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Judicial Council of California
455 Golden Gate Avenue
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To Whom It May Concern:

On behalf of the Youth Law Center, I am writing to oppose the Judicial Council's proposed COVID-19 response emergency actions to extend timelines for arraignment, preliminary hearings, and trials. The pandemic makes it more critical than ever that the timelines for court hearings for people in custody be adhered to so that detainees are not placed at unreasonable risk of contracting the virus. Transmission of infectious diseases in secure confinement is common, especially for diseases like COVID-19 that are transmitted by respiratory droplets. Tuberculosis and flu outbreaks are much more common in jails and prisons than in the general population. Currently, in New York City for example, Rikers Island jail is dealing with a COVID outbreak. It is imperative that the Judicial Council and other policy makers in California take every measure in their power to keep people out of custody and release detainees as quickly as possible. Also, the 90-day extension beyond the state of emergency is wholly without support. There is no justifiable reason to continue allowing people to lose additional months of freedom for an arbitrarily set time. The point beyond the emergency period can be assessed when we have a better sense of the need. Other measures can be taken, like releasing detainees from custody on no money bail or on home supervision, and using virtual appearances, to achieve the reduction of people in the courthouse. Extending court timelines during the pandemic does not keep detainees, justice system personnel, or the public safe.

While we support the proposed emergency order directing Superior Courts to prioritize the use of available technology to meet current statutory time requirements and ensure that defendants are not held in custody, children are not held in custody or removed from the custody of their parents or guardians, without timely due process of law or in violation of constitutional rights, we believe that the order should include more. Specifically, the order should direct courts to ensure actual access to the court proceedings by defendants, parents or guardians, children, as well as juveniles and their parents or guardians in delinquency proceedings. The digital divide is real and young people, their parents, and other detainees must be able to actually access their court proceedings if available technology is used in lieu of personal appearance. Additionally, the order should include that failure to meet the time requirements requires release from custody.

Thank you for the opportunity to comment.

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