

AGENDA MATERIAL

DATE 5-3-22 ITEM NO. RA 20

Bernadette Russell

From: Melissa Manriquez
Sent: Monday, May 2, 2022 8:39 AM
To: COB_mail
Subject: FW: Proposed Amendments to IGA for Initial Appearance Judges (May 3, 2022 Agenda Item 20)
Attachments: SC_DraftAgreement_4-29-22.pdf

From: Amelia Cramer [REDACTED]
Sent: Sunday, May 1, 2022 8:23 AM
To: Sharon Bronson <Sharon.Bronson@pima.gov>; Adelita Grijalva <Adelita.Grijalva@pima.gov>; Rex Scott <Rex.Scott@pima.gov>; Matt Heinz <Matt.Heinz@pima.gov>; steve.christie@pima.gov
Cc: Melissa Manriquez <Melissa.Manriquez@pima.gov>; jeffrey.bergin@sc.pima.gov; Laura Conover <Laura.Conover@pcao.pima.gov>; Jan Leshner <Jan.Leshner@pima.gov>
Subject: Proposed Amendments to IGA for Initial Appearance Judges (May 3, 2022 Agenda Item 20)

CAUTION: This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

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Dear Chair Bronson, Vice Chair Grijalva and Member of the Board of Supervisors,

I write in support of the attached proposed revisions to the Intergovernmental Agreement (IGA) for Initial Appearance (IA) Judges.

I am heartened to see that the proposed amendments to the IGA call for it to be renewed only through the end of this year, with a data on racial and ethnic disparities to be gathered and made public prior to further renewal.

I am also glad to see that, under the proposed amendments, IA judges will be required to have significant felony experience and will be required to assess danger to the community as their focus in reviewing bail recommendations.

Finally, I am pleased that one of the proposed amendments provides that the IA judges must receive regular training.

These proposed amendments to the IGA for IA Judges are important steps in bail reform. County Attorney Conover should be commended for the leadership she has offered in facilitating the development of the proposed amendments and in offering to assist with the training. And Superior Court Presiding Judge Bergin should be commended for his openness and willingness to accept changes to the IGA.

I hope the Board of Supervisors will approve the IGA for Initial Appearance Judges with the attached proposed amendments.

Additionally, apart from the terms of the IGA, I urge the Board to request additional data from the Courts and from the Sheriff's Department as a part of the 2023 budget process revealing the numbers of individuals detained in jail with the condition that they must pay bail who are accused only of non-violent misdemeanors or felony drug possession for personal use but who are unable to pay the amount of bail imposed within 24 hours following their Initial Appearance or Misdemeanor Arraignment. The incarceration of these individuals imposes a significant expense on local taxpayers for jail bed days and is counter-productive in that it tends to exacerbate existing mental and behavioral health disorders and to increase recidivism.

Additionally, I urge the Board to ask the Superior Court and the Sheriff to research and develop a Strategic Plan to implement pretrial electronic monitoring and other methods to be used in lieu of incarceration for individuals arrested on non-violent crimes who have previously failed to appear for court hearings but who do not pose a significant risk to public safety. Electronic monitoring costs a mere fraction of the cost of incarceration, is far less intrusive an intervention than incarceration, and avoids many of the negative collateral consequences of incarceration, such as exacerbation of existing mental and behavioral health disorders, loss of

employment and consequential loss of housing.

Finally, I urge the Board to request additional data from the Courts regarding the numbers of individuals who are arrested and come before the IA judges for violent felony crimes committed while they are on pretrial release following an initial appearance for an earlier violent felony crime. This is an important measure of how well the criminal justice system is achieving its goal of public safety.

Thank you for your consideration.

Sincerely,

Amelia Craig Cramer
Member, Pima County Safety + Justice Community Collaborative

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE ARIZONA SUPERIOR COURT IN PIMA COUNTY,
PIMA COUNTY, PIMA COUNTY CONSOLIDATED JUSTICE COURT, AND THE CITY OF TUCSON
FOR THE PROVISION OF TWICE-A-DAY INITIAL APPEARANCES**

1. Background and Purpose.

- 1.1. This intergovernmental agreement ("**Agreement**") is entered into by and between Arizona Superior Court in Pima County ("**Superior Court**"), Pima County, a political subdivision of the State of Arizona ("**County**"), Pima County Consolidated Justice Court ("**Justice Court**"), and the City of Tucson ("**City**"), a municipal corporation, on behalf of the Tucson City Court ("**City Court**" and, together with the Superior Court and Justice Court the "**Courts**").
- 1.2. The Courts are required by Rule 4, Arizona Rules of Criminal Procedure, to provide all persons arrested within the County and the City with an initial appearance and/or misdemeanor arraignment proceedings (the "**Proceedings**") before a judge within twenty-four hours after arrest. Such Proceedings are conducted twice a day, seven days a week, including holidays.
- 1.3. The Courts have determined that it is most efficient for them to consolidate all initial appearances and arraignments in City Court. The Proceedings will be conducted by City Court magistrates or other designated, qualified lawyers appointed by the Superior Court as special commissioners of the Superior Court. For purposes of the payment provisions of this Agreement, "Justice Court" includes the County and "City Court" includes the City.

2. **Term.** Regardless of the date it is approved and executed by the parties, this Agreement will be deemed to have been in effect as of July 15, 2021, and will continue through December 31, 2022 ~~for a period of 10 years~~, subject to early termination by any of the parties as provided in this Agreement.

3. Facilities.

- 3.1. *Location.* The Proceedings will be conducted either in Courtroom 1 of the City Court at 103 E. Alameda Street, or remotely (if required) each morning and evening, including weekends and holidays. The specific time and place for the Proceedings will be set by mutual decision of the Courts and may be adjusted as necessary during the life of this Agreement.
- 3.2. *Facilities.* City Court will ensure that the facilities used for the Proceedings are configured and maintained in a manner that accommodates the flow of the Proceedings and will provide access, parking, office space, and telephones for the employees of the other Courts traveling to City Court location for the Proceedings. City Court will also provide public and media access to the Proceedings. Such access may be through virtual or remote technologies.

4. Services.

- 4.1. *Judicial Services.* City Court will provide Magistrates to conduct the Proceedings on weekday mornings. Superior Court will provide qualified judicial officers for all evening, weekend, and holiday Proceedings.
- 4.2. *Clerical Support.* City Court will provide a courtroom clerk for the weekday morning Proceedings. Justice Court will provide a courtroom clerk for evening, weekend, and holiday Proceedings. The clerks will perform their customary duties in connection with the Proceedings.

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4.3. *Interpreting Services.* City Court will provide interpreting services for weekday morning Proceedings. Superior Court will provide interpreting services for all evening, weekend and holiday Proceedings.

4.4. *Guidelines.* At initial appearance and misdemeanor arraignments in reviewing release conditions on bailable offenses, if a reviewing magistrate finds that a person is not a continuing danger to the community in conjunction with their findings pursuant to A.R.S. 13-3967, the reviewing magistrate shall consider either a release on the person's own recognizance or to pretrial services. Likewise, if the magistrate finds that the person constitutes a continuing threat to the community in conjunction with their findings pursuant to A.R.S. 13-3967, the reviewing magistrate shall make a record of those findings and may consider imposing a bond.

4.5. *Minimum Qualifications.* Assigned Magistrates shall be law trained and have a minimum of three years felony prosecution and/or felony criminal defense experience.

4.6. *Data Review.* The Superior Court, Justice Court(s), and the City Court shall engage in quarterly reviews of bond racial disparity data, provided from the Pima County Jail, and distribute such data in a timely manner to all judges in these three courts. This data shall be made public.

4.7. *Training.* City Court and Justice Court(s) will collaborate with Superior Court to provide annual training on the Pima County Attorney's bond recommendation guidelines, bond disparity data and findings, and bias training.

5. *Costs.* The Courts will share the cost of providing judicial officers, courtroom clerks, and interpreting services for the Proceedings in proportion to each Court's share of the Proceedings, except that the cost of courtroom clerks for evening, weekend, and holiday Proceedings will be shared only between Justice Court and Superior Court.

5.1. *Cost Calculations.* The calculation of the cost of judicial, clerical, and interpreter services provided by the various Courts will be based on the rates actually paid for services provided by contractors, and on the hourly cost of salary and employee benefits for services provided by Court employees. The administrators of the Courts providing the services will review and agree upon the rates for cost calculations and adjust them from time to time as necessary.

5.2. *Case Counts; Invoices.* Justice Court will provide its case counts to Superior Court every month, and City Court will provide its case counts to Superior Court each quarter. Each quarter, the Superior Court will issue detailed invoices to the other courts for their share of the total costs, with each court credited the cost of the services it provided.

5.3. *Payment.* Any amounts owed by any Court to another court will be paid within 30 days of the invoice.

6. *Non-Party Courts.* Other courts that send defendants through the initial arraignment court will be billed proportionately for their share of costs. The other Courts include but are not limited to the following:

Ajo Justice Court Precinct #3

Green Valley Justice Court Precinct #7

Marana Municipal Court

Oro Valley Municipal Court

Sahuarita Municipal Court

South Tucson City Court

7. **Notices.** Any notices provided by one of the Courts under this Agreement must be in writing, delivered to the Presiding Judge or Justice of the Peace of the other Courts. Case counts must be delivered to:

Arizona Superior Court in Pima County
110 W. Congress, 9th Floor
Tucson, Arizona 85701
ATTN: Finance Department

8. **Insurance.** The parties are each self-insured and each will be responsible for, and will indemnify and defend the others against liability for, its own negligent acts and omissions and the negligent acts and omissions of its employees.
9. **Termination.** This Agreement may be terminated at any time by mutual written consent or unilaterally by any party by giving not less than ninety (90) days written notice to the other parties.
10. **Conflicts of Interest.** This agreement is subject to termination for conflicts of interest as provided in A.R.S. § 38-511.
11. **Legal Jurisdiction.** Nothing in this Agreement either limits or extends the legal jurisdiction of any of the Courts.
12. **Prior Agreements.** This agreement supersedes all previous agreements regarding the same subject matter.
13. **Review of Terms.** This parties will review this Agreement annually and will amend it as they deem appropriate.
14. **Assignment.** No right or obligation under this Agreement may be assigned or delegated by any party without the prior written permission of the other parties.
15. **Applicable Law.** This Agreement is governed by the laws of the State of Arizona, and suits pertaining to this Agreement must be brought in a court of competent jurisdiction in the State of Arizona.
16. **Compliance with Law.** Parties to this Agreement will comply with all applicable City, County, State and Federal laws, ordinances, rules, regulations, and statutes in the performance of this Agreement.
17. **Non-Discrimination.** The parties will not discriminate, will prohibit any subcontractor from discriminating, against any employee, or applicant for employment, or any other person, in violation of Federal Executive Order 11246, State Executive Order 2009-09, and A.R.S. § 41-1461 *et seq.* on the basis of race, age, color, religion, sex, condition of disability, or national origin.
18. **Records Retention.** Pursuant to A.R.S. § 35-214, parties will retain, and will require all subcontractors to retain, for inspection and audit by the Administrative Office of the Court and the Arizona Auditor General, all books, accounts, reports, files and other records relating to the performance of this Agreement for a period of five years after its completion. Upon request by the AOC or the Auditor General, the parties will produce a legible copy or the original of all such records.

19. **Americans with Disabilities Act.** All parties will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
20. **Non-Appropriation.** Each payment obligation under this Agreement is conditioned upon the availability of funds that are appropriated for the payment of such obligation. If funds are not available to a party for the continuance of this Agreement, that party will promptly notify the others. No penalty will accrue to the party in the event this provision is exercised and the party will not be obligated or liable for any future payments due or for any damages as a result of the termination under this section.
21. **Entire Agreement.** This document constitutes the entire agreement between the parties and shall not be modified, amended, altered or changed except through a written amendment signed by all the parties.
22. **Copies and Counterparts.** The parties may execute this Agreement in multiple copies, each of which is an original, but all of which constitute one agreement after each party has signed such a counterpart. Any executed counterpart may be delivered by facsimile, electronic mail, or other electronic means.

**ARIZONA SUPERIOR COURT IN
PIMA COUNTY and PIMA COUNTY CONSOLIDATED
JUSTICE COURT:**

TUCSON CITY COURT:

Hon. Jeffrey T. Bergin, Presiding Judge

Hon. Antonio Riojas, Presiding Judge

Date

Date

CITY OF TUCSON:

PIMA COUNTY:

Regina Romero, Mayor

Sharon Bronson, Chair
Board of Supervisors

Date

Date

ATTEST:

ATTEST:

Suzanne Mesich, Clerk

Melissa Manriquez, Clerk of the Board

Date

Intergovernmental Agreement Determination:

Each of the undersigned lawyers has reviewed this Agreement and has determined that it is in proper form and is within the legal authority of the party represented by the lawyer.

City Attorney

Deputy County Attorney

Assistant Attorney General