

Los Angeles County Should Invest \$220 Million of American Rescue Plan Act Funds for Pretrial Services

In line with its historic “care first” vision, the county should use federal recovery funds to reduce pretrial incarceration through supportive services and help communities thrive.

LA County has two systems of justice: one for the wealthy, another for most Angelenos




On any given day, thousands of people are incarcerated in Los Angeles County jails simply because they have been arrested and cannot afford to pay bail.¹ The financial toll of paying fines, fees, and bail for pretrial release often falls on family members and loved ones who are struggling to get by, even more so now when many have experienced unprecedented loss and instability because of COVID-19.² The money bail system disproportionately impacts Black and Latinx Angelenos who, over a 12-month period, paid more than 70 percent of all nonrefundable bail bond deposits, an unaffordable \$29.8 million.³ To move away from money bail, many people can be safely released pretrial with supportive services, including connections to behavioral health care.⁴ Indeed, Los Angeles County has committed to creating an independent pretrial services entity.⁵ Now, the American Rescue Plan Act (ARPA) provides a once-in-a-generation opportunity to fund equitable, “care first” pretrial services.

Essential components of “care first” pretrial services

The best models of pretrial services focus on: (1) providing supportive services; (2) operating with independence; (3) collaborating with community agencies; and (4) regularly evaluating their approach.⁶ San Francisco County’s Pretrial Diversion Project, an independent nonprofit, has all of these components, including creating treatment plans based on individual needs assessments and offering a wide spectrum of other supports, ranging from case management to referrals to housing to connections with health care resources.⁷ The project has a return-to-court rate of 92 percent and a rearrest rate of only 6 percent.⁸ Conversely, when LA County Probation’s pretrial services program imposed intensive electronic monitoring in place of holistic services, the program generated an extraordinarily high rearrest rate of 70 percent.⁹

The cost of essential pretrial services

To create a robust, effective pretrial services entity that will drive decarceration and safety, **the county should spend \$110 million per year for the next two years.** To compare, New York City pledged more than \$100 million a year for FY21 and FY22 to support its pretrial release programs, which are run by three nonprofits that serve approximately 5,000 people at any given time.¹⁰ Their work has helped drive a 67 percent decrease in pretrial incarceration and has had successful outcomes that make it a national model.¹¹ Specifically, New York’s Supervised Release program boasts a return-to-court rate of 87 percent and a low felony rearrest rate of 13 percent.¹²

Independent, “Care First” Pretrial Services in Los Angeles		
Collaboration with community agencies and centering supportive services		Ability to communicate and regularly evaluate approach
\$2 million for release assessments	\$100 million for case management	\$8 million for agency infrastructure
 <ul style="list-style-type: none"> Provides an average of 850 weekday pretrial interviews. 	 <ul style="list-style-type: none"> Serves 6,000 people annually. Provides case management, outpatient care, rapid rehousing, and more. 	 <ul style="list-style-type: none"> Provides court notifications and court advocates. Collects data and research.

Using American Rescue Plan Act (ARPA) funds for pretrial services

In response to the COVID-19 pandemic, the federal government sent an unprecedented amount of money to state and local governments to “foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.”¹³ Los Angeles County received **\$1.9 billion** in ARPA funds.¹⁴ **Fully funding pretrial services for two years would be just 12 percent of this total allocation.**

Several ARPA provisions permit customized investments in local recovery, including in pretrial services, case management, and intervention services to safely support those in the community. Indeed, ARPA funds have been used in other jurisdictions to provide these services. Louisville, Kentucky, has allocated \$3 million in ARPA funds to develop a juvenile assessment center to receive and assess youth who have been detained pre-custody.¹⁵ In Washington, DC, a \$24 million investment will add additional community navigators to expand the scope of violence intervention services in DC neighborhoods.¹⁶ Boston, Massachusetts, will fund a \$1 million project to expand case management services within its Public Health Commission with a specific focus on outreach and engagement to community members over the age of 25 years.¹⁷ And these are just a few examples.

The following ARPA provisions allow jurisdictions to use these funds to make innovative and customized investments in local recovery, like incubating a novel pretrial services model:

ARPA guidance	Pretrial context
<p>COVID-19 mitigation and prevention Eligible expenditures include “supports for vulnerable populations to access medical or public health services;” “enhancement to health care capacity through alternate care facilities;” and “support for prevention, mitigation, or other services in congregate living facilities (e.g., . . . incarceration settings),” among other options.¹⁸</p>	<p>Decreasing the pretrial jail population through connection to services is an important ongoing public health measure, especially as the rate of COVID-19 infection behind bars is more than five times higher than in the community.¹⁹</p>
<p>Responding to negative economic impacts on households and individuals This section notes that women of color have been hit especially hard and contemplates using ARPA funding to mitigate the harm caused by COVID-19.²⁰</p>	<p>The money bail system exacerbates economic challenges for incarcerated women of color and women with incarcerated loved ones.²¹ Shifting the pretrial system away from one reliant on money to one with publicly supported community services is critical to economic recovery, especially for women of color.</p>
<p>Behavioral health care/public health and safety staff The final federal ARPA rule states that “services to address health disparities are presumed to be responsive to the public health impacts of the pandemic” and thus eligible for recovery funds.²² It also acknowledges that “services or outreach to promote access” to care are critical because behavioral health needs have been exacerbated by the pandemic.²³ It supports funding economic recovery for nonprofits and service providers, noting that recovery funds may be used for “payroll and covered benefits for public safety, public health, health care, human services, and similar employees” responding to the COVID-19 emergency.²⁴</p>	<p>Community-based supportive pretrial service strategies incorporate support systems such as case management, outpatient care, and rapid rehousing, which connect people to needed health services as well as lead to higher return to court rates and lower rearrest rates.²⁵ As of May 2022, approximately 642 of those being held pretrial in Los Angeles jails were awaiting mental health beds.²⁶ ARPA funding is appropriate to support an independent pretrial service program in Los Angeles County and help achieve the Board of Supervisors’ goal of expanding equitable, community-based systems of care.</p>

Implementing LA County’s commitment to an independent pretrial services agency and its “care first” vision will require a robust investment, as is evident from jurisdictions like New York City with successful agencies. ARPA provides the opportunity for immediate funding and a two-year runway for the county to bring in locally generated and state funds to operate pretrial services in the long term. This investment will further the county’s “care first” goals of decarceration through health services and supports and advance a key strategy for closing Men’s Central Jail.

About

The Vera Institute of Justice is powered by hundreds of advocates, researchers, and policy experts working to transform the criminal legal and immigration systems until they're fair for all. Founded in 1961 to advocate for alternatives to money bail in New York City, Vera is now a national organization that partners with impacted communities and government leaders for change. We develop just, antiracist solutions so that money doesn't determine freedom; fewer people are in jails, prisons, and immigration detention; and everyone is treated with dignity. Vera's headquarters is in Brooklyn, New York, with offices in Washington, DC, New Orleans, and Los Angeles. For more information, visit vera.org. For more information about this report, contact Michelle Parris, program director, Vera California, at mparris@vera.org.

Endnotes

¹ Vera Institute of Justice, *Care First L.A.: Tracking Jail Decarceration*, database, accessed May 5, 2022, <https://www.vera.org/care-first-la-tracking-jail-decarceration>.

² Issac Bryan, Terry Allen, and Kelly Lytle-Hernández, *The Price of Freedom: Bail in the City of Los Angeles* (Los Angeles: Million Dollar Hoods Project, 2018), <https://ucla.app.box.com/s/fkocdbse6a80yktu3aczio0jxoknhj2s>. See also Sandra Blanco, Lupita Carballo, Manuel Galindo, et al., *Costs of Injustice: How Criminal System Fees Are Hurting Los Angeles County Families* (Los Angeles: Let's Get Free LA, 2019), https://www.aclusocal.org/sites/default/files/aclu_social_costs_of_injustice.pdf.

³ Bryan, Allen, and Lytle-Hernández, *The Price of Freedom*, 2018.

⁴ Researchers with the RAND Corporation found an estimated 61 percent of people in the Los Angeles jail mental health population to be suitable for diversion. See Stephanie Brooks Holliday, Nicholas M. Pace, Neil Gowensmith, et al., "Estimating the Size of the Los Angeles County Jail Mental Health Population Appropriate for Release into Community Services," *RAND Health Quarterly* 9, no. 2 (2021), 7, <https://www.rand.org/pubs/periodicals/health-quarterly/issues/v9/n2/07.html>.

⁵ Los Angeles Board of Supervisors, *Care First, Jails Last: Establishing a Justice, Care, and Opportunities Department to Promote Collaboration and Transparency in a Person-Centered Justice System*, March 1, 2022, <https://file.lacounty.gov/SDSInter/bos/supdocs/166845.pdf>.

⁶ Three agencies that have been successful in adhering to the essential components of "care first" pretrial services include: the San Francisco Pretrial Diversion Project, the New York City Supervised Release Program, and New Jersey Judiciary's pretrial services program. See generally Aiden Cotter and Madeline Bailey, *Successful Pretrial Systems Rely on Independent, Supportive Pretrial Services* (New York: Vera Institute of Justice, 2022), <https://vera-advocacy-and-partnerships.s3.amazonaws.com/Supportive+Pretrial+Services+Fact+Sheet.pdf>. San Francisco's Pretrial Diversion Project, which maintains a 92 percent return-to-court rate, provides supportive pretrial services focused on offering strengths-based counseling and addressing underlying circumstances, like needs for housing, treatment, and employment. San Francisco Pretrial Diversion Project, *Annual Report July 2019 - June 2020* (San Francisco: San Francisco Pretrial Diversion Project, 2021), 26, <https://sfpretrial.org/wp-content/uploads/2020/12/Annual-Report-v10-Dec-21.pdf>. See also San Francisco Pretrial Diversion Project, "Pretrial Release and Diversion," accessed May 5, 2022, <https://sfpretrial.org/pretrial-release-and-diversion>. New York City's Supervised Release program incorporates culturally competent therapeutic interventions, hires staff who have lived experience in the criminal legal system, incorporates neighborhood-based organizations to build capacity within communities, and provides individualized supports, rather than a one-size-fits-all approach. Melanie Skemer, Cindy Redcross, and Howard Bloom, *Pursuing Pretrial Justice Through an Alternative to Bail: Findings from an Evaluation of New York City's Supervised Release Program* (New York: MDRC, 2020), https://www.mdrc.org/sites/default/files/Supervised_Release_Final_Report.pdf. Stemming from this approach, New York's Supervised Release program now boasts a return-to-court rate of 87 percent and a felony rearrest rate of 13 percent. NYC Mayor's Office of Criminal Justice, *Supervised Release Annual Scorecard 2020* (New York: NYC Criminal Justice, 2021), 2, <https://criminaljustice.cityofnewyork.us/wp-content/uploads/2021/07/Supervised-Release-Annual-2020-Scorecard.pdf>. New Jersey established a statewide independent pretrial services program within the state judiciary in 2017; it provides five different levels of pretrial supervision, offers court reminders and community referrals to services, requires robust data reporting, requires annual evaluation by an independent board that includes stakeholders and advocacy organizations, and claims a 90 percent return-to-court rate with a felony rearrest rate of 14 percent. Glenn A. Grant, *Annual Report to the Governor and the Legislature: Jan. 1 – Dec. 31, 2020* (Trenton, NJ: New Jersey Courts, 2021), <https://www.njcourts.gov/courts/assets/criminal/2020cjannual.pdf>.

⁷ San Francisco Pretrial Diversion Project, "Pretrial Release and Diversion," accessed May 5, 2022.

⁸ San Francisco Pretrial Diversion Project, *Annual Report (July 2019 - June 2020)*, 2021, 25.

⁹ Scott Roberts, "Op-Ed: Gov. Newsom Tackles the Big Pretrial Detention Problem — but Finds the Wrong Solution," *Los Angeles Times*, June 11, 2021, <https://www.latimes.com/opinion/story/2021-06-11/pretrial-detention-jails-probation-monitoring-gavin-newsom>. See also research explaining why electronic monitoring should be avoided as a condition of pretrial release: Evan M. Lowder and Chelsea M. A. Foudray, "Use of Risk Assessments in Pretrial Supervision Decision-Making and Associated Outcomes," *Crime & Delinquency* 67, no. 11 (2021), 1765-1791, <https://journals.sagepub.com/doi/10.1177/00111287211022642>.

¹⁰ Office of the Mayor, "City Expands Award-Winning, Nationally Recognized Supervised Release Program in Response to State Bail Reform," press release (New York: City of New York, November 8, 2019), <https://www1.nyc.gov/office-of-the-mayor/news/530-19/city-expands-award-winning-nationally-recognized-supervised-release-program-response-state>.

¹¹ New York City Mayor's Office of Criminal Justice, "Supervised Release Program," accessed May 10, 2022, <https://criminaljustice.cityofnewyork.us/programs/supervised-release>.

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- ¹² NYC Mayor’s Office of Criminal Justice, *Supervised Release Annual Scorecard 2020*, 2021, 2.
- ¹³ U.S. Department of the Treasury, 31 CFR Part 35, Interim Final Rule, May 17, 2021, 41, <https://home.treasury.gov/system/files/136/FRF-Interim-Final-Rule.pdf>.
- ¹⁴ U.S. Department of the Treasury, Fiscal Recovery Funds County Funding (May 10, 2021), 5, https://home.treasury.gov/system/files/136/fiscalrecoveryfunds_countyfunding_2021.05.10-1a-508A.pdf.
- ¹⁵ WFPL News Louisville, “Amended Schedule A - American Rescue Plan,” accessed May 5, 2022, <https://cdn.wfpl.org/wp-content/uploads/2022/03/ARP-breakdown-of-funds.pdf?msclkid=43044d90cd6f11ecaa6976bd35395217>.
- ¹⁶ National Association of Counties, “Local Government ARPA Investment Tracker,” accessed May 5, 2022, <https://www.naco.org/resources/featured/arpa-investment-tracker>.
- ¹⁷ Ibid.
- ¹⁸ U.S. Department of the Treasury, 31 CFR Part 35, Interim Final Rule, 13, 18.
- ¹⁹ Brendan Saloner, Kalind Parish, and Julie A. Ward, “Covid-19 Cases and Deaths in Federal and State Prisons,” *JAMA* 324, no. 6 (July 2020), 602-603, <https://jamanetwork.com/journals/jama/fullarticle/2768249>.
- ²⁰ U.S. Department of the Treasury, 31 CFR Part 35, Interim Final Rule, 23-25.
- ²¹ Essie Justice Group, *Take the #BecauseShesPowerful Pledge*, video, accessed May 3, 2022, <https://act.becauseshespowerful.org>. See also *Connecting Incarcerated and Formerly Incarcerated People to Services in Los Angeles: What’s Needed During Covid-19?* (New York: Vera Institute of Justice, 2020), <https://storage.googleapis.com/vera-web-assets/inline-downloads/covid19-service-provider-survey-los-angeles.pdf>.
- ²² U.S. Department of the Treasury, 31 CFR Part 35, Interim Final Rule, 22.
- ²³ Ibid., 19-20.
- ²⁴ Ibid., 20.
- ²⁵ County of Santa Clara Office of Pretrial Services, “Office of Pretrial Services Overview,” accessed May 5, 2022, <https://pretrialservices.sccgov.org/about-us/office-pretrial-services-overview>. See also New Jersey Judiciary, “Pretrial Services Program,” May 2017, https://www.njcourts.gov/forms/12088_cjr_pretrial_svcs_brochure.pdf; and Michael Rempel and Tia Pooler, *Reducing Pretrial Detention in New York City: Data-Driven Strategies for Decarceration* (New York: Center for Court Innovation, 2020), <https://www.courtinnovation.org/publications/reducing-pretrial-detention>.
- ²⁶ Vera Institute of Justice, *Care First L.A.: Tracking Jail Decarceration*, accessed May 11, 2022.