



THE BAR ASSOCIATION OF SAN FRANCISCO

July 7, 2020

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Yolanda M. Jackson

Presiding Judge Wong
San Francisco Superior Court of California
400 McAllister Street
San Francisco, CA 94102

Dear Presiding Judge Wong:

The Bar Association of San Francisco's Criminal Justice Reform Task Force ("BASF-CJRTF"¹), along with the San Francisco criminal justice agencies, write to you concerning the Court's decision to terminate the Emergency Bail Schedule² ("Zero Bail") on June 20, 2020. BASF-CJRTF joins with the criminal justice partners, including the District Attorney, the Public Defender, S.F. Pretrial, and Jail Health, in urging the Court in the strongest possible terms to reinstitute Zero Bail for San Francisco.

Restoring Zero Bail is essential to public health and safety. As you know, the danger posed by the coronavirus pandemic has not yet passed. This past week, the virus spread faster in San Francisco (based on the percentage of new cases) than it did state- or nationwide. This dangerous trend appears to be manifesting at the San Francisco County Jail, as well. Since testing started on April 18, 2020, twenty people in contact with the jail have tested positive for coronavirus. Alarmingly, eight of those people—or forty percent of the total—have tested positive very recently, since June 18, 2020. In recognition of these risks, several other large counties in California have taken action to preserve Zero Bail, including at least Los Angeles, Sacramento, Contra Costa, Alameda, San Diego, Santa Barbara, and Santa Clara.

Jails are especially dangerous vectors for coronavirus transmission for incarcerated defendants, staff, and surrounding communities. Eight of the top ten coronavirus clusters around the country have been prisons and jails. People who have contact with jails remain at an especially high risk of infection because they cannot adequately socially distance or take other protective measures in custodial environments, and because the jail population is constantly in flux with new bookings coming in from the street daily. The San Francisco County Jail has limited space to quarantine arrestees. The jail population

¹ The Bar Association of San Francisco ("BASF") represents 7,500 members and is the largest legal organization in Northern California dedicated to criminal justice reform. In 2015, BASF established the Criminal Justice Reform Task Force, consisting of judges, prosecutors, public defenders, law enforcement, private counsel, civil liberties advocates, and others, to advance systemic reforms in San Francisco.

² To empty the jails and curb the spread of coronavirus, the California Judicial Council issued a statewide emergency order on April 13, 2020, setting bail at \$0.00 for most misdemeanor and low-level felony offenses.

is rising. Zero bail requires that eligible arrestees will be immediately released. In contrast, the bail procedures implemented as a result of the *Buffin* case require the detention of these individuals until there is an expedited judicial determination that public safety is not jeopardized by their release. Given the surge in infections and the virulent nature of the coronavirus, concerns for S.F.S.D. employees, all those who work in the jail and those arrested, reinstating Zero Bail seems to be an obvious and necessary choice.

Incarceration during the coronavirus pandemic is also a racial justice issue. At this extraordinary moment in history with San Franciscans in the street regularly protesting racism and injustice, we feel further obligated to point out that the money bail system has a disparate impact on people of color and the poor. People of color are facing worse health outcomes and higher risk of death from coronavirus. In San Francisco, people of color—particularly Black people—are also overrepresented in our jails. Elimination of Zero Bail thus perpetuates the racial disparities of both pretrial incarceration and the public health crisis. It will also take a financial toll on economically vulnerable communities of color.

BASF-CJRTF's Bail Subcommittee and the local criminal justice partners, including the Superior Court, have worked hard for years to depopulate our jails and improve the efficiency and quality of San Francisco's pretrial release programs. Elimination of Zero Bail runs contrary to these important efforts.

For the safety of our community, we urge you to restore Zero Bail.

Sincerely,



Yolanda Jackson
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San Francisco District Attorney

Manohar Raju
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Dr. Lisa Pratt
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