



Board of Supervisors Memorandum

January 24, 2023

Initial Appearances

Introduction

Courts in Pima County and the City of Tucson are required to provide anyone arrested within Pima County and the City of Tucson an initial appearance and/or misdemeanor arraignment before a judge within twenty-four hours after arrest. For at least the past 18 years the Courts in Pima County have determined that it is most efficient for them to consolidate all initial appearances and arraignments in Tucson City Court. Historically, an Intergovernmental Agreement (IGA) between the Arizona Superior Court, Pima County Consolidated Court and the City of Tucson has been entered into to provide for these hearings. While the last IGA was approved in June 2007 (Attachment 1), amendments approved in 2009 (Attachment 2) and 2011 (Attachment 3) extended the IA until June 30, 2013. The Superior Court recommended a revised IGA for twice-day appearances that was first considered by the Board of Supervisors on March 15, 2022. Ultimately, no action was taken and the Superior Court has now requested to continue consideration of a new IGA until December 29, 2023 while focused work groups established by the Courts evaluate processes and provide recommendations.

Discussion

The Intergovernmental Agreement between Pima County and the City of Tucson to conduct Initial Appearances (IA) has existed since (at least) 2004 and has required approval by the Board of Supervisors primarily to provide a mechanism by which the Courts share the cost of Initial Appearances and payment can be made for such.

The significance of the Initial Appearance, at which time the potential risk of release and the opportunity for bail is established, results in ever-increasing scrutiny on the process. 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 concern being expressed to the Board of Supervisors regarding the content and term of the IA IGA proposed early last year.

On March 15, 2022 the Board of Supervisors first considered approval of a ten year extension for the IA between the Superior Court, Justice Court, and the City of Tucson, to provide for joint participation and pro-rata cost sharing for initial appearances and/or misdemeanor arraignments. The Board discussed the IA IGA and possible amendments to the proposed agreements 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 the 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 work groups that were created and have been meeting to address the areas of:

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

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Presiding Judge Bergin reports that the work groups, overseen by Superior Court leadership include representatives of the Pima County Attorney's Office, Public Defense Services, Tucson City Court and Pima County Government. The Court anticipates receiving recommendations within the second quarter of 2023 for consideration in the development of a new IA IGA and, therefore, requests that the current IGA be extended to December 29, 2023.

Throughout the deliberations, the Board of Supervisors has received formal comments from the Pima County Attorney, Pima County Public Defense Services, and the NAACP regarding the content of the IA IGA.

Conclusion

The work being conducted by the Superior Court to evaluate critical elements of the Initial Appearance process is commendable and should continue, but should be expedited to conclude prior to the adoption of the Pima County Budget for Fiscal Year 2023/24. In addition, the Court should be asked to expand its work groups to include specific data elements and additional representatives. Finally, to ensure the continued ability to pay for services rendered, a minimal or interim IGA should be adopted by the Board of Supervisors prior to the adoption of a new IA IGA.

Recommendation

I recommend the Board of Supervisors:

1. Approve the work plan as presented in Presiding Judge Bergin's letter of December 21, 2022 to include the following:
 - a. In addition to those of the Pima County Attorney's Office, Public Defense Services, Tucson City Court and Pima County Government, the work groups shall add representatives of the Pima County Sheriff's Department and Tucson Police Department, particularly if the development of an electronic/location monitoring is discussed;
 - b. The Data and Reporting work group shall consider for inclusion in the IA IGA a requirement for daily data collection and monthly or quarterly reporting of this data to the County Administrator and the Board of Supervisors regarding bail including the number of individuals
 - i. detained preventively and/or are unable to secure release due to a financial condition of bail;
 - ii. arrested for misdemeanors who are detained on bail;
 - iii. arrested for one or more violent felony charges;
 - iv. arrested for one or more violent felony charges who have been released with the condition they be monitored by Pretrial Services and are re-arrested for new felony charges which occurred during the time they are supervised by Pretrial Services;
 - v. arrested for misdemeanors who have financial bail imposed but are unable to post their bond within 24 hours, 72 hours and within 7 days

Data required in the IA IGA shall include information regarding the racial and ethnic breakdown for each of the five elements delineated above.

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2. Direct the Superior Court to complete the deliberations of the work groups no later than April 7, 2023 and to provide to the County Administrator a proposed Intergovernmental Agreement for consideration by the Board at its meeting of May 2, 2023.
3. Direct the County Administrator to review with the Pima County Sheriff and the Superior Court Supplemental Budget Requests for data collection and reporting capabilities and a robust evaluation and possible implementation of pretrial electronic monitoring systems, to include Supplemental Budget Requests for defendants currently released or to be released in the future who would be required to be placed on electronic monitoring per ARS 13-3967 E (1).
4. Direct the County Administrator to work with the County Attorney's Office to determine if an interim Intergovernmental Agreement is necessary to ensure the ability of the County to pay for services rendered and, if so, return a proposed Intergovernmental Agreement to the Board of Supervisors at its meeting of February 21, 2023.
5. Direct the County Administrator to work with the City of Tucson City Manager as the City of Tucson is the partner in the Intergovernmental Agreement, which approved the version considered by the Board of Supervisors in 2022, to ensure that amendments to the document meet with their approval.

Sincerely,



Jan Lesher
County Administrator

JKL/mp – January 18, 2023

Attachments

- 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 Chris Nanos, Pima County Sheriff
 - Ron Overholt, Court Administrator, Pima County Superior Court
 - 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