

**EAGLE ROCK
NEIGHBORHOOD COUNCIL**

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**CITY OF
LOS ANGELES
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**CIS IN OPPOSITION TO CF 21-0002-S196, RESOLUTION REQUESTING STATE
LEGISLATIVE PROGRAM SUPPORT REINSTATEMENT OF CASH BAIL**

January 4, 2022

Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

Dear City Council Members,

We declare that on January 4, 2022, a Brown Act noticed public meeting was held by the Eagle Rock Neighborhood Council (ERNC) at which a quorum was present. The following motion passed by a vote of 14 ayes, 0 nays, and 1 abtention :

The Eagle Rock Neighborhood Council opposes the resolution requesting that the State Legislative Program support legislation reinstating cash bail. The Resolution contains unsubstantiated assertions, and outright misstatement of facts, and marks a step backward in criminal justice reform.

In March of 2020, in response to the COVID-19 Pandemic, the Los Angeles District Attorney's Office implemented a zero bail policy for most misdemeanor and lower level felony offenses.¹ This was followed a few weeks later by California's Judicial Council implementing a similar policy Statewide.² The purpose of this humane policy was to protect individuals from becoming exposed to Covid 19 while in pre-trial detention, thus limiting the spread of the virus in jails. The statewide order ended in June of 2020,

¹ <http://da.lacounty.gov/media/news/media-advisory-district-attorney-jackie-lacey-responds-judicial-council-s-decision-set>

² <https://abc7.com/california-jail-system-judicial-council-coronavirus-covid-19-in-jails/6083805/>

although individual counties could continue with the policy where necessary.³ After the state-wide expiration, the Los Angeles Superior Court implemented a zero bail policy for most infractions, misdemeanors and non-violent felonies.⁴

This Resolution requests that the State Legislature act by reinstating cash bail statewide. In support, this Resolution states that Los Angeles County has experienced a “substantial increase violent crimes and brazen robberies.” This is simply not true. In 2021, Robberies were down more than 7% from 2020, and more than 19% from 2019.⁵ Moreover, “violent crimes” continue to be subject bail, and have never been covered by the zero bail policy.

Additionally, the Resolution sites the arrest then subsequent release of 14 individuals charged in participating in a string of “smash and grab” robberies. It goes on to suggest that these individuals committed additional crimes upon release. This is a gross misstatement of the facts. Chief Michael Moore stated that the release of these individuals was due to age (one was a juvenile), posting bail, or because of the zero bail policy.⁶ There has been no evidence that any of these individuals have been alleged to have committed any crimes subsequent to their release.

There has been much fear-mongering of the zero pail policy and its alleged role in decreasing public safety. But we know that elimination of bail for misdemeanor offences can be a working model for the future because we are doing it right now.

The current system of cash bail supported by commercial bail bonds industry is one of only two in the world.⁷ Sixty percent of people in U.S. jails today have not been convicted of a crime.⁸ The argument in support of cash bail is that it ensures that those arrested will show up to court, but in those jurisdictions that have eliminated cash bail, the rates of appearance are similar or better than prior to the elimination of cash bail.⁹

³ <https://www.nbclosangeles.com/news/local/california-courts-end-0-bail-order-imposed-for-coronavirus/2378699/>

⁴ <https://www.nbclosangeles.com/news/local/california-courts-end-0-bail-order-imposed-for-coronavirus/2378699/>

⁵ <https://laist.com/news/lapd-announces-arrests-in-wave-of-smash-and-grab-robberies>

⁶ <https://www.nbcnews.com/news/us-news/14-arrests-made-los-angeles-smash-grab-style-crimes-rcna7495>

⁷ <https://www.nytimes.com/2008/01/29/us/29bail.html>

⁸ <https://www.americanprogress.org/issues/criminal-justice/reports/2020/03/16/481543/ending-cash-bail/>

⁹ <https://www.americanprogress.org/issues/criminal-justice/reports/2020/03/16/481543/ending-cash-bail/>

An additional argument support of cash bail is that it discourages recidivism. It is argued that people who must pay a cash bail will be less likely to commit additional crimes. In fact, the opposite is true. Those who are detained pretrial are more likely to commit crimes in the future. Detention is associated with a 30% increase in new felony charges, and a 20% increase in new misdemeanor charges.¹⁰ This likelihood increases the longer someone is detained. Rather than making communities safer, the current cash bail system and pre-trial detention actually causes an increase in criminal behavior.¹¹

The cash bail system disproportionately punishes people of color, the poor, and other marginalized communities by causing economic and social harm. A recent study by the Federal Reserve found that 47 percent of Americans could not cover an emergency expense of \$400.¹² Spending even a few days in jail can result in people losing their jobs, housing, and even custody of their children. People who lose their jobs often suffer a reduction in wages if they are able acquire a new one. Similarly, if a person loses his apartment or rental property, more money must be spent to get new housing causing further financial strain¹³. The harm suffered by those arrested and incarcerated happens even if the charges are dropped or they are eventually acquitted.

Pre-trial detention is punishment without due process. Imposing cash bail on people who have been arrested forces those without the means to pay to choose between continued incarceration or pleading guilty. Most people subject to pre-trial detention choose to plead guilty rather than continue to be incarcerated.¹⁴ Most guilty pleas lead to a sentence of “time served”, meaning that the punishment is the time a person has already been detained in jail. Therefore, a person who cannot pay cash bail in order to be released must choose between additional punishment in order to have their day in court, or pleading guilty in order to be released. Pleading guilty to a crime can cause the loss of employment or housing, and the loss of future opportunities. These negative outcomes have disproportionately harsh impacts on people of color, the poor, and other marginalized communities.

¹⁰ Id.

¹¹ <https://www.stanfordlawreview.org/print/article/the-downstream-consequences-of-misdemeanor-pretrial-detention/>

¹² <https://www.cnbc.com/2019/07/20/heres-why-so-many-americans-cant-handle-a-400-unexpected-expense.html>

¹³ <http://www.bu.edu/bulawreview/files/2017/03/BAUGHMAN.pdf>

¹⁴ <https://www.stanfordlawreview.org/print/article/the-downstream-consequences-of-misdemeanor-pretrial-detention/>

During this pandemic, the elimination of cash bail has helped to keep people out of jails which have been a hotbed for Coronavirus infection¹⁵. This policy has no doubt saved lives, but it has also demonstrated that the current system of cash bail is flawed, and disproportionately harmful to vulnerable communities. The ERNC strongly opposes the Resolution supporting the reinstatement of cash bail statewide. It urges Councilmember de León to use his good offices to support and advocate for a policy that permanently eliminates the cash bail system for most misdemeanors in the City of Los Angeles.

Respectfully,

A handwritten signature in black ink, appearing to read 'Richard Loew', with a stylized flourish at the end.

Richard Loew
President, Eagle Rock Neighborhood Council

cc: Office of Councilmember Kevin de León

¹⁵ <https://www.sfchronicle.com/opinion/openforum/article/Newsom-is-afraid-of-a-winter-COVID-surge-Then-do-16629223.php>