



The Superior Court

STANLEY MOSK COURTHOUSE
111 NORTH HILL STREET
LOS ANGELES, CALIFORNIA 90012
CHAMBERS OF
SAMANTHA P. JESSNER
PRESIDING JUDGE

TELEPHONE
(213) 633-0400

October 10, 2023

Beatriz Dieringer, President
Los Angeles County Division
League of California Cities
1400 K. Street, Suite 400
Sacramento, CA 95814

Re: Pre-Arrestment Release Protocol

Dear Ms. Dieringer:

Thank you for your letter dated September 28, 2023, sent on behalf of the Los Angeles County Division of the League of California Cities. In the letter, you asked that the Court suspend the implementation of its Pre-Arrestment Release Protocol (PARP) and retain the current bail schedule. In addition, you assert that elected officials in Los Angeles County have “deep concerns regarding the public safety impacts” that the revised bail schedule will have on our community. You claim that the public’s trust in the criminal justice system is declining based on the perception that crimes affecting residents and businesses, such as assaults and organized retail thefts, are not being prosecuted vigorously or at all. In that context, you argue that adopting a zero-money bail schedule further erodes the public’s trust in the criminal justice system. Finally, you further claim that the new protocols represent a substantial change for law enforcement agencies (LEA) and increase their workloads.

We greatly appreciate you taking the time to share your concerns. As leaders and as public officials, we have a shared interest in safeguarding the well-being of the community we serve, and indeed, we are all bound by the same state and federal Constitutions. Furthermore, I want to assure you that the Court is committed to fulfilling its role in adjudicating cases in a timely, impartial manner that upholds the law, protects public safety, and affords every person arrested their due process rights. In democracies like ours, criminal justice issues are frequently portrayed as a contest between public safety and civil liberties. As a member of the judicial branch, the California Code of Judicial Ethics requires that I remain, “faithful to the law regardless of partisan interests, public clamor, or fear of criticism...” As the elected leader of the Court, I am tasked with chairing the Executive Committee. Among one of its many duties, the Local Rules require that the Executive Committee promulgate a bail schedule. In our court, the Bail Committee recommends a bail schedule to the Executive Committee who, in turn, must consider and determine whether to adopt it. The Court faithfully followed that process when it promulgated the PARP that went into effect on

October 1, 2023.¹ We continue to monitor and assess its impact and effectiveness and will adjust it as necessary. However, there are presently no plans to rescind it.

Impact on Public Safety

Among the benefits of robust public discourse about bail policies is the opportunity for all of us to remind ourselves and the public of the purpose of bail. As you know, bail is intended to ensure the safety of the public and victim and the arrestee's future appearance in court; it is not intended to punish or detain arrested persons prior to arraignment given the foundational constitutional principle that a person is presumed innocent until proven guilty beyond a reasonable doubt. Moreover, our reviewing courts have clearly defined when pre-trial arrestees may be detained prior to trial. PARP aligns the Court's bail schedules with the law, and research findings that pretrial systems that determine release status based exclusively on financial resources of the accused are inherently unsafe and unfair. See, e.g., (<https://www.courts.ca.gov/documents/PDRReport-20171023.pdf>).

Consideration of the risks to public safety and to the victim are the cornerstones of the law and PARP. For those offenses designated MR (Magistrate Review), judges will make individualized determinations whether there are nonfinancial conditions of release that will ensure that the person arrested returns to court and does not present a risk to the public or to the victim. For those offenses designated CR (Cite and Release) and BR (Book and Release), LEAs and justice partners may alert judicial officers about the particular risks the arrested person presents to the public or to the victim by requesting MR under bail deviation as provided in Penal Code section 1269c.

To be clear, the same considerations regarding likelihood to return to court and threats to public safety are entirely absent under monetary bail schedules where arrestees who pose a threat to public safety can secure their release by posting the pre-determined money bail amount.² Of equal concern is the fact that many arrestees who pose no risk to the community remain in jail based solely on their inability to post money bail. PARP addresses this fundamental inequality of traditional monetary bail schedules and enhances public safety by providing individualized risk

¹ In your letter, you state, "The Court's proposal mandates the release without presumptive bail for most arrestees following their arrest." This is not an accurate statement. PARP applies only to non-serious, non-violent felonies and misdemeanors. As you know, the law requires the setting of monetary bail for serious and violent felonies. Penal Code, § 1270.1. Unless and until the Legislature changes this and related statutes, PARP will be limited to non-serious, non-violent felonies and misdemeanors. It is incumbent upon leaders in the community to accurately describe the parameters of PARP.

² See, e.g., <https://thehill.com/homenews/state-watch/4240296-man-returns-to-wisconsin-capitol-with-assault-rifle-after-posting-bail-for-handgun-violation-official/#:~:text=State%20Watch-,Man%20returns%20to%20Wisconsin%20Capitol%20with%20assault%20rifle,bail%20for%20handgun%20violation%3A%20official&text=A%20man%20who%20was%20arrested,assault%20rifle%20after%20posting%20bail> [Wisconsin man who was arrested in the Wisconsin Capitol after being released on bail and then returning to the capitol with an assault rifle].

assessments for more serious offenses within the category of crimes applicable to the new protocol.

Impact on LEA Workloads

You express concerns that LEAs will be unduly burdened and their ability to protect their residents hindered by the requirement that bail deviation requests be made within two hours of booking. You explain that during this time, LEAs are “busily preparing police reports and continuing to further investigate after an arrestee is booked for one or more crimes so that they can present the case to the prosecutor for filing within the statutorily required 48 hours after arrest.”

In designating many offenses as CR and BR, individuals who generally would not present a risk to the community by nature of their alleged offense are presumptively released. Under the traditional monetary bail schedules, however, these same individuals may have remained in custody solely because they could not afford to post bail. Thus, LEAs were required to spend their limited resources presenting these cases to local prosecutors within the statutorily required 48 hours. PARP will enable LEAs to allocate their resources more effectively and focus on the cases that present a risk to the community.

Consideration of Community Input & LEA Preparedness

Finally, you assert that there is no reason why PARP has been implemented on an expedited basis, requesting that the Court consider community input and the impacts on affected organizations. You request that PARP be suspended “until all the Court’s justice partners fully understand and are sufficiently prepared to perform all their duties required by this new bail plan.”

PARP builds on the Court’s productive and collaborative working relationships with members of the criminal justice community. Since 2020, the Court has modified and refined its pre-arraignment process, including adopting the Pretrial Risk Evaluation Program, to which LEAs have access and have been trained to use, and which continues to be used notwithstanding the implementation of new bail schedules. The entire criminal justice community was forced to adapt to the emergency bail schedules during the pandemic and did so smoothly and without incident, given the circumstances.

The pace at which PARP was developed and implemented was due, in part, to pending litigation (*Urquidi v. City of Los Angeles*, LASC Case No. 22STCP04044) against the two largest LEAs in the county, the Los Angeles County Sheriff’s Department (LASD) and the Los Angeles Police Department (LAPD). By an order dated May 16, 2023, and effective May 24, 2023, LASD and LAPD were required to apply the emergency bail schedules which the Court adopted during the COVID-19 pandemic and rescinded on June 30, 2022. Effective August 17, 2023, and with certain exceptions, LASD and LAPD would have then been enjoined from applying or enforcing any bail schedules that had monetary amounts for non-serious, non-violent felonies and misdemeanors. This resulted in

the inconsistent pre-arraignment enforcement of bail within the county because all other LEAs in the county were operating under the Court's traditional bail schedules then in effect. This significant discrepancy created inequities and a great deal of confusion throughout the county. PARP restores a uniform countywide schedule of bail required by Penal Code section 1269b(c).

The Court provided all LEAs with nearly two and a half months of notice to design and implement systems, procedures, tools, and training to accommodate PARP. On July 18, 2023, the Court issued a press release explaining PARP and making the new bail schedules publicly available (<https://www.lacourt.org/newsmedia/uploads/14202371814442523NRSafeAndJustPre-ArraignmentProtocols.pdf>). The Court then invited all LEAs to an in-person meeting on July 25, 2023, to discuss the new bail schedules. Since late July, the Court has maintained an email address (prearraignmentprotocol@lacourt.org), so that the public can ask questions and provide feedback. On September 12, 2023, when the Court made technical, non-substantive changes to the new bail schedules that were informed, in part, by issues raised by justice partners, the Court emailed updated versions of the bail schedules and an FAQ document to LEA representatives and invited them to attend training sessions with the Court on September 21 and 28, 2023. Our FAQs reflect a summary of questions LEAs have posed to the Court about PARP and the Court's responses to those questions. You do not detail what it is about PARP that the LEAs that you represent find confusing. The Court has conducted individual training sessions (e.g., with the Beverly Hills Police Department) and is more than happy to do the same for the LEAs in the cities that your organization represents. We would greatly appreciate the opportunity to clear up the confusion you reference.

Change is rarely easy. But we must be mindful against making perfection the enemy of good. We look forward to continuing to engage with our communities, LEAs, and justice partners to develop a robust and dynamic pre-arraignment release system that prioritizes public and victim safety and equal access to justice.

I appreciate this opportunity to address your concerns about PARP. I hope I can count on you to help allay the community's reflexive objection to this important enhancement to our criminal justice system that embodies the constitutional principles that we all undertake to preserve and protect.

Sincerely,



SAMANTHA P. JESSNER

c: Hon. Sergio C. Tapia II, Assistant Presiding Judge
David W. Slayton, Executive Officer/Clerk of Court