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# Board of Supervisors Memorandum

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December 1, 2020

## Community Bond Program

### Background

Attached is a November 4, 2020, report prepared by Wendy Petersen, Assistant County Administrator for Justice and Law Enforcement discussing the possibility of the County implementing a Community Bond Program (CBP) to help reduce the number of individuals who are held in the Adult Detention Complex because of the inability to pay for a bond or cash bail.

I understand that some in the reform community prefer a system that eliminates cash bail or bonds all together. Such is desirable but not permitted because of current Arizona law. Reform and/or modification to Arizona Law will have to occur by approval of the legislature and governor. The elimination of Cash Bond is one of Pima County's 2021 Legislative Proposals. Until that cash bond is eliminated, the CBP may be a reasonable substitute.

It should also be noted that the Criminal Justice Reform Advisory Commission has ranked as one of its top reform priorities, the elimination of cash bail or bonding. At its most recent meeting on November 12, 2020, the Advisory Commission unanimously supported the creation of this bond program.

### Recommendation

I recommend the Board approve the proposed Community Bond Program.

Sincerely,

A handwritten signature in black ink that reads "C.H. Huckelberry".

C.H. Huckelberry  
County Administrator

CHH/dr – November 18, 2020

Attachment

c: Wendy Petersen, Assistant County Administrator for Justice and Law Enforcement  
Dean Brault, Director, Public Defense Services



# MEMORANDUM

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Criminal Justice Reform Unit

Date: November 4, 2020

To: C. H. Huckelberry  
County Administrator

From: Wendy Petersen   
Assistant County Administrator

**Re: Public Defense Services' Community Bond Program Proposal**

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Public Defense Services Director, Dean Brault, is proposing a Pima County Community Bond Program that he has been working on for several years. After researching community bond organizations across the country and obtaining a legal opinion on whether or not a county could run a bond program, Mr. Brault prepared a whitepaper on the bond project in August 2020. The whitepaper was submitted to the Pima County Board of Supervisors on August 24, 2020.

The operational plan for how the community bond project would work is as follows:

In June of 2020, Mr. Brault submitted the operational plan for the Bond project:

- A non-profit would most likely create a sub entity that would act as the community bonding agency;
- The director and other relevant employees would need to take the course offered by the Arizona Department of Insurance in order to be certified as a professional bondsperson;
- The assets necessary to secure any bonds posted would be a grant of funds that by contract with the non-profit, could only be used for any bond forfeitures resulting from the program or to post cash bonds for program participants;
- The contract with the non-profit and the participant will be simple:
  - In exchange for posting the bond for individuals who have a bond set of \$30,000 or less, who are not charged with homicide, sex, or child exploitation charges, and who do not have any kind of hold on them, the participant would agree to abide by Pretrial Services (PTS) conditions of release;
  - They would be subject to the same level of supervision as recommended by PTS and the same standards for recommending revocation.
- The preferred method of administering these contracts would be for the non-profit to have staff located in the lower level of the jail to monitor felony initial appearances;
- The Public Defense Services' (PDS) attorney and/or PTS staff covering initial appearances would make sure that any defendant who would meet the conditions for participation in the program was processed by the non-profit;
- If the Sheriff does not allow the non-profit access to the lower level to process the participants, the PDS attorney covering initial appearances review the non-profit's contract

with every person recommended for release, and have contracts ready to deliver to the non-profit immediately after the conclusion of initial appearances.

### **Benefits of a Bonding Agency**

The benefit of using a bonding agency that will post secured bonds is that the process is much faster and has far fewer administrative costs to the jail and the Superior Court. This project could be accomplished with only posting cash bonds, but the process would be slower and involve a larger amount of funding to be distributed to the community bond project.

### **Cash Only Bonds**

The process detailed above covers secured bonds, which apply to almost all bonds set. Judges, however, have the ability to set "cash only" bonds. If a judge sets such a bond, the bond must be posted using cash or a cashier's check. In order to prevent magistrates from bypassing the community bond project and intentionally detaining defendants who do not have the money to post their bond, the community bond project will use the same system used by the jail that allows bonding agencies to securely transfer funds to post both secured and cash bonds. If, for any reason that system is unavailable, the non-profit will maintain a supply of cashier's checks in various denominations made payable to the Pima County Adult Detention Center along with a supply of cash and coins sufficient to post to the exact cent any bond set because the jail will only accept the exact amount of a bond set by a judge.

### **Pre Trial Services to Perform Supervision**

Domingo Corona, the Director of Pretrial Services, related that Pima County Superior Court Administration agreed that PTS could perform the supervision portion of the community bond project. The non-profit would still be the agency running the program, but the contract that participants would sign with them would be to follow any and all conditions of release that would be required by PTS.

The advantage to this is that the project has lower expenses. The non-profit will only need a director and a very small staff to get the contracts with the participants reviewed, signed, and processed. It also creates a consistent and uniform level of supervision, which will strengthen the data, collected when measuring performance and effectiveness and will be neutral regarding judicial decision-making.

The way professional bonding agencies operate is that when posting bonds, no money is actually transferred at the time a bond is posted. With proper credentials issued by the Clerk of the Court, the department at the jail that processes the posting of bonds accepts forms that avow that the agency has the funds to cover the bond in the event of a forfeiture. The paperwork is accepted and the defendant is released.

In the event that the defendant fails to appear at court, the judge makes a referral for the forfeiture of the bond. A different judge then makes a determination of whether the defendant failed to

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C.H. Huckelberry, County Administrator  
Re: **Public Defense Services' Community Bond Program Proposal**  
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appear, considers any reasons for the failure to appear, and then orders that either none, part, or all of the bond posted be forfeited. The bonding agency is then responsible for depositing whatever amount forfeited with the Superior Court. The Superior Court then deposits those funds with the County, which then deposits them into the general fund. In the event that the defendant appears at all of their hearings, when the case is resolved, the bond is exonerated and that obligation to cover that bond amount is removed.

Please let me know if you have any further questions.

WP/dr

c: Jan Leshar, Chief Deputy County Administrator  
Dean Brault, Director, Public Defense Services  
Kate Vesely, Director of Justice Reform Initiatives

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