



Board of Supervisors Memorandum

May 3, 2016

Acceptance of MacArthur Foundation's Safety and Justice Challenge Grant

Introduction

Pima County has been awarded a \$1.5 million grant over two years from the John D. and Catherine T. MacArthur Foundation in Phase II of the Safety and Justice Challenge. This funding will support a plan to safely reduce jail admissions and length of stay, as well as address recidivism and disproportionate impact on low-income, minority and mentally ill adults. The plan was developed by local criminal justice system leaders during a seven-month planning process funded in Phase I of the Safety and Justice Challenge. Pima County is one of only 11 jurisdictions nationally that was selected for this Phase II grant after a highly competitive process.

In developing the jail reduction plan, the planning team analyzed extensive data about the demographic makeup of the jail population and the reasons that inmates are in jail. The data revealed that as much as 80 percent of the jail population is held pending trial – meaning these individuals have not yet been convicted. The major drivers of the pretrial population are 1) defendants who are awaiting trial on nonviolent misdemeanor or low-level drug possession charges, many of whom have addiction or mental health issues; and 2) individuals who are charged with failing to appear (FTA) in court, often where the underlying charge is so minor the individual would not be held in jail. The data also revealed African-Americans, Native Americans and Hispanics are held in jail at higher rates than their representation in the general population would indicate and that strategies targeting the FTA and other pretrial populations would help reduce such disparities.

The MacArthur Foundation funding will be used primarily to support diversion of non-dangerous individuals with substance abuse and/or mental health problems from jail and into community treatment at their first appearance before a judge. This plan will involve additional behavioral health screening of defendants at booking, with that information and treatment alternatives provided to the judge. Pretrial Services will also be available to supervise released defendants as needed. Increased access to community treatment and counseling as alternatives to jail will be provided by Cenpatico, the Regional Behavioral Health Authority, and funded by AHCCCS. Such treatment options will not only reduce the jail population initially but should also reduce recidivism over the long term. In addition, MacArthur funds will support data sharing software enhancements and data analysis activities.

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Other strategies that are part of the jail reduction plan include improved court date reminder systems to reduce FTAs, special weekend court sessions to resolve outstanding warrants, and home detention with electronic monitoring for certain sentenced inmates who are nonviolent, especially those who have been sentenced to "work release;" meaning they are released from the jail each day to work and then return to the jail at night. Implementation of all the strategies will be accomplished in collaboration with community representatives, who will participate in monitoring and evaluating the success of the project.

The Pima County Adult Detention Center (PCADC) has been at or near capacity in recent years. In 2014, the average daily population was 2,136; very close to maximum capacity. At that point, it appeared we would need to begin planning to add new jail capacity, which is an extremely expensive proposition at about \$150,000 to \$200,000 per new bed (up to \$20 million for just 100 additional beds), and which would require bond funding and years of advance planning. In addition, at \$280 for the first day and \$85 for each subsequent day, jail is a very expensive place to house individuals whose primary issues relate to substance abuse and/or mental illness and who are not dangerous to the community. To add to the cost of a jail bed, the PCADC provides medical detoxification treatment to an average of 70 individuals a day; and more than 50 percent of the jail population is part of a mental health caseload. All of these services drive up costs. The MacArthur Foundation funding provides us an opportunity to more effectively address the mental health and substance abuse issues that are the root causes of much incarceration and in doing so to improve the health and safety of our community.

Our goal is to reduce the average daily jail population to 1,755 over three years; an 18 percent reduction from the 2014 average daily population. As part of the Safety and Justice Challenge, the Vera Institute conducted a cost of jails survey that all of the participating jurisdictions completed. Based on the data Pima County provided, the Vera Institute estimated that Pima County can save \$451,612 annually for each 64-bed pod that is closed. By achieving the 18 percent jail population reduction goal, the PCADC would be able to close five to six 64-person pods, saving an estimated \$2.25 million to \$2.7 million annually.

A number of justice system agencies actively participated with the County Administrator's Office in preparing the successful application, including the Sheriff (including the jail), the County Attorney, Superior Court (including Pretrial Services and Adult Probation), Pima County Consolidated Justice Courts, the Public Defender and Legal Defender, County Behavioral Health, the Tucson Police Department, Tucson City Court and the Tucson City Prosecutor. All of these offices will continue to be involved in the grant-funded programs.

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Recommendation

I recommend the Board of Supervisors accept the \$1.5 million grant from the John D. and Catherine T. MacArthur Foundation.

Respectfully submitted,



C.H. Huckelberry
County Administrator

CHH/anc – April 22, 2016

Attachment

- c: The Honorable Chris Nanos, Pima County Sheriff
 The Honorable Barbara LaWall, Pima County Attorney
 The Honorable Kyle Bryson, Presiding Judge, Superior Court
 The Honorable Keith Bee, Presiding Justice of the Peace, Pima County Consolidated
 Justice Court
 Jan Leshar, Deputy County Administrator for Community and Health Services
 Ellen Wheeler, Assistant County Administrator
 Lori Lefferts, Director, Public Defense Services
 Steve Sonenberg, Pima County Public Defender
 Dean Brault, Pima County Legal Defender
 Danna Whiting, Director, Behavioral Health

AGREEMENT

THE GRANTEE AND GRANTOR (AS SET FORTH BELOW) HEREBY AGREE AS FOLLOWS:

DATE: April 14, 2016

GRANT NO.: 16-1601-150545-CJ

GRANTEE: Pima County, Arizona
130 W Congress
Tucson, AZ 85701
("your organisation")

GRANTOR: John D. and Catherine T. MacArthur Foundation
140 South Dearborn Street, Suite 1200
Chicago, Illinois 60603-5285
(the "Foundation")

GRANT AMOUNT: U.S. \$1,500,000

PURPOSE OF GRANT: To support participation as a core implementation site in the Safety and Justice Challenge, the Foundation's criminal justice reform initiative aimed at reducing over-incarceration by changing the way America thinks about and uses jails (the "Purpose")

FOR USE OVER THE PERIOD: May 1, 2016 - April 30, 2018

EXPECTED PAYMENT SCHEDULE: This grant is expected to be paid in the following installment amounts (the "Payment Schedule"):

Initial Installment:	U.S. \$187,500, paid in a single lump sum, subject to the terms set forth in Paragraph 1(B) herein
Installment 2:	U.S. \$562,500, paid in a single lump sum, subject to the terms set forth in Paragraph 1(C) herein
Installment 3:	U.S. \$750,000, paid in a single lump sum, subject to the terms set forth in Paragraph 1(D) herein

WRITTEN REPORTS DUE, as may be amended from time to time upon written authorization from the Foundation (the "Due Dates"):

June 1, 2016:	Budget Report, as further described in Paragraph 1(B) herein
August 1, 2016:	Interim Report, as further described in Paragraph 1(C) herein
June 30, 2017:	Annual Report, covering the period May 1, 2016 through April 30, 2017
June 30, 2018:	Final Report, covering the period May 1, 2017 through April 30, 2018

OTHER TERMS AND CONDITIONS:

1. **PAYMENT TERMS:** (A) Payment of the grant funds is expected to be made as indicated in the Payment Schedule above, *provided* your organization is in compliance with all terms and conditions of this agreement at the time of each scheduled payment.

(B) The initial installment of the grant funds will be made within thirty (30) days after receipt by the Foundation of a fully-executed copy of this agreement, and receipt and approval by the Foundation of a budget from your organization for the use of the grant funds ("approved budget"). Your organization's submission of this budget is referenced herein as the "Budget Report." The Foundation will notify your organization of its approval of the budget and upload the approved budget into the Foundation's online Grants Management System ("GMS"). The scheduled dates of estimated payment for any subsequent installments, which dates may be amended by the Foundation from time to time, are available in GMS.

(C) Payment of the second installment and all subsequent installments of the grant funds are contingent upon the Foundation's receipt and approval, in its sole discretion, of the Budget Report and the Interim Report, as described herein. Your organization's Interim Report should include a copy of a fully-executed Data Use Agreement ("DUA"). If your organization has not entered into the DUA by the date the Interim Report is due, your organization shall include, in such Interim Report, a narrative describing your organization's good faith efforts toward finalizing the DUA, including when the DUA is expected to be fully-signed. The DUA is a comprehensive agreement between your organization and the City University of New York's Institute for State and Local Governance regarding the disclosure, maintenance, and use of the criminal justice-related information that your organization will provide, as part of the Safety and Justice Challenge. A draft of the DUA, in a form substantially similar to what your organization will be asked to sign, is attached hereto and incorporated herein as Exhibit 1.

(D) Payment of the third installment of the grant funds is contingent upon the Foundation's receipt and approval, in its sole discretion, of (i) the Budget Report, (ii) the Interim Report and (iii) the annual report specified in the Due Dates above and described in Paragraphs 4(A) and 4(B) below. If the fully-executed DUA was not included in the Interim Report, payment of the third installment of the grant funds shall also be contingent on the Foundation's receipt of a fully executed DUA, which DUA should be included in the Interim Report in GMS.

2. **BANK ACCOUNTS:** Grant funds shall be deposited in an interest-bearing account whenever feasible. Any grant funds, and income earned thereon, not expended or committed for the purposes of the grant, will be returned to the Foundation.
3. **USE OF FUNDS:** (A) Under United States law, Foundation grant funds, and income earned thereon, may be expended only for charitable, religious, scientific, literary or educational purposes. This grant is made only for the Purpose stated above. It is understood that these grant funds will be used only for such Purpose, substantially in accordance with the "Final Proposal" uploaded into GMS on April 15, 2016, subject to the terms of this agreement. Your organization agrees to obtain the Foundation's prior approval in writing should there be any material changes or variances to the approved budget, including the timing of expenditures, at any point during the course of this grant.

(B) Your organization confirms that this project is under its complete control. Your organization further confirms that it has and will exercise control over the process of selecting any secondary grantee or consultant, that the decision made or that will be made on any such selection is completely independent of the Foundation and, further, that there does not exist an agreement, written or oral, under which the Foundation has caused or may cause the selection of a secondary grantee or consultant.

(C) **RESTRICTIONS ON USE OF FUNDS:** (1) In connection with the activities to be funded under this grant, your organization acknowledges that it is responsible for complying with all relevant laws and regulations of the countries in which such activities are conducted.

(2) Your organization hereby confirms that Foundation grant funds will not be used to carry on propaganda, to lobby or otherwise attempt to influence legislation or to conduct any activities described in Sections 4945(d) and (e) of the United States Internal Revenue Code and the Treasury Regulations thereunder. Your organization further confirms that the primary purpose of undertaking the work described in your organization's proposal is not for use in lobbying. For your information, enclosed is a summary of the types of activities prohibited under Section 4945 of the United States Internal Revenue Code. Further questions regarding impermissible activities should be directed to your organization's tax or legal advisor.

(3) Your organization agrees that Foundation grant funds will be used in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules and executive orders, including but not limited to, the USA Patriot Act of 2001 and Executive Order No. 13224.

4. **WRITTEN REPORTS:** (A) Written reports are to be furnished to the Foundation covering each year, or partial year in the instance of the Interim Report, in which your organization receives or expends any portion of the grant funds until the Foundation's grant funds, and any income earned thereon are expended in full or the grant is otherwise terminated. The written reports for this grant are due no later than the Due Dates specified on Page 1 of this agreement. The written reports should be submitted electronically through GMS.

(B) The annual and final written reports should contain a narrative and financial account of what was accomplished by the expenditure of the grant funds during the period covered by the report. The narrative account should contain a detailed description of what was accomplished by the grant, including a description of the progress made toward achieving the goals of the grant and an assurance that the activities under the grant have been conducted in conformity with the terms of the grant. The financial account should contain a financial statement reporting, in U.S. dollars, all expenditures of the grant funds and any income earned thereon during the period covered by the report.

5. **INTELLECTUAL PROPERTY:** (A) In countersigning this agreement, your organization acknowledges that it has read the Foundation's Policy Regarding Intellectual Property Arising Out of Foundation Grants (the "Policy"; Attachment I hereto). Except as may otherwise be provided herein, all copyright interest in materials produced as a result of this grant (the "Grant Work Product") shall be owned by your organization and made available consistent with the terms of the Policy. To effect the widest possible distribution of the Grant Work Product and to ensure that it furthers charitable purposes and benefits the public, your organization hereby grants to the Foundation a non-exclusive, transferable, perpetual, irrevocable, royalty-free, paid-up, worldwide license to use, display, perform, reproduce, publish, copy, and distribute, for non-commercial purposes, the Grant Work Product and any other work product arising out of or resulting from your organization's use (including digital, electronic or other media) of these funds, including all intellectual property rights appurtenant thereto, and to sublicense to third parties the rights described herein. Without limiting the foregoing, such license includes the right of the Foundation to publish the Grant Work Product on the Foundation's website in connection with the Foundation's work with and support of your organization, and for use in periodic public reports, press releases, and fact sheets about the Foundation's grantmaking. Your organization further acknowledges and agrees, at the Foundation's request, to execute any additional documents necessary to effect such license.

(B) To the extent that, as part of any arrangement with any subcontractor, subgrantee, or other party working on matters related to this grant and receiving the benefit of the grant funds (a "Third Party"), the intellectual property rights in the Grant Work Product is to be owned by such Third Party, your organization agrees to require that the Foundation be granted a license in such Grant Work Product in a form reasonably acceptable to the Foundation.

(C) Except as stated in Paragraph 5(A) herein, and as you may be otherwise notified by the Foundation, it is the Foundation's policy not to ordinarily use the license granted herein if the Grant Work Product is otherwise made widely available through a means and on terms (including any cost to the public and timeliness of publication) satisfactory to the Foundation. Under the Foundation's Policy, the Foundation will consider also releasing such license at the request of your organization if it is demonstrated to the Foundation's satisfaction that such release is necessary in connection with a publication or distribution plan that will make the Grant Work Product widely available at a reasonable or little cost, such as through scholarly publication, open access journals, or use of a suitable Creative Commons license.


6. **USE OF NAME:** Your organization acknowledges that the name and mark "John D. and Catherine T. MacArthur Foundation" and all variations thereof and any other names and marks comprising the name or mark "MacArthur" (the "MacArthur Name"), are the sole and exclusive property of the Foundation, that any and all uses of the MacArthur Name by your organization shall inure solely to the benefit of the Foundation, and that your organization shall not acquire any right, title or interest in any MacArthur Name. All uses of any MacArthur Name by your organization in any manner shall be subject to inspection by and approval of the Foundation, which approval may be granted or withheld in the sole and absolute discretion of the Foundation. Upon termination of this agreement, or at the request of the Foundation at any time, your organization shall immediately discontinue and forever thereafter desist from any and all use of any MacArthur Name and shall either destroy or deliver to the Foundation, at no charge to the Foundation, stationery, brochures, proposed paid media and other similar materials bearing any MacArthur Name that then are in the possession or control of your organization.
7. **PUBLICATIONS:** Two copies of any publications produced or disseminated wholly or in part with these grant funds will be furnished to the Foundation. Unless otherwise notified by the Foundation, such publications should include a simple acknowledgment of the grant support from the Foundation.

8. **EVALUATING OPERATIONS:** The Foundation may monitor and conduct an evaluation of operations under this grant, which may include a visit from Foundation personnel to observe your organization's program, discuss the program with your organization's personnel, and review financial and other records and materials connected with the activities financed by this grant.
9. **FOUNDATION GRANT REPORTS:** The Foundation may include basic information about this grant through a variety of public channels, including press releases, publications, videos, social media, and the Foundation's website. If there are special considerations concerning the public announcement of this grant at your organization, if you plan to issue a public announcement of the grant, or if you would like to coordinate a public announcement of the grant with the Foundation's announcement, please reach out to the Foundation's Office of Public Affairs.
10. **RIGHT TO DISCONTINUE FUNDING, RESCIND PAYMENTS, AND REQUIRE RETURN OF UNSPENT FUNDS:** The Foundation may, in its sole discretion, discontinue or suspend funding, rescind payments made or demand return of any unspent funds based on any of the following: (a) the written reports required herein are not submitted to the Foundation on a timely basis, (b) the reports do not comply with the terms of this agreement or fail to contain adequate information to allow the Foundation to determine the funds have been used for their intended charitable purposes, (c) grant funds have not been used for their intended charitable purposes or have been used inconsistent with the terms of this agreement, (d) the Foundation is not satisfied with the progress of the activities funded by the grant, (e) the purposes for which the grant was made cannot be accomplished, (f) making any payment might, in the judgment of the Foundation, expose the Foundation to liability, adverse tax consequences, or constitute a taxable expenditure, or (g) failure to timely execute the DUA. The Foundation will provide notice of any determinations made under this paragraph. In the event the Foundation takes action permitted by this paragraph solely based on (d) and (e), and your organization provides documentation that it has incurred obligations consistent with the terms of the grant in good faith reliance on the grant agreement and the approved budget, the Foundation will consider in good faith permitting grant funds to be used to pay such obligations.
11. **RIGHT TO RECOVER SPENT FUNDS:** Your organization will repay the Foundation, upon demand, the amount of any funds spent for purposes inconsistent with or contrary to the grant agreement or the approved budget.
12. **U.S. TAX STATUS:** By countersigning this agreement, your organization confirms that it is a governmental entity. If such status changes during the course of this grant, your organization hereby agrees to notify the Foundation and, upon request, promptly return any unspent grant funds to the Foundation as of the date of such change.
13. **MODIFICATION OF TERMS:** The terms of this agreement may be modified only by an agreement signed by an officer of your organization and a corporate officer of the Foundation. Any modifications made by your organization to this printed agreement (whether handwritten or otherwise) will not be considered binding on the Foundation until written confirmation of such modification is obtained from the Foundation.
14. **HEADINGS:** The section headings in this agreement are for convenience only and are not intended, and shall not be construed, to alter, limit or enlarge in any way the scope or meaning of the language contained in this agreement.
15. **ENTIRE AGREEMENT:** This agreement represents the entire agreement between your organization and the Foundation with respect to the subject matter herein and supersedes any and all prior agreements, understandings, negotiations, representations and discussions with respect thereto. This agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.
16. **DUE AUTHORITY:** The person(s) signing this agreement on behalf of your organization represents and warrants to the Foundation that s/he is an officer of your organization and has

requisite legal power and authority to execute this agreement on behalf of your organization and bind your organization to the obligations herein.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed as of the day and date first written above.

**JOHN D. AED CATHERINE T.
MacARTHUR FOUNDATION**

By: 
Joshua G. Mintz
Its: Vice President and General Counsel

PIMA COUNTY, ARIZONA

All Pima County Signatures on
following page.

By: _____
Signature

Its: _____
Title

Acceptance Date: _____

To facilitate receipt of the grant funds, complete the following and return the fully-signed agreement electronically using the Foundation's Grants Management System.

Payment should be made payable to **PIMA COUNTY, ARIZONA**

Please provide mailing instructions below for the remittance or complete, sign and return the MacArthur Electronic Payment Authorization Form, which can be downloaded from the Document Library of the Foundation's Grants Management System. Please note that bank fees may be charged to the recipient by the bank(s) processing the wire transfer.

Contact Name: _____

Title: _____

Organization: _____

Address: _____

Phone (optional): _____

E-Mail (optional): _____

GRANTEE SIGNATURE PAGE:

Subject to the provisions of A.R.S. § 38-511 regarding conflict of interest:

PIMA COUNTY:

By: _____
Chair, Pima County Board of Supervisors

Acceptance Date: _____

ATTEST:

Clerk of the Board of Supervisors

Date: _____

APPROVED AS TO FORM:



Karen S. Friar, Deputy County Attorney