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Marin Voice: Marin at the forefront of fair bail policies

By Lori Frugoli

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California's bail system should be reformed in a deliberative and collaborative manner. The authors of the recent Marin Voice op-eds, "Bail reform for equal treatment for all" and "Look before you leap on bail reform bill," discussed how a proposed bail reform bill (SB 10) would affect California at large, but ignored the strides Marin County has made toward a progressive and safe approach to bail.

Fortunately, last week, California's Legislature, governor and key stakeholders focused on facts over rhetoric and agreed to continue discussions on the bail reform bill.

Joining this effort is California Chief Justice Tani Cantil-Sakauye, who has formed a Pretrial Detention Reform Working Group which will gather evidence and issue findings on how to fairly and safely fix the bail system this December. These findings should be incorporated into the structure of the bill moving forward.

As a candidate for Marin County district attorney and a 27-year veteran prosecutor in Marin County criminal courts, I want to share how our bail system works locally and why Sacramento made the right choice.

The purpose of bail is twofold: to ensure a defendant appears in court and to protect public safety.

In Marin, most misdemeanor arrestees are issued citations to appear in court on a future date. Many are booked and released at the jail with a promise to appear in court. Failures to appear as promised results in the issuance of bench warrants, which do require bail.

Last year, hundreds of warrants were issued for those who failed to appear, resulting in unnecessary court and law enforcement expenditures.

Our probation department uses empirical risk assessment factors to make recommendations to the court regarding the release of defendants with or without bail. These factors include the likelihood a defendant will return to court, prior failures to appear, seriousness of the offense, defendant's community ties and work history and whether they present a threat to themselves, their family or the community.

Marin judges review the probation report, consider arguments from deputy district attorneys and defense attorneys, and refer to the county bail schedule, which sets recommended bail for misdemeanor and felony offenses.

Judges carefully weigh the above factors and set appropriate bail, or release a defendant with alternative pretrial conditions.

Public safety is the "primary consideration," according to the state penal code.

Our current system utilizes alternatives to bail/custody, such as release with no conditions, counseling, treatment programs, and/or attendance at self-help meetings. Often defendants are released with an alcohol monitoring bracelet or an order to stay away from a person and/or location. These alternatives reduce our pretrial (those who are simply awaiting trial and haven't been convicted of a crime) jail population.

Consequently, Marin County's jail population is the fourth lowest of all 58 California counties.

SB 10 emulates much of what Marin is already doing, namely using pre-trial services to ensure the bail system is fair and safe. However, the Judicial Council of California noted that the proposal potentially violates key provisions of California's Victims' Bill of Rights.

Any revision of SB 10 should address this issue. Additionally, SB 10 could endanger (or duplicate) the progress many counties, like Marin, have made. Statewide reform should not come at the expense of our community or victims' rights.

The decision to put SB 10 on hold is the right move. The existing bail system is not perfect, but public safety cannot be compromised and bail reform should not be used as a political pawn in an election.

Justice in Marin is advanced through collaboration. Similarly, lasting and impactful bail reform should be a collective effort.

Lori Frugoli of Novato is a 27-year veteran prosecutor in the Marin County District Attorney's Office. She is a former police officer. She is now the team leader/coordinator of the office's felony/criminal department.

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