



MEMORANDUM

Date: June 14, 2023

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner 
County Administrator

Re: **Additional Information for the Board of Supervisors June 20, 2023 Meeting - Agenda Item Regarding Initial Appearances Intergovernmental Agreement**

Introduction

In January 2023 the Board of Supervisors reviewed a work plan presented by Superior Court Presiding Judge Jeffrey Bergin, which was a critical step towards the development of an Intergovernmental Agreement (IGA) between the Courts in Pima County and the City of Tucson to manage initial appearances (IA). On January 24, 2023, the Board approved a variety of recommendations, which were designed to delineate a process by which elements critical to initial appearances could be discussed by all parties involved resulting in modifications to the adjudication of initial appearances. At that time, Superior Court asked that consideration of a new IGA be continued until December 29, 2023 while focused work groups established by the Courts evaluate processes and provide recommendations.

Discussion

Since (at least) 2004, the Courts in Pima County have determined that it is most efficient for them to consolidate all initial appearances and arraignments, which are required to occur within twenty-four hours of any arrest that could result in detention. An IGA between the Arizona Superior Court, Pima County Consolidated Court and the City of Tucson has been entered to provide for these hearings, allowing for Tucson City Court judges to preside over initial appearances for all jurisdictions within Pima County. Approval is required by the Board of Supervisors primarily to provide a mechanism for the Courts to share the cost of initial appearances and payment can be made for such.

While the last IGA was approved in June 2007, amendments approved in 2009 and 2011 extended the IGA until June 30, 2013. Superior Court recommended a revised IGA for twice-day appearances that was first considered by the Board of Supervisors in March 2022.

The primary purpose of the initial appearance, is for a judge to assess an individual's likelihood to appear for their next court hearing (if released), and the risk the individual may present to the community (based on limited information available at initial appearance hearings.) A judge will then determine conditions of release. The process, including the potential risk of release and the assessment of bail, has seen ever-increasing scrutiny in recent years. The ability of those conducting the hearings to properly assess and review the

cases before them, the concern that bail decisions are sometimes made without significant input from prosecution or defense counsel, and the lack of data on outcomes resulted in concerns being expressed to the Board of Supervisors regarding the content and term of the initial appearance IGA (IA IGA).

On March 15, 2022 the Board of Supervisors considered approval of a ten-year extension for the IA IGA between the Superior Court, Justice Court, and the City of Tucson, to provide for joint participation and pro-rata cost sharing for initial appearances of individuals facing both felony and misdemeanor charges. The Board continued the discussion about the IA IGA and possible amendments to the proposed agreement at its meetings of April 5, 2022, April 19, 2022, May 3, 2022 and May 17, 2022. At the May 17, 2022 meeting, a unanimous vote of the Board removed the item from the agenda and direction was provided to work on revisions and come back to the Board at a later date.

In his letter of December 21, 2022 Jeffrey Bergin, Presiding Judge of the Pima Court Superior Court, updated the Board on the three areas of focus for the work group that was created and had been meeting to address the areas of:

1. Release Conditions Matrix and Decision Tree
2. Electronic Monitoring/New Supervision Options
3. Data and Reporting

Presiding Judge Bergin reported that the work group, overseen by Superior Court leadership, included representatives from the Pima County Attorney's Office, Public Defense Services, Tucson City Court and Pima County's Justice Services Department.

At that time, the Court anticipated receiving recommendations within the second quarter of 2023 for consideration in the development of a new IGA. While initially anticipated that the report and recommendations would be before the Board of Supervisors at on May 2, 2023, it will now be before you on June 20, 2023.

Presiding Judge Bergin will present to the Board of Supervisors the findings and recommendations of the work group in accordance with areas of concern delineated in my [January 24, 2023](#) memorandum, which are:

1. Release Conditions Matrix and Decision Tree
2. Electronic Monitoring/New Supervision Options
3. Data Coordination and Reporting.

In accordance with the recommendations approved by the Board in January, all recommendations presented to the Board of Supervisors will be shared with City of Tucson Manager Michael Ortega, to ensure that amendments to the document meet with the City's approval.

Conclusion

As noted earlier this year, the work being conducted by the Superior Court to evaluate critical elements of the initial appearance process is commendable, and, as requested, was expedited. An interim IA IGA was not required to ensure continued payment for services rendered in the conduct of initial appearances. If the Board of Supervisors considers the findings of the work group to date presented by Presiding Judge Bergin consistent with Pima County's goals regarding the impact on the community of the initial appearance process, the work group as established by the Courts will continue to meet. A proposal regarding the financial cost to implement the additional work as requested will be developed as part of a final report to the Board of Supervisors. To ensure the continuation of the work groups and the approval of the City of Tucson, an amendment to the IA IGA is proposed by the Presiding Judge for a period of one-year, during which the full impact of the recommendations of the work group can be evaluated.

Recommendation

I recommend the Board of Supervisors review with Presiding Judge Bergin the activities of the three focus areas of the work group - Release Conditions Matrix and Decision Tree - Electronic Monitoring/New Supervision Options - Data Coordination and Reporting. Believing them to be consistent with Pima County's goals of the Board of Supervisors pertaining to initial appearances, I recommend the Board of Supervisors:

1. Receive and review the recommendations provided, approve the continuation of the work groups and request a submission to the Board of Supervisors and County Administrator by December 29, 2023.
2. Direct the County Administrator to review any necessary mid-year adjustments to the Fiscal Year 23/24 Pima County budget to provide for the data collection and reporting required as well as any costs associated with the implementation of electronic monitoring, pretrial services monitoring and supervision, and data coordination and review.
3. Direct the County Administrator to continue to work with the City of Tucson City Manager to ensure that the IA and/or any amendments meet with the City's approval.
4. Approve the Intergovernmental Agreement between the Courts for a period not to exceed one-year.

c: The Honorable Jeffrey Bergin, Presiding Judge, Pima County Superior Court
The Honorable Danelle Liwski, Associate Presiding Judge, Pima County Superior Court
The Honorable Laura Conover, Pima County Attorney

The Honorable Chair and Members, Pima County Board of Supervisors

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The Honorable Chris Nanos, Pima County Sheriff

Ronald Overholt, Court Administrator, Pima County Superior Court

Michael Ortega, City Manager, City of Tucson

Carmine DeBonis, Jr., Deputy County Administrator

Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer

Steve Holmes, Deputy County Administrator

Dean Brault, Director, Public Defense Services

Kate Vesely, Director, Pima County Department of Justice Services