

# Alameda County Pretrial Program

PUBLIC PROTECTION COMMITTEE

12/13/18

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# Pretrial Services Overview

72% of CA counties have pretrial release programs and the majority of those counties are managed by their Probation Department.

Pretrial Assessment Services have 3 primary functions:

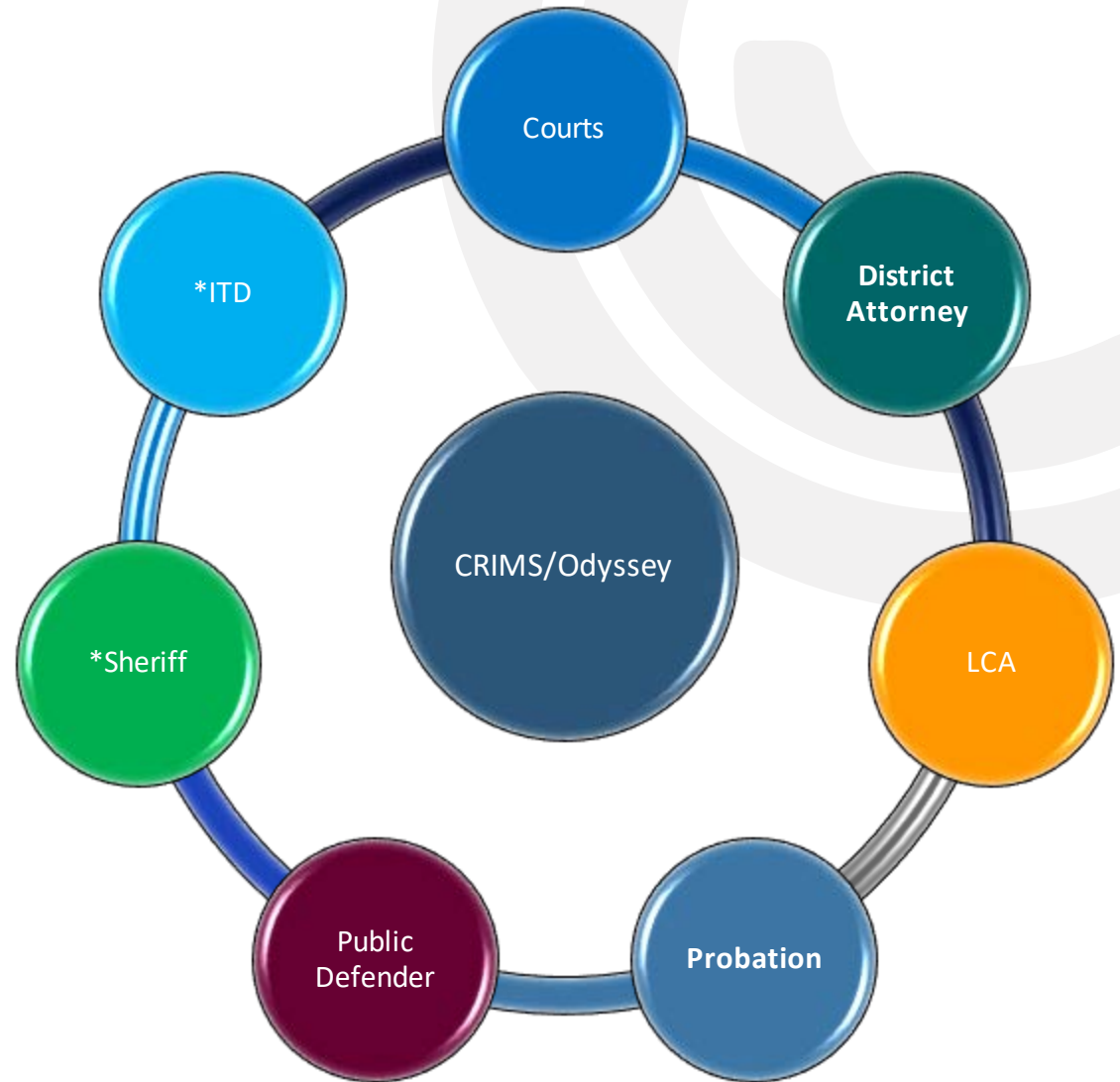
- Identify a defendant's level of risk or failure (to appear and/or new arrest) if released to the community
- Make recommendations to the court concerning conditions of release and
- Supervise defendants who are released from secure custody during the pretrial phase

It is imperative to provide a robust risk-based pretrial assessment tool, focusing on positive and strength-based services.



# Background

- Presiding Judge request for Probation to assume pretrial responsibilities in October 2017
- Workgroup established with Courts & Public Protection partners
- Workgroup focused on tool selection and program design
- Contract with Leaders in Community Alternatives, Inc. (LCA)
- Best practice review

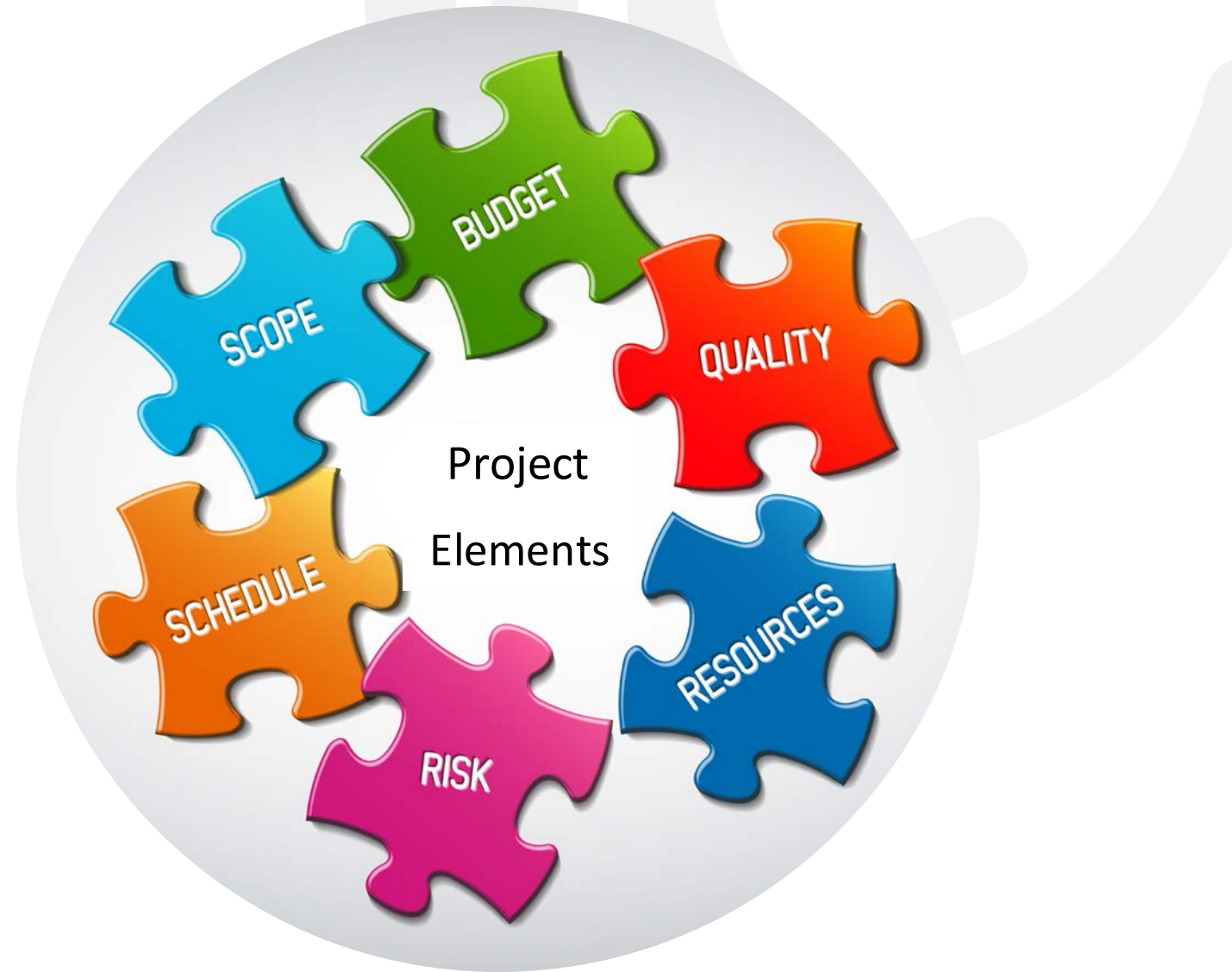


\* Added to workgroup 9/2018



# PROJECT ELEMENTS

- Select pretrial risk assessment tool
- Design pretrial program
  - Staffing and classification model
  - Reports
  - Assessment process
  - Supervision model and terms
  - Level of service access
  - Physical plant, staff and assessment location
    - Santa Rita
    - Glenn E. Dyer
    - Fremont
    - Berkeley
- Resources





# Tools Being Considered

## PUBLIC SAFETY ASSESSMENT (PSA) ARNOLD TOOL



Validated Tool to help Judges gauge the risk that a defendant poses

Uses evidence-based, neutral info to predict risk to the community and likelihood of failure to return to court

Flags those defendants who present an elevated risk of committing a violent crime

Tracks different elements of performance

Effective- in terms of risks

Ratings & objectives tied to position/to allow consistent baseline of expectations

Recent increase of people on pretrial, yet no significant increase in crime (tool is effective)

- VPRAI examines a defendant's status at the time of the arrest-current charges, pending charges, criminal history, residence, employment, primary caregiver, & history of drug abuse
- Primarily intended to be completed after arrest and presented to the Court at first appearance
- Increasing the likelihood of capturing the most accurate information as it relates to the defendant's status at the time of his/her arrest and should be done so within 7 days
- A pretrial investigation must be conducted prior to completing the VPRAI
- Defendants who do not meet all of the criteria are not eligible for instrument completion as part of the pretrial investigation
- The VPRAI is automated and contained in the Pretrial and Community Corrections Case Management System (PTCC)



## VIRGINIA PRETRIAL RISK ASSESSMENT INSTRUMENT (VPRAI)



# PRETRIAL SITE VISITS



## JURISDICTIONS

- San Joaquin County-VPRAI
- Santa Clara County-created their own risk assessment tool
- Maricopa County-Arizona-PSA by Arnold



## JAIL TOURS

- Physical Plant-Space/Alterations
- Costs
- Booking Process
- Assessment Screening
- Locations
  - Santa Rita 9/28/18
  - Glenn Dyer 11/26/18
  - Fremont
  - Berkeley

# SB 10 (Hertzberg) Legislation Summary

- Eliminates money bail effective 10/1/19
- Establishes a risk-based, pretrial system
- Creates standards for release and detention
- Sets forth Judicial Council of California (JCC) & Chief Justice responsibilities
- Creates a structure for prerelease services
- Allocated funding in five areas
  - Funding formula in development

## New SB- 36 Pretrial Release: Risk Assessment Tools Summary

- Introduced 12/3/18
- Requires counties to maintain data for each individual that undergoes an assessment
- Reimbursement for bill costs shall be made pursuant to statutory provisions



# SB 10 COMPONENTS OF RISK-BASED SYSTEM

## Sheriff & Probation Departments

- Within 12 hours of booking, the booking agency, usually the Sheriff, will determine if the arrestee has any “disqualifying” conditions that make that person ineligible for release.
- Within 24 hours of booking, Pretrial Assessment Services (PAS), most often housed within the county probation department, will assess all individuals who have not been released by the booking agency.
- Courts will contract with Pretrial Assessment Services (the legislation mandates it be performed by civil servants) to conduct risk assessments using a validated risk assessment instrument.
  - Probation has first right of refusal

## Pretrial Assessment Services (PAS)

- Detention based on assessment tool, investigation by Pretrial Assessment Services (PAS), and evidentiary hearing
  - Pretrial supervision can include a range of conditions. For medium or high-risk individuals, pretrial supervision could include check-in with pretrial supervision officers, GPS monitoring, drug testing, or other means of supervision.
  - Individuals who are detained pending arraignment, including those who are found to be high risk, will be released on supervised release following arraignment unless the prosecution makes a motion for a preventive detention hearing





# Pretrial Assessment Tools

- The Judicial Council of California (JCC) & Chief Justice will adopt specific rules of court that prescribe the proper use of risk assessment information, describe the elements of validation associated with risk assessment tools, including potential bias in tools
- Prescribe the standards for review, release, and detention including prearrestment detention
- Prescribe the parameters for a local rule of court that allows for the release of medium risk individuals by Pretrial Assessment Services
- And prescribe the imposition of conditions of pretrial release



# SB 10 STANDARDS FOR RELEASE AND DETENTION

- There is a presumption that a person will be released under the least restrictive nonmonetary conditions. Individuals cannot be required to pay for any supervision conditions that are imposed.
- Individuals can be detained pending trial only if detention is permitted under the US and CA Constitutions and if a judge finds by clear and convincing evidence that no condition or combination of conditions of pretrial supervision will reasonably assure public safety and/or the appearance of the persons as required.
- At the preventive detention hearing, there is a rebuttable presumption of detention if:
  - The current crime is a violent felony, or a felony offense committed with violence against a person, threatened violence, or with a likelihood of serious bodily injury, or one in which the person was personally armed with or personally used a deadly weapon or firearm in the commission of the crime, or personally inflicted great bodily injury in the commission of the crime; or
  - The person was assessed as high risk to public safety AND a) was convicted of a serious or violent felony within the last 5 years; b) the defendant is pending sentencing on a serious or violent crime; c) the person has intimidated, dissuaded, or threatened the victim with retaliation; or d) the person was on any form of post-conviction supervision except informal probation.



# SB 10 JUDICIAL COUNCIL OF CALIFORNIA (JCC)

The JCC will adopt specific rules of court that prescribe the proper use of risk assessment information; describe the elements of validation associated with risk

The JCC, in consultation with Pretrial Assessment Services and other stakeholders, will compile and maintain a list of validated pretrial risk assessment tools.

The JCC process for adopting rules includes the opportunity for public comment.

The JCC will collect data annually on the implementation of the new law.

The data will include information to compile the number of individuals who are assessed and detained, those released, and their outcomes during the pretrial period.



# Open Process



## Chief Justice

The Chief Justice will convene a panel of experts to designate low, medium, and high-risk levels based on scores provided by risk assessment tools.



## JCC & Stakeholders

Upon appropriation by the Legislature, the JCC, after consultation with stakeholders including the Chief Probation Officers of California and representatives of public employees, will allocate funding to the trial courts for Pretrial Assessment Services and judicial branch work associated with the implementation of the law.



## Public Comment

The allocation of all funding to the courts is done through an open process with the ability for the public to provide comment on the distribution.







# SB 10 STRUCTURE

Courts are responsible for establishing Pretrial Assessment Services and county probation departments are the only existing local entities authorized to perform the duties associated with Pretrial Assessment Services.

The presiding judge and CPO (except in Santa Clara county) shall submit a letter of intent to contract for providing Pretrial Assessment Services by February 1, 2019.

Courts are prohibited from contracting with a local entity that has primary responsibility for arrests or detentions.

County probation departments will receive funding for providing supervision of pretrial defendants. Local entities are only eligible to receive this funding if they contract with the courts to provide assessment services.

Pretrial Assessment Services must be provided by public employees

# Potential Impacts To SB 10 Implementation

- A Referendum was cleared to gather signatures to repeal SB 10
- Over 365,880 signatures needed within 90-days of legislation (11/26/18)
  - 576,745 signatures collected through the state's referendum process and are awaiting verification/certification.
  - If certified, would be placed on the November 2020 ballot
- New Governor effective January 2019





# SB 10 FUNDING



## Courts

Judicial Council, with input from stakeholders including CPOC shall allocate funding for Pretrial Assessment Services.



## Probation

From the State for supervision of individuals who are released pretrial



## Legislature

Legislature will allocate funding for the BSCC to contract with an outside entity to evaluate the Act, particularly by race, gender, ethnicity and income level.



Planning fund to Probation- similar to AB 109 funding allocation for a large county



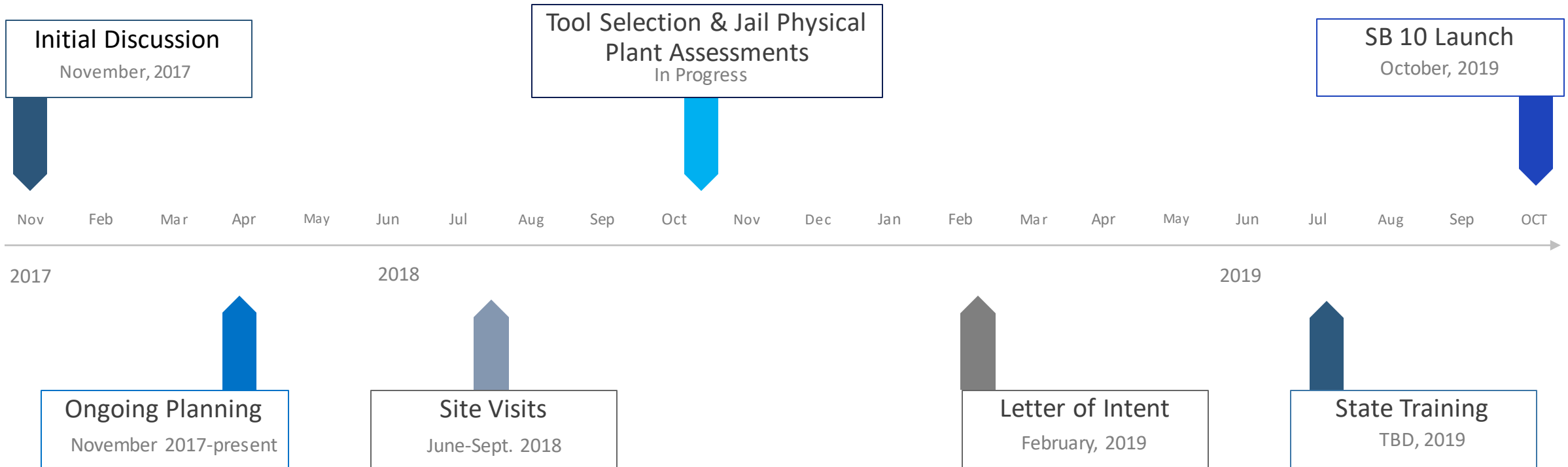
## Judicial Branch

Judicial Council & trial courts will receive additional funding to carry out its responsibilities per the Act.



# SB 10 Timeline

## Action Plan



**Note:** All dates are contingent upon referendum signature outcome







# THANK YOU



(510) 268-7233



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