highest pretrial incarceration rate in the US) and help end mass incarceration. But the Governor's approach is misguided. It would greatly expand probation (law enforcement) supervision of individuals who have not been found guilty of a crime, in ways that result in *higher* incarceration rates long-term. We ask that you reject this proposal. Funding these programs at a scale of \$140 million in 2021–22 and \$70 million ongoing would be a dramatic re-investment in the root causes of mass incarceration.

Expansion and over-reliance in law enforcement: In Sacramento County, one of the 16 counties funded for a pretrial pilot program in the 2019 Budget Act, the probation department devoted 84% of its \$8.2 million grant to adding probation staff, 80% of whom were armed officers. The other top budget lines were drug testing (4%) and GPS ankle monitors (4%).

What's wrong with a law enforcement approach to pretrial services? Probation-led pretrial programs use intensive monitoring in place of actual service provision. In one review, 97% of those on supervised release charged with *misdemeanors* in LA County were subjected to electronic monitoring. A battery problem with an ankle monitor, a missed appointment due to transportation, child care, or health issues, or dozens of other "technical violations" could land someone in jail as a probation violator when they haven't even been convicted of a crime.

There is a better way: Santa Clara and San Francisco counties run pretrial programs that collaborate with, but are independent of, law enforcement. These counties maintain some of the highest pretrial success rates in CA, as measured by low rates of re-offending and high court appearance rates. Non-law enforcement-led pretrial programs have better outcomes and are more cost effective.

Insufficient investment in community care: The Santa Clara and San Francisco programs succeed by providing transportation services, court date reminders, child care, and other supportive services that are foundational to effective pretrial programs. However, in Sacramento's pilot, just 4% was earmarked for community supportive services. Nearly 2 years after the inception of the grant, not one dollar of this set-aside has been awarded.

Lack of robust data, best practices, and county autonomy: The Governor's current proposal mandates that probation departments lead pretrial services. In light of the concerns described above, this would be harmful and counterproductive. Current probation-led pretrial programs indicate re-arrest rates of up to 70%. Counties should be permitted to contract with the best-suited entity, including community based service providers.

The Judicial Council's two most recent reports on the pretrial pilot program suggest that due to COVID-19, success measures remain inconclusive and biased. On May 17, 2021, the LAO commented that probation-led pretrial programs require more legislative oversight, including an evaluation of their impacts on racial equity. The Governor's budget staff replied that no funding was available for such analysis.

Lack of community input: Much like our current system of pretrial mass incarceration, community members have minimal opportunity to understand the impact of risk assessments on their loved ones' freedom, yet are directly harmed by its decisions. No mandated community forums or oversight bodies exist to assess the effectiveness and integrity of probation-led pretrial programs.

The Legislature has begun to prioritize economic restoration in historically marginalized communities. Both houses' ongoing efforts to put an end, once and for all, to money bail; the Senate's "Compassionate California" resolution (SCR 18); and the California Supreme Court's landmark decision requiring courts to consider ability to pay bail all align with the principles of the presumption of innocence, investment in care, and economic restoration. To continue this momentum, we urge you to reject the entire \$140 million proposal and build a pretrial reform model that honors the presumption of innocence.

Respectfully,
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3. The Bail Project, Franklin Cruz, franklinc@bailproject.org, Venice, CA 90294
4. Bend the Arc: Jewish Action, Marie Mazzone, marie.mazzone@gmail.com
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15. Gilbert Foundation Director of UCLA School of Law's Criminal Justice Program, Alicia Virani, virani@law.ucla.edu
16. Human Rights Watch, John Raphling, raphlij@hrw.org, Los Angeles, CA
17. Jakara Movement, Director of Personnel, Harjit Singh, harjit@jakara.org
18. Justice2Jobs Coalition, Lynn Berkley-Baskin, justice2jobscoalition@gmail.com, Sacramento CA 95763
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20. La Defensa, Eunisses Hernandez, eunisses@ladefensx.org, Los Angeles CA 91778
21. People's Budget OC, Karen Hernandez, peoplesbudgetoc@gmail.com, Anaheim, CA 92805
22. Project Amiga, Andrey Garcia-Ponce De Leon, projectamiga1@gmail.com, Covina, 91722
23. Public Health Advocates, DeAngelo Mack, dm@phadvocates.org, (Sacramento) P.O. Box 2309 Davis, CA 9561
24. Reform LA Jails, Shalomyah Bowers, shalomyah@bowersconsulting.com, Los Angeles, CA 90046
25. Root & Rebound, Katherine Katcher, kkatcher@rootandrebond.org, Oakland, CA 94612
26. Sacramento Faces Race, April Baskin, sacramentofacesrace@gmail.com, Folsom, CA 95630
27. Sacramento Homeless Organizing Committee, Niki Jones, outwardbound@hotmail.com, Sacramento, CA 95811
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29. San Francisco Pretrial Diversion Project, David Mauroff, davidm@sfprenal.org, San Francisco CA 94103
30. Silicon Valley Debug, Raj Jayadev, raj@siliconvalleydebug.org, San Jose, CA 95126
31. Social Eco Education-LA (SEE-LA), Martha Camacho-Rodriguez, mmmmmrtha@gmail.com, Los Angeles, CA 90017
32. Stop LAPD Spying Coalition, Shakeer Rhaman, stoplapdspying@gmail.com, Los Angeles CA 90021
33. Transforming Justice OC, Daisy Ramirez, transformingjusticeoc@gmail.com, Santa Ana, CA
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