

File No. 211108

Committee Item No. 6

Board Item No. 28

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: Dec. 2, 2021

Board of Supervisors Meeting:

Date: Dec. 14, 2021

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution - VERSION 2                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <u>Public Defender Presentation – December 2, 2021</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>FYI Referral – October 25, 2021</u>                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | _____  |

Prepared by: John Carroll

Date: Nov. 24, 2021

Prepared by: John Carroll

Date: Dec. 9, 2021

Prepared by: John Carroll

Date: \_\_\_\_\_

1 [Urging the San Francisco Superior Court to Prioritize Criminal Trials and Safely Open  
2 Courtrooms to Uphold Justice-Involved Individuals' Speedy Trial Rights]

3 **Resolution urging the San Francisco Superior Court to prioritize assignment of**  
4 **criminal trials and safely open more courtrooms to ensure that the speedy trial rights**  
5 **of both defendants and victims are upheld.**

6  
7 WHEREAS, The United States and the California Constitution guarantee that a  
8 defendant in a criminal trial has a right to a speedy trial without unnecessary delay (U.S.  
9 Const. VI; Cal. Const. Art. I §15); and

10 WHEREAS, When this speedy trial right is violated, the court must dismiss the case  
11 and release the defendant unless good cause is shown; and

12 WHEREAS, The California legislature found that "...criminal courts are becoming  
13 increasingly congested with resulting adverse consequences to the welfare of the people and  
14 defendant. Excessive continuances contribute substantially to this congestion and cause  
15 substantial hardship to victims and other witnesses. Continuances also lead to longer periods  
16 of presentence confinement for those defendants in custody, and the concomitant  
17 overcrowding and increased expense of local jails..." (Penal Code, Section 1050(a)); and

18 WHEREAS, Because of these adverse consequences, the California legislature  
19 created a requirement that courts give precedence to criminal cases over civil cases and that  
20 courts "...expedite these proceedings to the greatest degree that is consistent with the ends of  
21 justice..." (Penal Code, Section 1050(a)); and

22 WHEREAS, On February 25, 2020, San Francisco Mayor London Breed declared a  
23 state of emergency and less than a month later, the California Superior Court ("Court") shut  
24 down all criminal trial courtrooms as San Francisco implemented its shelter in place order;  
25 and

1           WHEREAS, In June 2020, after the shelter in place was lifted, the Court opened four  
2 courtrooms for felony trials to be conducted at the Hall of Justice (“HOJ”); and

3           WHEREAS, By July 9, 2020, because of continuances and a lack of courtroom  
4 availability, the Court had a backlog of 135 cases that had been continued past the last  
5 required day for trial with 31 of those cases involving a defendant in custody; and

6           WHEREAS, In April 2021, the Court began sending out-of-custody misdemeanor cases  
7 to the Civic Center Courthouse while in-custody felony defendants remained in jail only to  
8 have their cases continued again and again by the Court; and

9           WHEREAS, By June 2021, California and San Francisco removed all social distancing  
10 requirements and lifted restrictions for most businesses and activities; and

11           WHEREAS, On June 28, 2021, the Court posted an operations update on its website  
12 indicating “beginning June 28 the court will be fully open with services re-expanded to pre-  
13 pandemic levels;” and

14           WHEREAS, Despite indicating that the Court would return services to “pre-pandemic  
15 levels,” it opened only 9 departments at the HOJ, as opposed to the 12 departments that held  
16 criminal trials prior to the pandemic; and

17           WHEREAS, By October 19, 2021, the Court’s backlog had reached 437 felony cases  
18 with 248 of those defendants in-custody pre-pretrial past their statutory trial date; and

19           WHEREAS, Continuing cases under the facade of “good cause” due to the pandemic  
20 has detrimental consequences for both defendants and for victims; and

21           WHEREAS, Allowing a person to be caged for an extended period of time when they  
22 have not been convicted of a crime is contradictory to one of our nation’s most basic rights  
23 and principles - that a person is innocent unless and until the government proves the case  
24 against them beyond a reasonable doubt; and

25

1           WHEREAS, Victims involved in the criminal justice system also have a right to a  
2 speedy trial and a prompt and conclusion of the case (Cal. Const. Art. I §28(b)); and

3           WHEREAS, Unnecessary delay of a case detrimentally affects victims because as time  
4 goes on witnesses' memories fade, evidence can be lost, and victims can continue to  
5 experience emotional distress caused by a lack of closure of their case; and

6           WHEREAS, By continuing these cases well past their statutory trial date, the Court is  
7 essentially stripping away the rights of both defendants and victims without any recourse for  
8 these violations; and

9           WHEREAS, The Court cannot continue criminal trials citing the pandemic as good  
10 cause given that pandemic related restrictions have eased, including the requirement to  
11 socially distance; and

12           WHEREAS, These presumptively innocent people who have asserted their right to a  
13 speedy trial are languishing in jail while the Court cites safety concerns, court congestion, or  
14 staffing issues, none of which constitute good cause, to continue criminal cases; and

15           WHEREAS, Other institutions such as schools, hospitals, gyms, concert halls, bars,  
16 restaurants, and San Francisco's City Hall have updated COVID 19 protocols to safely open  
17 and operate; and

18           WHEREAS, The Court has historically held felony trials for defendants who are  
19 incarcerated pre-trial at the Civic Center Courthouse; and

20           WHEREAS, The Court has 37 departments at the Civic Center Courthouse, almost all  
21 of which are currently being used for civil trials as opposed to criminal; and

22           WHEREAS, The Court has failed to use the Civic Center Courthouse to conduct in-  
23 custody felony trials to clear this backlog; now, therefore, be it  
24  
25

1           RESOLVED, That the Board of Supervisors urges the Court to prioritize assignment of  
2 criminal trials over non-urgent civil and safely open additional courtrooms to deal with the  
3 backlog caused by the pandemic; and, be it

4           FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board  
5 to transmit copies of this of this Resolution to Samuel K. Feng, the presiding judge of the  
6 Court, with a request to take all actions necessary to achieve the objectives of this resolution.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

# SF Public Defender Presentation on the Crisis in the Courts

**BOS Government Audit and  
Oversight Committee  
December 2, 2021.**



# A Humanitarian Crisis at 850 Bryant

451

People waiting

# of people whose pending case is past the legal deadline for trial

People in jail on felony charges are typically waiting in custody **more than eight months** past their trial deadline; for those out of custody, the wait is almost **a year past** their deadline.

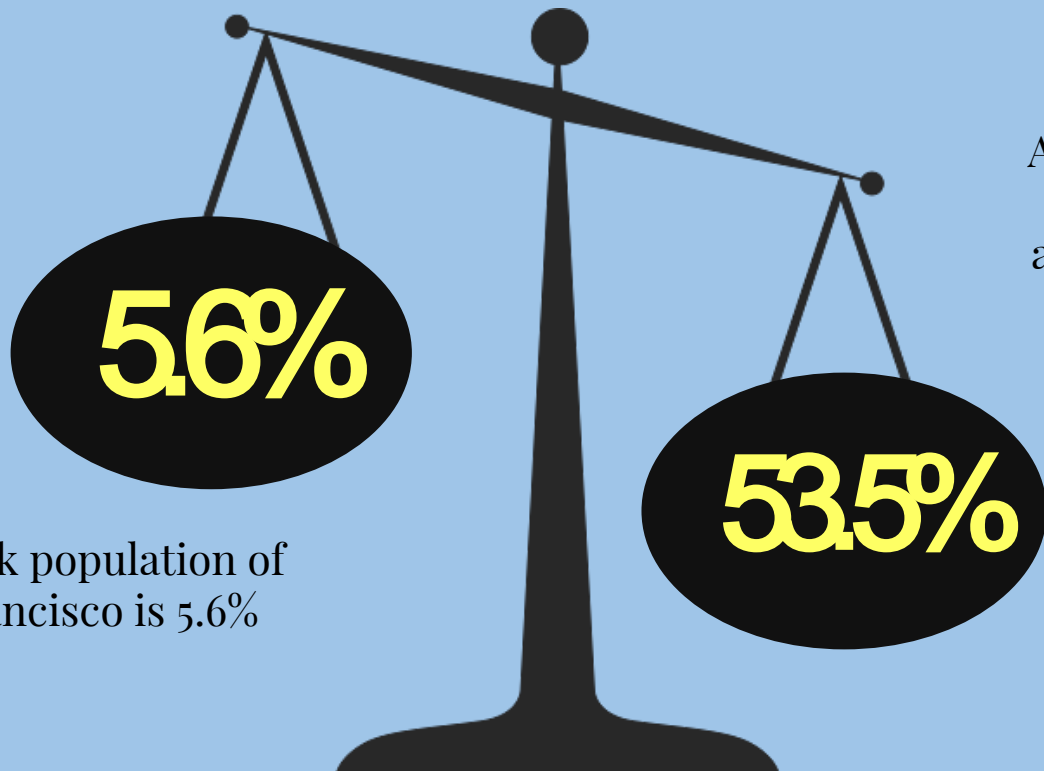
218

People in Custody

# of people in custody as they await trial



# Clear Racial Implications



The Black population of San Francisco is 5.6%

As of September 7, 2021, of the people in jail awaiting trial past their last day for trial, approximately 53.5% were Black.

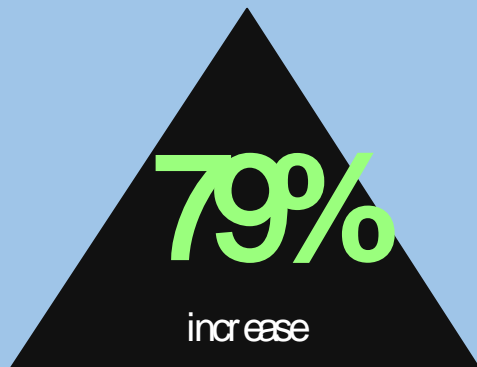


# Effects of Extended Pre-Trial Caging



- Many of these presumptively innocent people have been confined to their cells for **23 hours a day**.
- Isolation has adverse impacts on **physical, emotional, and mental health**.
- Pre-trial detention has a rippling effect on people's lives; **job and income loss, housing insecurity, and traumatic family disruption** are common.
- Extended pre-trial detention also increases a defendant's likelihood of **pleading guilty even when innocent** and has even been linked to **harsher sentences upon conviction**.

# Now is the Time to Open the Courts



Despite the Superior Court's announcement that it would be "fully reopened" in late June, the backlog of people in custody past the deadline has ballooned from 125 to 218— a **79% increase**.

In the past five months, the Court has sent out only 6 in-custody trials.



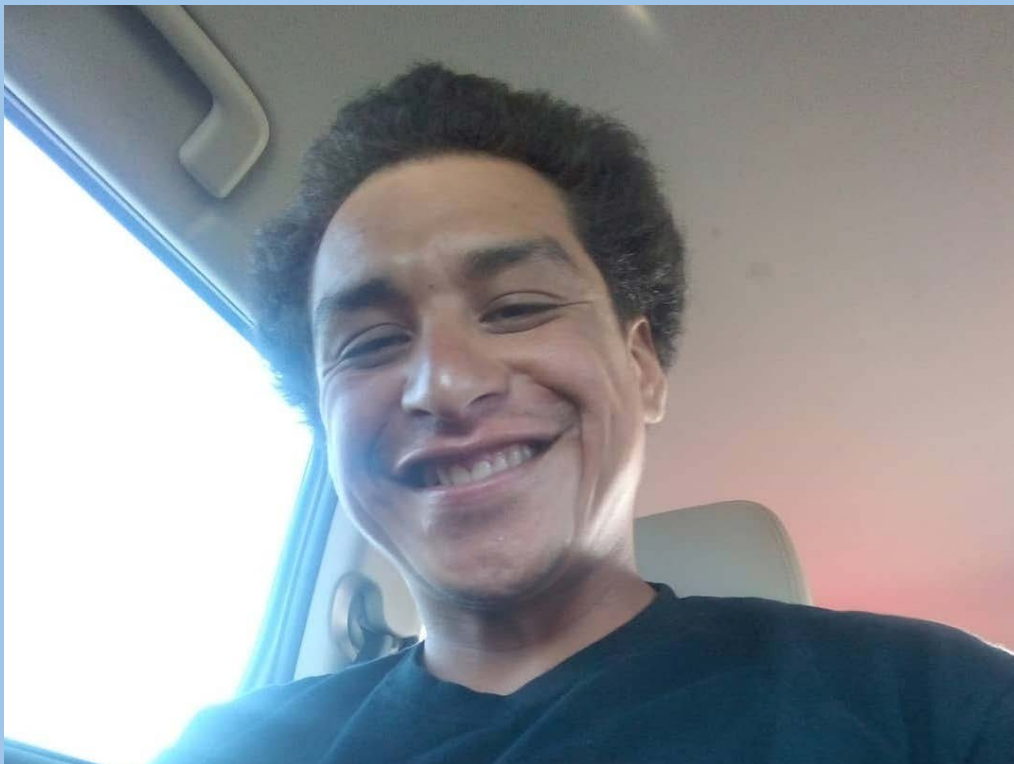
The Court has **12** jury trial departments at the Civic Center Courthouse.

**In the last 15 years **56** felony jury trials have been sent out to the Civic Center Courthouse for trial.**

**24**

**In **24** of those cases, the defendant was in custody.**

# **The Human Impact of the Crisis in the Courts**











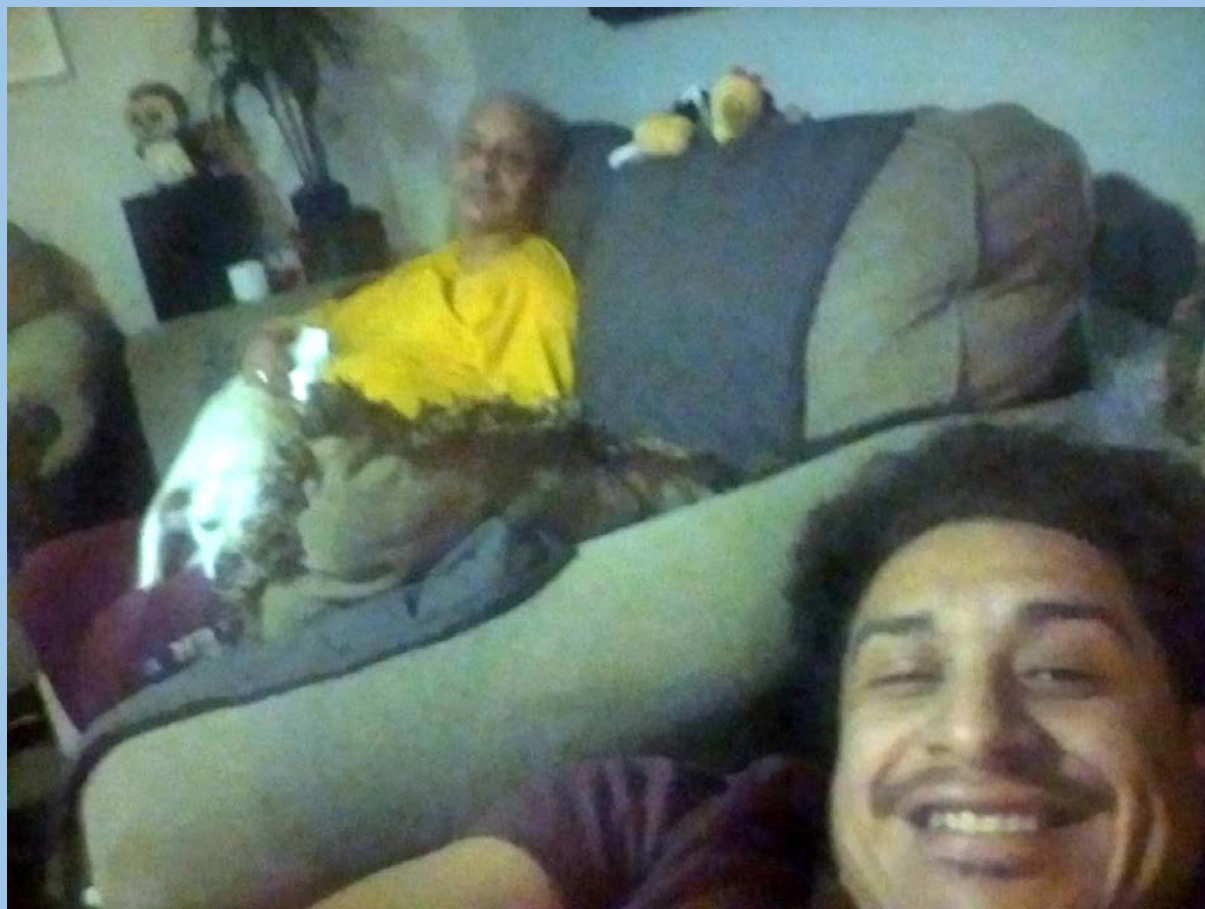




*SF Public Defender's Office*

**From Injustice We Rise**





BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## MEMORANDUM

TO: Manohar Raju, Public Defender  
Chesa Boudin, District Attorney

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight Committee,  
Board of Supervisors

DATE: October 25, 2021

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Ronen on October 19, 2021:

**File No. 211108**

**Resolution urging the San Francisco Superior Court to prioritize assignment of criminal trials and safely open more courtrooms to ensure that the speedy trial rights of both defendants and victims are upheld.**

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Offices of Chair Preston and Supervisor Ronen  
David Campos, Office of the District Attorney  
Tara Anderson, Office of the District Attorney