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22 **SUPERIOR COURT OF CALIFORNIA**
23 **COUNTY OF SAN FRANCISCO**
24 **UNLIMITED JURISDICTION**

25 MANOHAR RAJU, an individual, in his official
26 capacity as the Public Defender of San Francisco;
27 ELISA BAIER, an individual; DONNA DOYLE,
28 an individual; JOHN DUNBAR, an individual;
ROSE MARIE SIMS, an individual,

Plaintiffs and Petitioners,

v.

SUPERIOR COURT OF CALIFORNIA, CITY
AND COUNTY OF SAN FRANCISCO, an
agency of the State of California; SAMUEL K.
FENG, an individual, in his official capacity as
Presiding Judge of San Francisco Superior Court;
T. MICHAEL YUEN, an individual, in his official
capacity as Chief Executive Officer of the San
Francisco Superior Court,

Defendants and Respondents.

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

09/14/2021
Clerk of the Court
BY: JACKIE LAPREVOTTE
Deputy Clerk

CGC-21-594671

Case No. _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
VERIFIED PETITION FOR WRIT
OF MANDATE**

1 Plaintiffs and Petitioners, Manohar Raju (“Raju”), an individual acting in his official
2 capacity as the Public Defender of San Francisco, and Elisa Baier (“Baier”), Donna Doyle
3 (“Doyle”), John Dunbar (“Dunbar”) and Rose Marie Sims (“Sims”), all individuals with
4 standing to assert the claims stated herein, allege as follows:

5 **INTRODUCTION**

6 1. San Francisco’s criminal legal system is in a state of crisis. As of August 30,
7 2021, there are about 429 people whose pending criminal case has gone past the statutory
8 deadline for trial. Of those, approximately 178 people are being held in jail, typically locked in
9 their cells for 23 hours a day. Most have been awaiting trial for a period of months and some
10 have been incarcerated for a year or more. Each of them is a presumptively innocent member
11 of our community, charged with a crime but denied their day in court.

12 2. This humanitarian crisis stems from the Superior Court’s now-routine practice
13 of continuing criminal cases for months past their statutory trial deadline, and its refusal to use
14 courtrooms in the Civic Center Courthouse to clear the resulting massive, and now growing,
15 backlog of criminal cases. As a result, more and more people are forced to stay in jail while the
16 Court holds jury trials in asbestos cases, malpractice actions, and other civil disputes for money
17 damages without regard for the rights of the criminally accused to receive a speedy trial.

18 3. Plaintiffs and Petitioners (hereinafter “Plaintiffs”) seek a writ of mandamus and
19 injunctive and declaratory relief requiring the Superior Court, its presiding judge, and chief
20 executive officer to prioritize criminal trials over civil ones, and to devote all the resources at
21 their disposal—including Civic Center courtrooms—to restoring the right of the criminally
22 accused to a speedy trial in San Francisco.

23 4. Penal Code section 1050(a) requires courts and judges to “expedite [criminal]
24 proceedings to the greatest degree that is consistent with the ends of justice.” It provides that
25 “criminal cases shall be given precedence over, and set for trial and heard without regard to the
26 pendency of, any civil matters or proceedings.” That requirement exists for good reason.
27 Although many civil cases relate to matters of great significance and importance, it is hard to
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1 conceive of many civil matters that should take precedence over a criminal case in which the
2 accused, who is presumed innocent, is held in jail while awaiting trial. By not prioritizing
3 criminal over civil proceedings, Defendants are trampling and flouting the presumption of
4 innocence by treating those who are charged with crimes as effectively guilty by jailing them
5 for prolonged periods without cause or apparent concern.

6 5. The statute’s requirement of calendar preference to criminal cases over civil
7 cases derives from the inviolate and fundamental right of a criminally accused to a speedy trial
8 under the Sixth Amendment to the U.S. Constitution (“In all criminal prosecutions, the accused
9 shall enjoy the right to a speedy and public trial”); article I, section 15 of the California
10 Constitution (“The defendant in a criminal cause has the right to a speedy... trial”); and
11 Penal Code section 686(1) (“In a criminal action the defendant is entitled: To a speedy and
12 public trial.”). The statute complements Penal Code section 1382, which requires dismissal of
13 felony cases that are not tried within sixty days from arraignment or plea, and misdemeanor
14 cases that are not tried within thirty or forty-five days, unless good cause is shown.

15 6. Penal Code sections 1049.5, 1050(b) and 1050(i) further require a court to set
16 felony cases for trial within sixty days unless it finds, based on affidavits or declarations
17 detailing specific facts, that a continuance is necessary.

18 7. Over the last eighteen months, the Court has routinely violated these
19 constitutional and statutory requirements. It has tried only 34 criminal cases to verdict since
20 March 16, 2020, significantly less than neighboring counties. It has wasted precious trial
21 courtrooms on showing live relays of other proceedings, when those courts should have been
22 used as trial courtrooms. The Court ruled out trying felony, in-custody, or “serious”
23 misdemeanor cases in the Civic Center Courthouse on unspecified “security” grounds, even
24 though it has safely held many in-custody felony jury trials at the same location over the last
25 fifteen years. And, it has failed to use its emergency authority and special funding to solve its
26 chronic staffing problems, failed to find alternative venues for court proceedings, and failed to
27 address the unspecified security issues it cites. Instead, the Court now routinely continues
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1 cases for months past their trial deadline, reading out a generic “good cause” script.

2 8. Meanwhile, the Court continues to hold jury trials at the Civic Center
3 Courthouse in a variety of non-urgent civil cases. And many courtrooms regularly sit empty,
4 both in the Civic Center Courthouse and in the Hall of Justice at 850 Bryant Street.

5 9. The Court has alternately blamed the pandemic, the Sheriff, defense counsel,
6 and staff shortages for its failure to prioritize criminal trials. But COVID-19 has been with us
7 for eighteen months. Other institutions, including government agencies, hospitals, businesses,
8 and superior courts in other counties, have risen to the challenge of providing essential public
9 services in a safe and efficient way. The pandemic is not a permanent excuse for bureaucratic
10 negligence. It certainly cannot justify forcing people to wait in jail for months past their
11 statutory trial deadline before their case is heard.

12 10. Defendant Court’s bureaucratic inertia on the criminal side contrasts with the
13 efforts it has made to accommodate civil litigants and the civil bar.

14 11. During a January 2021 “State of the Court” webinar with members of the civil
15 bar, Defendant Judge Feng announced: “Everyone is ready to go . . . So that makes it easier, as
16 opposed to telling everyone we only have one courtroom. Are you kidding? No, we have all
17 courtrooms. Everyone is available for jury trials and/or bench trials; we’re all equipped for it.
18 We’re ready to go.” Defendant Feng continued: “If you have a trial date, you better get ready
19 for it . . . we’re open for business, we’re safe, we welcome everybody.”

20 12. Plaintiff Raju has attempted to resolve this matter without litigation. On July 16,
21 2021, Plaintiff Raju wrote to Defendant Judge Feng setting out many of these facts in detail,
22 explaining that security has not previously been an obstacle to criminal trials at the Civic
23 Center Courthouse, and urging him to reallocate civil trial courtrooms at Civic Center to hear
24 criminal cases. Raju wrote: “Given the gravity of this situation, I therefore ask that you
25 immediately reallocate the civil trial courtrooms at the Civic Center to hear criminal cases and
26 guarantee the right of accused persons in San Francisco to a speedy trial. If not, we may be
27 forced to vindicate the rights of our clients through litigation. Please let us know by July 30,
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1 2021, whether you will re-assign criminal trials to the Civil Courthouse.” Judge Feng’s
2 response read, in full: “Our court continues to make criminal trials assigned to the Civic Center
3 Courthouse (CCC) a priority. As to your concerns at CCC, please address the same to Sheriff
4 Miyamoto.” Judge Feng did not reassign additional criminal trials to the Civic Center
5 Courthouse.

6 13. The Court’s failure cannot be understood in a vacuum. The population of San
7 Francisco is 5.6% Black. As of September 7, 2021, of the people in jail awaiting trial past their
8 last day for trial, approximately 53.5% are Black. If San Francisco’s jail population represents
9 the legacy of race and class oppression, the Court’s negligence institutionalizes that violence.
10 As the United Nations High Commissioner for Human Rights recently observed about the
11 George Floyd case: “much remains to be done to reverse the tide of systemic racism that
12 permeates the lives of people of African descent. We need to move to whole-of-government
13 and whole-of-society approaches that dismantle systemic racism. . . . The entrenched legacy of
14 discriminatory policies and systems, including the legacies of enslavement and transatlantic
15 trade and the impact of colonialism, must be decisively uprooted in order to achieve racial
16 justice and equality.”¹

17 14. Last year, the Court issued a statement condemning the systemic racism that
18 still plagues our criminal justice system. The Court acknowledged that “there is much work left
19 for courts to do to make racial equity and inclusion a lived reality,” and pledged to “strive
20 constantly to improve the Superior Court to offer access to justice for all.”²

21 15. The Court must match its words with actions. To begin with, defendants must
22 comply with their statutory duty under Penal Code section 1050(a) to prioritize criminal trials,
23 clear the massive backlog of criminal cases without regard to the pendency of civil matters,
24 and honor the fundamental right of everyone accused of a crime in San Francisco—a speedy

25 ¹ Statement by UN High Commissioner for Human Rights Michelle Bachelet on guilty verdict in George Floyd case,
26 April, 21 2021, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27016&LangID=E>,
Michele Bachelet.

27 ² Statement of the Superior Court of California, County of San Francisco, July 13, 2020,
28 <https://sfsuperiorcourt.org/sites/default/files/images/SF%20Court%20Statement.pdf?1595282400043>.

1 trial by jury.

2 **JURISDICTION AND VENUE**

3 16. This Court has jurisdiction under article VI, section 10 of the California
4 Constitution. Venue is proper in this Court because Defendants reside in San Francisco and the
5 acts and omissions complained of occurred in the City and County of San Francisco. (See Code
6 Civ. Proc. §§ 393(b), 394, 395(a).)

7 **PARTIES**

8 17. Plaintiff Raju has served as the Public Defender of San Francisco since 2019.
9 He leads an office of over 200 people, including 104 attorneys, in the defense of people
10 charged with crimes in San Francisco who are unable to afford counsel.

11 18. Plaintiff Baier lives, works and owns a business in San Francisco. She has been
12 assessed for and within the last year has paid, income tax, sales tax, and business tax to the
13 State of California and to the City and County of San Francisco. Ms. Baier has volunteered in
14 the San Francisco jails, teaching horticulture classes to women in jail.

15 19. Plaintiff Doyle is a homeowner in San Francisco. She lives, works, and owns
16 property in San Francisco. She has been assessed for and within the last year has paid, income
17 tax, sales tax and property tax to the State of California and the City and County of San
18 Francisco. Ms. Doyle has been a San Francisco resident since the age of four and is retired
19 from a 24-year career as a driver for the San Francisco Municipal Transportation Agency. Ms.
20 Doyle's son, Deshon Marman, timely asserted his right to a speedy trial on November 16,
21 2020, and never waived that right. His case was not sent to a trial department until September
22 3, 2021. As of that date, he had spent nearly 335 days—nearly one year—without a speedy
23 trial. As of September 9, 2021, a jury has not yet been impaneled and Mr. Marman remains in
24 custody. Ms. Doyle is deeply concerned about the denial of her son's right to a speedy trial,
25 especially given the fact that she has heard he is only allowed out of his cell for approximately
26 30 minutes per day, a violation of his human rights.

27 20. Plaintiff Dunbar is a homeowner in San Francisco. He lives, works and owns
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1 property in San Francisco. He has been assessed for and within the last year has paid, income
2 tax, sales tax and property tax to the State of California and the City and County of San
3 Francisco. Mr. Dunbar has worked at the Office of the San Francisco Public Defender's Office
4 since 2007. He has a strong interest in ensuring that people charged with crimes are assured a
5 speedy and fair trial. He is invested in the fair administration of the criminal legal system.

6 21. Plaintiff Rose Marie Sims lives and works in San Francisco. She has been
7 assessed for and within the last year has paid, income tax and sales tax to the State of
8 California and the City and County of San Francisco. Ms. Sims is a fourth generation San
9 Franciscan. Her son, Christopher Sims, a fifth generation San Franciscan, has been
10 incarcerated in San Francisco County since October 2, 2019. He most recently asserted his
11 right to a speedy trial on February 25, 2021. Under Penal Code section 1382 he should have
12 been brought to trial by April 26, 2021. Instead, as of September 7, 2021, he has spent over six
13 months in custody since asserting his right to a speedy trial. His trial date is not set until
14 October 7, 2021. Ms. Sims is extremely concerned about her son's conditions of confinement,
15 particularly given that she has heard that he is allowed out of his cell for no more than an hour
16 each day. She wants to do everything she can to ensure he and others in similar circumstances
17 are afforded their right to a speedy trial.

18 22. Plaintiffs have public interest standing to bring this writ action. As citizens,
19 Plaintiffs are interested in having the laws executed and ensuring that the defendants'
20 constitutional and statutory duties are enforced. The questions presented by this action are one
21 of public right and the object of the mandamus is to procure the enforcement of a public duty.

22 23. In this action, Plaintiffs do not challenge or seek to remedy any order in any
23 particular criminal case. Nor do they seek dismissal of any case. Instead, they seek to end the
24 Superior Court's policy of prioritizing civil proceedings over criminal trials and failing to
25 expedite criminal proceedings in violation of Penal Code section 1050(a), which has caused
26 pretrial detainees to spend additional weeks and months in harsh conditions at the San
27 Francisco County Jail.

1 24. Defendant Superior Court of California, City and County of San Francisco, is an
2 agency of the State of California.

3 25. Defendant Samuel K. Feng is the Presiding Judge of the Superior Court. Judge
4 Feng is responsible for assigning cases and judges to departments, establishing policies, and
5 overseeing implementation for the San Francisco Superior Court courthouses. Judge Feng is
6 responsible for assigning judges to departments and apportioning the business of the court,
7 including assigning or reassigning cases to departments as required. (Cal. Rules of Court, rule
8 10.603(b)(1)(A)–(B), (D).)

9 26. Judge Feng is also responsible for “[e]nsuring the effective management and
10 administration of the court,” including supervising the court’s calendar. (Cal. Rules of Court,
11 rule 10.603(b)(1)(F).) As presiding judge, he has the authority to issue standing orders and
12 other policies for the San Francisco Superior Court. Judge Feng is sued in his official capacity.

13 27. Defendant T. Michael Yuen is Chief Executive Officer of the Superior Court.
14 Yuen is responsible for assisting the presiding judge with “leading the court, establishing
15 policies, and allocating resources in a manner that promotes access to justice for all members
16 of the public.” (Cal. Rules of Court, rule 10.603(a).) Yuen is sued in his official capacity.

17 **FACTUAL ALLEGATIONS**

18 **A. Legal Background**

19 28. A trial court has three interrelated duties in setting criminal trials. It must give
20 preference to criminal trials over civil proceedings. It must set the trial of a felony case within
21 sixty days from arraignment, and thirty or forty-five days in misdemeanor cases, unless it finds
22 good cause for a continuance based on affidavits or declarations detailing specific facts
23 showing that a continuance is necessary. And it must give the defendant a speedy and public
24 trial.

25 29. There is a statutory duty to give preference to criminal trials over civil
26 proceedings. Penal Code section 1050(a) provides, in relevant part:
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1 The welfare of the people of the State of California requires that all proceedings in
2 criminal cases shall be set for trial and heard and determined at the earliest possible
3 time. [. . .] It is therefore recognized that the people, the defendant, and the victims
4 and other witnesses have the right to an expeditious disposition, and to that end it
5 shall be the duty of all courts and judicial officers and of all counsel, both for the
6 prosecution and the defense, to expedite these proceedings to the greatest degree
7 that is consistent with the ends of justice. **In accordance with this policy, criminal
8 cases shall be given precedence over, and set for trial and heard without regard
9 to the pendency of, any civil matters or proceedings.**

6 (emphasis added.)

7 30. The statute is part of a scheme that implements the constitutional right to a
8 speedy trial in California. (See Pen. Code §§ 686, 1049.5–1050.5, 1381–1387.) It “has been
9 interpreted to require a trial court to organize its civil and criminal departments and workload
10 in a manner that (1) acknowledges the important state interest in the expeditious resolution of
11 criminal proceedings as reflected in section 1050, and (2) does not shortchange the court’s
12 criminal caseload by creating or maintaining a disproportionately large number of civil as
13 compared to criminal departments.” (*People v. Engram* (2010) 50 Cal.4th 1131, 1156.)

14 31. A superior court flouts these requirements if it allocates an insufficient number
15 of its departments to holding criminal trials. (*Id.* at pp. 1155–1158; see *Stewart v. Superior
16 Court* (1955) 132 Cal.App.2d 536 [finding violation where 14% of departments allocated to
17 criminal trials]; *People v. Echols* (1954) 125 Cal.App.2d 810 [finding violation where 17% of
18 departments allocated to criminal trials].)

19 32. A trial court also has a duty to set felony trials within 60 days of arraignment.
20 Penal Code section 1049.5 provides:

21 In felony cases, the court shall set a date for trial which is within 60 days of the
22 defendant’s arraignment in the superior court unless, upon a showing of good cause
23 as prescribed in Section 1050, the court lengthens the time. If the court, after a
24 hearing as prescribed in Section 1050, finds that there is good cause to set the date
25 for trial beyond the 60 days, it shall state on the record the facts proved that justify
26 its finding. A statement of facts proved shall be entered in the minutes.

26 33. Penal Code section 1050, in turn, provides that a showing of good cause must
27 be based on a motion filed at least two days before the hearing, supported by “affidavits or
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1 declarations detailing specific facts showing that a continuance is necessary.” (Pen. Code
2 § 1050(b).) It further provides that “[a] continuance shall be granted only for that period of
3 time shown to be necessary by the evidence considered at the hearing on the motion.” (Pen.
4 Code § 1050(i).)

5 34. Absent exceptional circumstances, “the unavailability of a number of judges or
6 courtrooms sufficient to handle the court’s caseload, due to chronic congestion of the court’s
7 docket, does not establish good cause.” (*People v. Hajjaj* (2010) 50 Cal.4th 1184, 1198.)

8 35. Penal Code section 1049.5 was added by the Crime Victims Justice Reform Act
9 of 1990, an initiative measure. One of the goals of the measure was “to create a system in
10 which justice is swift and fair.” (1990 Cal. Legis. Serv. Prop. 115, § 1(c).) Unlike Penal Code
11 section 1382, it does not confer any rights on a criminal defendant. Rather, it imposes a duty on
12 trial courts to promptly try felony cases.

13 36. Finally, a trial court has a duty to provide a speedy trial to all persons accused
14 of a crime. (Pen. Code § 686; Cal. Const. art. I, § 15; U.S. Const. amends. VI, XIV.)

15 **B. The Court Created a Massive Backlog of Criminal Trials, Which Has a Devastating**
16 **Effect on People Subjected to Solitary-Like Caging for Months on End**

17 37. On February 25, 2020, the Mayor of San Francisco declared a state of
18 emergency to prepare for the COVID-19 pandemic.

19 38. On March 5, 2020, San Francisco recorded its first reported case of COVID-19.

20 39. On March 16, 2020, San Francisco implemented shelter-in-place orders.
21 Defendant Court immediately shut down its criminal trial courtrooms.

22 40. Using emergency powers conferred by the Chief Justice in her statewide
23 emergency orders of March 23 and April 29, 2020, Defendant Court continued jury trials en
24 masse by a total of ninety days without a hearing.

25 41. In June 2020, Defendant Court re-opened only four courtrooms for felony
26 criminal trials. Four other courtrooms were used as “satellites,” broadcasting live video of
27 trials in other courtrooms on a large screen. These courtrooms were staffed by a bailiff. They
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1 often remained empty.

2 42. According to Defendant Court’s own calculations, it had at least eleven
3 courtrooms at the Hall of Justice that were large enough to accommodate a socially-distanced
4 criminal jury trial with twelve jurors and two alternates. It also had the ability to stream video
5 of its proceedings on the Internet, rather than waste scarce staff time and departments on
6 “satellite” courtrooms.

7 43. Upon information and belief, the failure to open more courtrooms was not due
8 to COVID health concerns. There was no reason that more courtrooms could not be opened in
9 a COVID-safe way. Part of the reason for not opening more courtrooms was Defendant
10 Court’s failure to adequately staff the courtrooms.

11 44. Indeed, when a defense lawyer suggested in open court that satellite courtrooms
12 should be repurposed to hold jury trials, Judge Loretta Giorgi, presiding criminal judge, cited a
13 staff shortage as one of the reasons for Defendant Court’s failure to do so, stating: “We still
14 don’t have enough staff to staff all our courtrooms.”

15 45. By July 9, 2020, a backlog of trial cases had built up. There were 135 pending
16 cases that were past their original statutory trial deadlines, and many more cases whose trial
17 deadline was fast approaching. Thirty-one people were in custody past their trial deadlines.

18 46. In December 2020, Defendant Court again shut down during a surge in COVID-
19 19 infections.

20 47. In January 2021, the Judicial Council allocated 50 million dollars to superior
21 courts across the state to deal with the case backlog during the pandemic. It tracked case
22 disposition data for funding allocation. It discovered that San Francisco had the biggest drop of
23 all 58 superior courts in case dispositions from 2019 to 2020: a 76% decline.

24 48. Upon information and belief, the Court failed to use the additional funds to open
25 more courtrooms for criminal trials.

26 49. In January 2021, Defendant Court again re-opened only four courtrooms for
27 criminal trials, reserving four other trial courtrooms as “satellites.” It kept using the generic
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1 “good cause” script to delay criminal jury trials.

2 50. By February 2, 2021, the backlog had grown to 183 felony cases past their trial
3 deadline, of which 68 were in-custody cases.

4 51. On February 23, 2021, managing attorney Aleem Raja from the San Francisco
5 Public Defender’s Office emailed Judge Giorgi and asked for a meeting to discuss opening up
6 more trial courtrooms for criminal trials. Judge Giorgi again cited the Defendant Court’s staff
7 shortage. The judge responded, “Before I get your hopes up I need to see if we have enough
8 clerks and court reporters to open up any more additional trial courtrooms. We are barely
9 scraping by as it is”

10 52. In April 2021, Defendant Court also began sending a limited number of “non-
11 violent misdemeanor” trials to the Civic Center Courthouse. “Non-violent misdemeanor” is
12 not a term defined by law. Defendant Court refused to send any felony, in-custody, or so-
13 called “violent misdemeanor” trials to Civic Center Courthouse, claiming that the courthouse
14 was not secure enough to hold such trials.

15 53. On May 13, 2021, the Centers for Disease Control and Prevention Director,
16 Rochelle Walensky, announced that “[a]nyone who is fully vaccinated can participate in indoor
17 and outdoor activities, large or small, without wearing a mask or physically distancing[.] If you
18 are fully vaccinated, you can start doing the things you had stopped doing because of the
19 pandemic. We have all longed for this moment when we can get back to some sense of
20 normalcy.”

21 54. In June 2021, following the success of the vaccination campaign in California
22 and San Francisco, public health officials removed all social distancing requirements.

23 55. On June 28, 2021, Defendant Court opened nine criminal trial departments—
24 three for in-custody felony trials, four for out-of-custody felony trials, and two for
25 misdemeanor trials. It continued sending a limited number of “non-violent misdemeanor” trials
26 to the Civic Center Courthouse.

27 56. By June 29, 2021, the trial backlog had become massive: 416 pending cases
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1 were past their trial deadline. In about 125 of those 416 overdue trials, the person accused was
2 in custody.

3 57. These nine trial departments represent only 14% of the Court’s sixty-five
4 departments across the Hall of Justice, Civic Center Courthouses, Juvenile Justice Center, and
5 Community Justice Center.

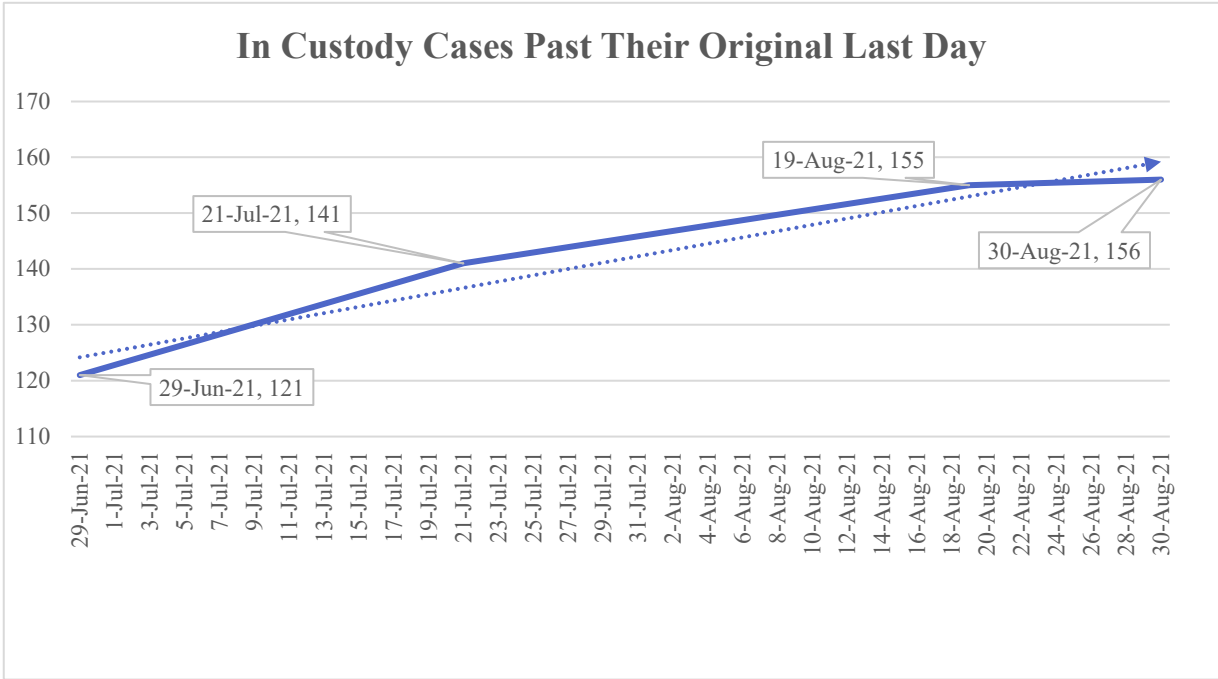
6 58. Moreover, as of July 22, 2021, only five departments, or 7% of the departments,
7 were actually conducting criminal trials.

8 59. At no point in July and August 2021 were there more than seven departments in
9 which criminal trials were being heard. In other words, during those two months, the Court
10 never devoted more than 11% of its departments to criminal trials. This is far less than the 14%
11 found to constitute a violation in *Stewart v. Superior Court, supra*, 132 Cal.App.2d 536, or the
12 17% found to be a violation in *People v. Echols, supra*, 25 Cal.App.2d 810.

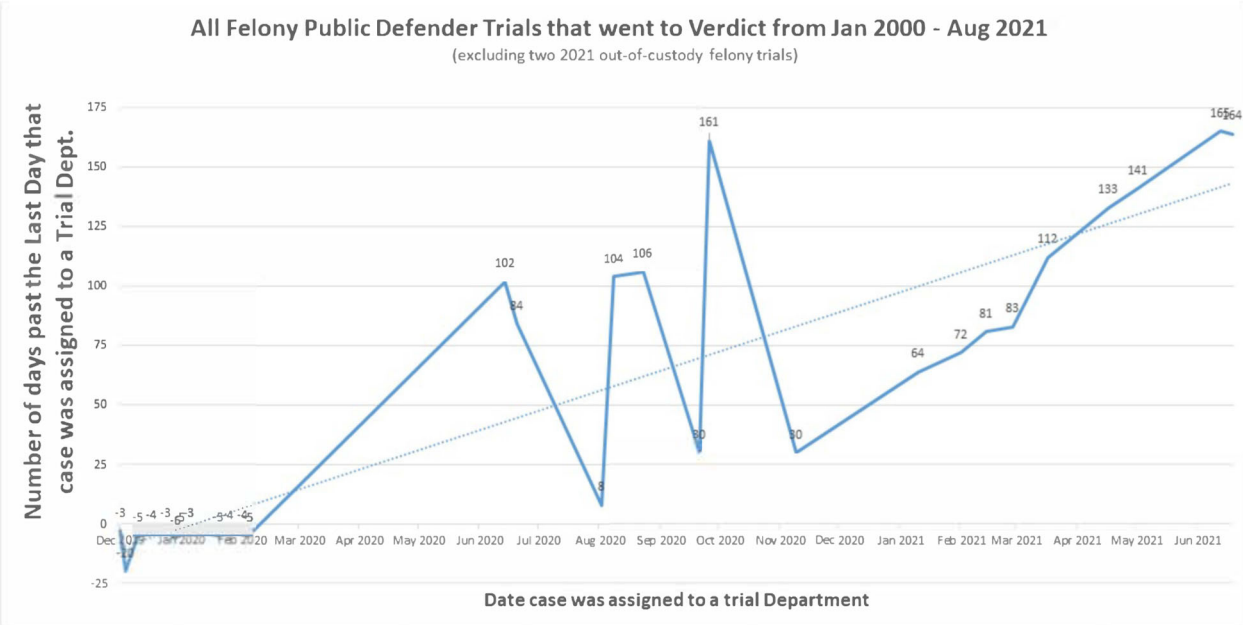
13 60. In 2019, before the pandemic, the Court had allocated twelve departments at the
14 Hall of Justice to criminal jury trials. Yet the Court chose to open only nine departments after
15 the relaxation of social distancing in 2021, despite the need to clear a massive backlog of
16 criminal cases, with many people in custody past their trial deadline.

17 61. The Court’s efforts so far are proving totally inadequate to deal with its backlog.
18 According to the August 30, 2021 no-time-waiver trial lists, the Court had a backlog of about
19 388 cases past the statutory last day for trial. In about 156 of those cases, the person accused
20 was waiting past while in custody, many by nine months or more. The Court sent out only two
21 in-custody trials from the June 28, 2021 reopening to August 30, 2021. The backlog of in-
22 custody cases has continued to grow since reopening. Two months ago, on June 29, 2021, there
23 were only about 121 cases past the statutory deadline for their trials. **At the rate at which the**
24 **court is currently assigning cases to trial, the backlog of San Franciscans waiting for their**
25 **trials in custody will never be cleared and will only increase.**

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62. Another worrying indicator: in-custody felony cases are being sent to trial five to six months past their statutory trial deadline. This is an increase from an average of three-month delays past statutory trial deadlines earlier in the pandemic.



63. This failure has a devastating human cost. Robert Brewer was detained in jail from August 19, 2020 to May 4, 2021, charged with murder. He never waived his right to a

1 speedy trial. He was finally brought to trial in March 2021, *three months after* his trial deadline
2 had passed. At trial, the jury acquitted him of all homicide offenses. He lost three additional
3 months of his life and was released on the day of the verdict.

4 64. Emonie Bailey is a San Franciscan detained in jail who never waived his right
5 to a speedy trial. He has been in custody since May 14, 2020, and his original trial deadline
6 was January 19, 2021. His case was not sent to a trial department for trial until August 13,
7 2021, well over a year since his arrest and incarceration. Once sent out to a trial department,
8 his case resolved. Under the jail's COVID-19 policy, Mr. Bailey was confined to his cell for a
9 minimum of 23 hours a day. Frequent lockdowns meant that he had only been allowed to leave
10 his cell two or three times a week. In the fourteen months that he had been detained, he had
11 been deprived of in person-visits with his family. Such isolation can cause permanent mental,
12 emotional, and physical harm.

13 65. Elias Zuniga is another San Franciscan detained in jail who has asserted his
14 right to a speedy trial. He has been in jail since January 19, 2021. He is only allowed to leave
15 his cell one hour per day. He has only had one Zoom visit from his sister, which required the
16 assistance of his public defender to set up. The deadline for his speedy trial was May 4, 2021.
17 Defendant Court has set his trial for November 4, 2021.

18 66. These experiences are not unique. Throughout the pandemic, the jail has
19 imposed harsh, solitary-like conditions on its inmates. Even now, most are not allowed to leave
20 their cell for more than one hour per day. The jails are filled with pre-trial detainees, who are
21 presumptively innocent of the charges against them.

22 67. There is a large scientific literature that documents the adverse psychological
23 and physical effects of the kind of isolated confinement to which persons incarcerated in the
24 San Francisco jails are now being subjected. This literature establishes a range of damaging
25 consequences that come about when incarcerated persons suffer the very kinds of punitive-like
26 lockdowns that amount to solitary-type confinement. This exposes incarcerated persons to a
27 separate set of very serious harmful effects, ones that significantly undermine their mental and
28

1 physical well-being.

2 68. The harms caused by the massive backlog are suffered disproportionately by
3 poor people of color, especially young men of color. Of the people who are past their statutory
4 trial deadline and waiting in custody as of September 7, 2021, approximately 53.5% are Black.
5 By contrast, according to the most recent census data, San Francisco's population is 5.6%
6 Black.

7 **C. The Court Refuses to Try Felony Cases at Civic Center, Despite Having Done So**
8 **Safely for 15 Years, Using Security as a Pretext, and Instead Prioritizes Civil Cases**

9 69. One of the principal reasons for the current crisis is Defendant Court's failure to
10 use available civil courtrooms for criminal trials and its decision to prioritize its civil docket.
11 Defendant Court has failed to grant considerable preference to its criminal docket and is failing
12 to devote a reasonable proportion of its judges and/or courtrooms to criminal matters.

13 70. Most criminal proceedings in San Francisco take place in the Hall of Justice at
14 850 Bryant Street. But Defendant Court also holds sessions, including criminal jury trials, at
15 the Civic Center Courthouse at 400 McAllister Street. That courthouse has thirty-seven
16 departments, which are currently used almost exclusively for general civil, family law, probate
17 and appellate matters. Between March 16, 2020 and August 20, 2021, only ten criminal trials
18 have been held there, all of them out-of-custody misdemeanor cases.

19 71. A key part of any workable strategy to reduce a backlog of criminal cases is
20 reassigning civil courtrooms to hear criminal trials. For example, when a large backlog of cases
21 arose in Riverside County around 2006, the Riverside superior court repurposed nearly all its
22 general civil departments to criminal trials in order to avoid violations of statutory trial
23 deadlines on any case.³

24 72. In San Francisco, the Civic Center Courthouse is equipped with multiple
25

26 ³ In San Francisco, court has even been held outdoors when a public health emergency prevented the use of the
27 courthouse. In October 1918, during an outbreak of Spanish influenza, Judge John J. Sullivan held sessions of Police
28 Court in Portsmouth Square, in front of the statue of Robert Louis Stevenson, and sentenced several people to jail.

1 holding cells and airport-style security at the entrance, and on information and belief, is
2 regularly staffed by more than twenty Sheriff’s deputies. Nevertheless, Defendant Court has
3 not sent any felony, in-custody or “violent misdemeanor” cases to trial in Civic Center since
4 March 2020. It has repeatedly claimed that Civic Center is not secure enough to hold such
5 trials.

6 73. That claim is contradicted by the Court’s own records, which show that it has
7 safely tried many serious felony cases at the Civic Center Courthouse, including in-custody
8 cases, co-defendant cases, and cases where the defendants faced very serious charges.

9 74. For example, Defendant Court sent out 56 felony cases for jury trial to Civic
10 Center courtrooms between January 2006 and the present. In 24 of those cases, the defendant
11 was in custody. Most of those cases were tried to verdict. Many of them involved serious
12 charges, including cases where defendants faced life in prison.

13 75. Felony cases have historically been tried in multiple Civic Center courtrooms.
14 Departments 505, 602/604, 606, 622 and 624 have all tried both in-custody and out-of-custody
15 felony jury trials to verdict. Departments 220, 303 and 608 have all tried out-of-custody felony
16 jury trials to verdict.

17 76. In July 2012, when Defendant Court temporarily closed two trial departments in
18 the Hall of Justice, it dedicated two replacement courtrooms in Civic Center to hear criminal
19 trials and staffed them with visiting judges.

20 77. Felony cases have been tried in the Civic Center Courthouse as recently as
21 2017.

22 78. In 2021, a juvenile in-custody murder trial was held in Department 606 of the
23 Civic Center Courthouse. Defendant Judge Feng described the case as “highly volatile,” and
24 the Juvenile Justice Center was deemed “too risky” to hear the trial. The case was transferred
25 to Civic Center for security reasons. The Sheriff’s Office provided security over the fifteen-day
26 trial. The trial took place without incident. In an after-action report, a sergeant praised the
27 operation, remarking: “[t]he CCC team performed exactly as I knew they would.”
28

1 79. Defendant Court has also claimed that so-called “violent misdemeanor” trials
2 cannot safely be sent to Civic Center. This term is undefined by law. That claim, too, is refuted
3 by the court’s own records. From January 2018 until March 2020, when the pandemic struck,
4 the court sent 166 misdemeanor cases out to Civic Center for trial in eleven different
5 departments. Of those, over 50 were trials for so-called “violent misdemeanor” offenses, a
6 classification not existing in the law. They included a vehicular manslaughter case, a sexual
7 battery case, a co-defendant case involving brandishing firearms, and dozens of domestic
8 violence cases.

9 80. As well as being secure, the Civic Center Courthouse can handle a high volume
10 of jury trials. Of the 167 cases sent there for trial from January 2018 until March 2020, 115
11 were tried to verdict—a rate of more than four jury trials per month.

12 81. Out of all the 58 felony trials sent to Civic Center Courthouse over the last
13 fifteen years, there is not a single record of any trial security issue in the electronic court
14 minutes in Defendant Court’s electronic docket system. Nor is there any record of a trial being
15 delayed or halted because of a security issue.

16 82. Moreover, the Civic Center Courthouse has courtrooms that were large enough
17 to hold jury trials even when social distancing was in force. According to the Court’s own
18 calculations, six departments had at least twenty-two total seats available—enough to
19 accommodate the judge, twelve jurors, two alternates, the defendant, two lawyers, a bailiff, a
20 clerk, and a court reporter, with one seat to spare.

21 83. Despite Defendant Court’s attempts to shift blame to the Sheriff, it bears
22 ultimate responsibility for how to allocate resources for court business. It has both the duty and
23 legal authority to require the Sheriff to provide adequate security, as it has done in the past, and
24 as it did this year when holding a juvenile homicide trial.

25 84. California Rules of Court, rule 10.172, subdivision (a) provides: “The presiding
26 judge and the sheriff or marshal are responsible for developing an annual or multiyear
27 comprehensive, countywide court security plan.” The Rule requires that the court security plan
28

1 address issues including court security personnel and staffing, prisoner and inmate transport,
2 holding cells, courtroom security, jury trial procedures, and high-profile and high-risk trial
3 security. (Cal. Rules of Court, rule 10172, subd. (b)(2).) The presiding judge remains
4 responsible for all duties listed in this rule even if he or she has delegated particular tasks to
5 someone else. (Cal. Rules of Court, rule 10172, subd. (f).) Moreover, under Government
6 Code sections 69925, 69921.5 and 69922, the Sheriff is legally required to provide security for
7 criminal trials pursuant to a court security plan developed in conjunction with the presiding
8 judge.

9 85. But it appears that Defendant Court has not even asked the Sheriff to provide
10 adequate security for criminal trials. When the Public Defender requested “[a]ll
11 communications with the San Francisco Sheriff’s Department about providing security for
12 criminal jury trials at the Civic Center Courthouse” between March 2020 and July 2021, as part
13 of a judicial administrative records request, Defendant Court replied that it had “no responsive
14 documents.”

15 86. On information and belief, Defendant Court made either no effort at all to hold
16 felony, in-custody and “violent misdemeanor” trials at the Civic Center Courthouse, or a
17 minimal, desultory effort that resulted in no documents or emails being created.

18 87. As of August 5, 2021, Defendant Court had not executed a memorandum of
19 understanding with the Sheriff specifying an agreed-upon level of court security services, and
20 no such memorandum of understanding was in force, contrary to the express requirements of
21 Government Code section 69926 and California Rules of Court, rule 10.172.

22 88. According to the current judicial assignments list, published in January 2021,
23 twelve courtrooms are dedicated to civil trials. In August 2021, the Court held civil jury trials
24 at the Civic Center Courthouse in an asbestos case and a medical malpractice action, as well as
25 court trials in a contract dispute and a quiet title case.

26 89. Defendant Court claims that it prioritizes all criminal matters that are sent to the
27 Civic Center Courthouse. But when one criminal case was sent out to Civic Center, the trial
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1 judge deferred jury selection in the criminal case by three weeks, after the trial assignment, in
2 order to hear a jury trial in an action to quiet title.

3 90. Defendants' failure to allocate felony, in-custody and "violent" misdemeanor
4 trials to civil courtrooms, and their decision to prioritize civil cases, violate their duties under
5 Penal Code section 1050(a), and cause needless hardship to hundreds of people accused of
6 crimes who are languishing in jail past their trial deadlines.

7 **D. The Court Lets Trial Courtrooms Sit Empty and Unused**

8 91. Defendant Court is also allowing courtrooms to sit empty and unused, while
9 hundreds of people await jury trial in custody.

10 92. From August 1 to 20, 2021, according to the Court's electronic docketing
11 system, a maximum of six criminal jury trials were being held at any one time in the Hall of
12 Justice. Three out of the nine "trial" departments were not used to hold any criminal trial.

13 93. Meanwhile, in the Civic Center Courthouse, no criminal jury trials occurred at
14 all between August 1 and 20.

15 94. On Friday, August 6, 2021, according to the large screens in the Civic Center
16 Courthouse lobby, no hearings were scheduled at all in departments 210, 212, 218, 220, 301,
17 303, 304, 306, 318, 406, 503, 504, 505, 525, 602/604, 622 and 624.

18 95. The doors of each of those seventeen departments were locked that morning,
19 except those in department 218, which was open and not in session. A sign was posted outside
20 department 303, showing that it had been closed for the whole week.

21 96. Likewise, on Monday, August 9, 2021, according to the screens in the lobby, no
22 hearings were scheduled at all in departments 212, 301, 304, 305, 306, 318, 406, 414, 505, 514,
23 525, 602/604, 610 and 622.

24 97. The doors of each of those fourteen departments were locked that morning.

25 98. Rather than letting courtrooms sit empty, Defendant Court should use them to
26 clear its massive criminal backlog and mitigate the human suffering that each delayed case
27 represents.

1 **E. The Court Fails to Search for Alternative Venues, Assign Visiting Judges, and Solve**
2 **Its Staffing Issues**

3 99. Another key factor in this crisis is the Court’s failure to search for alternative
4 venues, assign retired judges, and solve the staffing issues which have plagued its response to
5 the pandemic.

6 100. The use of alternative venues for court proceedings and visiting judges is a vital
7 tool for addressing both judicial emergencies and ordinary backlogs of criminal cases.
8 Alternative venues can be used either themselves to hold criminal proceedings, or to house
9 civil proceedings in order to free up courtroom space. When Riverside County faced a backlog
10 in 2006, it set up a temporary courtroom in a local elementary school to hear civil matters so
11 that the civil courthouse could be used for criminal trials. The Judicial Council also assigned a
12 “strike team” of experienced visiting criminal law judges to attack a backlog of criminal cases.

13 101. When an “epidemic” disrupts court operations, Government Code section 68115
14 allows a superior court to request permission from the Chairperson of the Judicial Council to
15 “hold sessions anywhere in the county,” and to “[t]ransfer civil cases pending trial in the court
16 to the superior court in another county” if the parties consent or the court finds that undue
17 hardship would otherwise result. (Gov. Code § 68115.)

18 102. San Francisco has many public buildings that could have been used as
19 alternative venues, including public facilities, such as the Moscone Convention Center, Bill
20 Graham Civic Auditorium, War Memorial Building, Cow Palace, high school and college
21 auditoriums, all of which sat empty during shelter in place orders.

22 103. However, since March 19, 2020, Defendant Court has not held any sessions in
23 alternative venues. On information and belief, Defendant Judge Feng has not asked permission
24 of the Chief Justice to do so under Government Code section 68115.

25 104. Defendant Court claims to have “explored looking for alternative and additional
26 sites,” but that those explorations were not “fruitful.”

27 105. It appears, however, that Defendant Court has not conducted any real search for
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1 alternative venues. In a request for judicial administrative records, the Public Defender asked
2 the Court to produce all records from March 2020 to March 2021 relating to a search for
3 alternative venues in which to hold court during the COVID-19 pandemic, including searches
4 for venues other than the Hall of Justice or Civic Center Courthouses in which to conduct jury
5 selection and jury trials. The Court replied that it had no responsive records.

6 106. Likewise, when asked for all records relating to the Court's efforts to increase
7 the number of judges available to try criminal cases during the COVID-19 pandemic by
8 reassigning judges or using visiting judges, the Court replied that it had no responsive records.

9 107. Upon information and belief, Defendant Court made either no serious effort to
10 search for alternative venues and recruit visiting judges, or a minimal, desultory effort that
11 resulted in no documents or emails being created.

12 108. As described above, Defendant Court's decision to open only four criminal trial
13 courtrooms between March 2020 and June 2021 was driven in large part by its shortage of
14 clerks and court reporters. In order to comply with its duty to expedite criminal cases, the
15 Court therefore needed to address this shortage.

16 109. But it appears that the Court made no efforts to either hire temporary employees
17 (such as court reporters) or retrain existing employees (such as clerks) in order to fill the
18 shortage. Asked for all records between March 2020 to March 2021 relating to the Court's
19 efforts to remedy personnel shortages during the COVID-19 pandemic, for example, by hiring
20 temporary employees or retraining existing employees, the Court replied that it had no records.

21 110. Upon information and belief, Defendant Court made either no effort at all to
22 solve its staffing shortage by hiring temporary employees or retraining employees, or a
23 minimal, desultory effort that resulted in no documents or emails being created.

24 111. This failure is particularly striking given the large amount of emergency
25 funding Defendant Court had received from the Judicial Council, and Defendant Court's
26 knowledge that inadequate staffing was a bottleneck that prevented more criminal trial
27 departments from being opened.

1 112. By failing to find alternative venues, recruit visiting judges and fix the staffing
2 shortage that hampered their response to COVID-19, Defendants made the current crisis
3 inevitable. Their failure to expedite and prioritize criminal cases violates Penal Code section
4 1050(a).

5 **F. The Court Relies on a Generic “Good Cause” Script to Delay Trials for Months**

6 113. As well as prioritizing criminal trials, Penal Code section 1050 puts strict limits
7 on continuances, as part of its stated goal to cut down on congestion and presentence
8 confinement. Continuances must be supported by “affidavits or declarations detailing specific
9 facts showing that a continuance is necessary.” (Pen. Code § 1050(b).) And a continuance may
10 be granted “only for that period of time shown to be necessary by the evidence considered at
11 the hearing on the motion.” (Pen. Code § 1050(i).)

12 114. Penal Code section 1049.5 imposes a duty on courts to comply with Penal Code
13 section 1050 when continuing a felony trial. It provides that a court must set a jury trial in a
14 felony case within sixty days of arraignment, “unless, upon a showing of good cause as
15 prescribed in Section 1050, the court lengthens the time.” (Pen. Code § 1049.5.) Only after “a
16 hearing as prescribed in Section 1050” may a court continue the trial beyond the 60-day mark.
17 (*Ibid.*)

18 115. For eighteen months, Defendant Court has operated in defiance of these
19 statutory requirements. It routinely continues felony trials for months past the statutory
20 deadline, relying not on evidence but on a generic “good cause” script. It provides no
21 opportunity for the parties to contest the numerous factual assertions in this unsworn
22 document, or to cross-examine its anonymous author.

23 116. The Public Defender sent Defendant Court a judicial administrative records
24 request asking for “all records relating to” the good cause order, as well as “all records used to
25 prepare the order.” In response, the Court simply produced an updated version of the order
26 itself.

27 117. Penal Code section 1050 is not a meaningless formality. It guards against rote
28

1 decision making. And it guarantees a hearing at which people accused of crimes have an
2 opportunity to challenge the necessity for, and a length of, the extra pretrial delay to which
3 they are subjected.

4 **G. Defendants Must Allocate Resources to Prioritize Criminal Trials**

5 118. Despite the clear legislative intent articulated in Penal Code section 1050(a) and
6 the speedy trial rights of a criminally accused in other statutory and constitutional provisions,
7 San Francisco courts are issuing routine continuances of criminal cases past the statutory trial
8 deadline under Penal Code section 1382, citing shifting rationales, while simultaneously
9 continuing to devote several courtrooms to the trial of civil cases.

10 119. Neither the pandemic, lack of staffing, nor security concerns excuse the Court’s
11 failure to comply with the statutory mandate requiring the Court to procure and allocate
12 adequate resources to prioritize the trial of criminal cases, as dozens of people presumed to be
13 innocent suffer in jail in solitary-like confinement in clear violation of their fundamental
14 constitutional, statutory, and human rights.

15 120. The pandemic cannot be a permanent excuse for depriving the least privileged
16 people in our society of their day in court. Other institutions have coped with the challenges
17 posed by COVID-19 and found ways to provide time-sensitive services in a safe and efficient
18 way. San Franciscans do not have to wait months for a dental check-up or a haircut.
19 Restaurants, department stores and movie theaters are all open for business. So is the civil
20 courthouse. But because of Superior Court Defendants’ failure to make criminal trials a
21 priority, a person accused of a crime in San Francisco may have to wait for more than a year in
22 custody before his or her case can be heard.

23 121. Defendants must abandon their unlawful policy of prioritizing civil proceedings
24 over criminal trials and must devote all their resources—including every non-specialized
25 department in the Civic Center Courthouse—to restoring the right to a speedy trial in San
26 Francisco.

1 **FIRST CAUSE OF ACTION**

2 **Writ of Mandate**
3 **Code Civ. Proc. § 1085(a)**
4 **Duty to Give Preference to Criminal Cases**
5 **Cal. Pen. Code § 1050(a)**
6 **(By All Plaintiffs Against All Defendants)**

7 122. Plaintiffs incorporate all preceding paragraphs by reference.

8 123. Defendants have a policy, practice and custom that directly and proximately
9 causes systematic violations of Penal Code section 1050(a).

10 124. Defendants have failed to comply with their ministerial duty under Penal Code
11 section 1050(a), acted in an arbitrary and capricious fashion, and acted without evidentiary
12 support.

13 125. Defendants' systematic violation of this statute has resulted in irreparable harm
14 to Plaintiffs.

15 126. There is no plain, speedy, or adequate remedy at law for Defendants' continuing
16 violations.

17 **SECOND CAUSE OF ACTION**

18 **Writ of Mandate**
19 **Code Civ. Proc. § 1085(a)**
20 **Duty to Hold Felony Trials Within Sixty Days**
21 **Cal. Pen. Code §§ 1049.5, 1050**
22 **(By All Plaintiffs Against All Defendants)**

23 127. Plaintiffs incorporate all preceding paragraphs by reference.

24 128. Defendants have a policy, practice and custom that directly and proximately
25 results in a systematic violation of their duties under Penal Code sections 1049.5 and 1050.

26 129. Defendants are systematically violating Penal Code sections 1049.5 and 1050
27 by continuing felony trials without holding hearings as prescribed in Penal Code section 1050,
28 by relying on an unsworn, generic "good cause" script, and by continuing trials far longer than
necessary or permitted, and by all the other acts and omissions listed in this complaint.

130. Defendants' systematic violations of Penal Code sections 1049.5 and 1050 have
resulted in irreparable harm to Plaintiffs.

1 131. There is no plain, speedy, or adequate remedy at law for Defendants' continuing
2 violations.

3 **THIRD CAUSE OF ACTION**

4 **Writ of Mandate**

5 **Cal. Code Civ. Proc. § 1085(a)**

6 **Speedy Trial**

7 **Cal. Pen. Code § 686(1), Cal. Const. art I, § 15, U.S. Const. Amends. VI, XIV**

8 **(By All Plaintiffs Against All Defendants)**

9 132. Plaintiffs incorporate all preceding paragraphs by reference.

10 133. Defendants have a policy, practice and custom that directly and proximately
11 causes systematic violations of Penal Code section 686(1), article I, section 15 of the California
12 Constitution, and the Sixth and Fourteenth Amendments to the U.S. Constitution.

13 134. Defendants are systematically violating their duties under Penal Code section
14 686(1), article I, section 15 of the California Constitution, and the Sixth and Fourteenth
15 Amendments to the U.S. Constitution by failing to afford people charged with crimes in San
16 Francisco a speedy trial by jury, and by all the other acts and omissions listed in this complaint.

17 135. Defendants' systematic violations of the statutes and constitutional provisions
18 set out above have resulted in irreparable harm to Plaintiffs.

19 136. There is no plain, speedy, or adequate remedy at law for Defendants' continuing
20 violations.

21 **FOURTH CAUSE OF ACTION**

22 **Taxpayer Action**

23 **Pen. Code § 526a; *Silver v. Los Angeles* (1961) 57 Cal.2d 39**

24 **(By Plaintiffs Baier, Doyle, Dunbar, Sims Against All Defendants)**

25 137. Plaintiffs incorporate all preceding paragraphs by reference.

26 138. The Court is funded by income tax paid to the State of California, and sales tax
27 and property tax paid to the State of California and the City and County of San Francisco.

28 139. Defendants are illegally expending, wasting and injuring public funds by
performing their duties in violation of Penal Code sections 686(1), 1049.5 and 1050, article I,
section 15 of the California Constitution, and the Sixth and Fourteenth Amendments to the

1 U.S. Constitution.

2 140. Defendants are illegally expending, wasting and injuring public funds because
3 their failure to prioritize criminal cases has caused—

- 4 a. increased security, staff and facility costs for multiple pretrial court appearances;
- 5 b. increased costs for incarcerating human beings for extra days, weeks and months
6 before trial under harsh solitary confinement-like conditions;
- 7 c. increased costs for the Public Defender, District Attorney and witnesses
8 employed by state and local agencies.

9 **FIFTH CAUSE OF ACTION**

10 **Right to a Speedy Trial**

11 **Cal. Const. art. I, § 15**

12 **(By All Plaintiffs Against All Defendants)**

13 141. Plaintiffs incorporate all preceding paragraphs by reference.

14 142. Article I, section 15 of the California Constitution guarantees the right to a
15 speedy trial for all persons accused of a crime.

16 143. Defendants' unconstitutional policy, practice and custom of repeatedly
17 continuing jury trials and failing to use Civic Center Courtrooms to clear the backlog of
18 criminal cases, as well as the other acts and omissions set out in this complaint, directly and
19 proximately caused systematic violations of this right. As a result, Plaintiffs have suffered
20 ongoing injuries necessitating relief.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs respectfully pray for relief as follows:

23 (A) A peremptory writ of mandate requiring Defendants to:

- 24 a. Expedite proceedings in criminal cases;
- 25 b. Give precedence to criminal cases over any non-specialized civil matters or
26 proceedings, and requiring them to set for trial and hear criminal cases
27 without regard to the pendency of any civil matters or proceedings;
- 28 c. Make all non-specialized departments in the Civic Center Courthouse

1 available for criminal trials, including felony and in-custody trials or by
2 directing other appropriate arrangements;

3 d. Adopt a plan to speedily eliminate the backlog of criminal cases, subject to
4 the approval and supervision of the Court.

5 (B) A permanent injunction requiring all Defendants to act as set forth above;

6 (C) A declaration that Defendants' conduct violates Penal Code sections 686(1),
7 1049.5, 1050, article I, section 15 of the California Constitution, and the Sixth and Fourteenth
8 Amendments to the U.S. Constitution, and that those statutory and constitutional provisions
9 require them to act as set forth above;

10 (D) Reasonable attorneys' fees and costs of suit incurred herein that Plaintiffs are
11 entitled to recover pursuant to Code of Civil Procedure section 1021.5 and any other applicable
12 statutory provision; and

13 (E) Such other and further relief as the Court may deem equitable and appropriate.
14

15 Dated: September 14, 2021

Respectfully submitted,

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