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Shyaam Subramanian

April 17, 2026

The Honorable Daniel Lurie
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: San Francisco Pretrial – Adult Probation Funding Request

Dear Mayor Lurie:

The Bar Association of San Francisco (BASF) and its 5,600 members write to address a critical issue in San Francisco’s criminal justice system: the continued need for pretrial release services by a neutral entity, independent from any law enforcement agency. BASF and its Criminal Justice Task Force (CJTF), created in 2015, believe that the San Francisco Diversion Project’s (SF Pretrial) identity as a community-based non-profit that is independent and neutral – and without any law enforcement function – is important to advancing its mission and the well-being of the criminal justice system.

BASF’s Criminal Justice Task force is a broad representative body including law enforcement (SFPD and Sheriff), Department of Police Accountability, civil rights attorneys, defense attorneys, and both the Federal and SF Pretrial agencies; the work of the CJTF depends on the in-depth research of several subcommittees, including, notably in this instance, the Task Force’s Bail Subcommittee. We are also very proud to note that BASF is the original partner to SF Pretrial and a longtime supporter of their important work in San Francisco. The BASF Board unanimously supports preserving SF Pretrial’s status as a neutral and independent nonprofit agency for the City and County of San Francisco.

BASF understands that the City & County of San Francisco is currently reviewing a \$12.7 million budget request, \$11 million of which would be from the General Fund, submitted by the San Francisco Adult Probation (APD) to establish a new pretrial services division housed in APD. SF Pretrial runs an efficient, award-winning operation, and elimination by or consolidation with APD will not only dramatically increase costs to San Francisco, we can think of no reason to jeopardize a program which already works well and has for fifty years. Moreover, SF Pretrial is the recipient of significant philanthropic grants (including but not limited to a \$7 million-dollar grant from Crankstart) which may cease should this important community partnership shift to APD, a law enforcement agency.

BASF urges the Mayor’s Budget Office to reject APD’s funding request on the following grounds.

- It is fiscally irresponsible – especially in light of a of significant budget deficit – to shift these services to a far more expensive APD with far fewer employees contemplated to undertake this complex pretrial work – a task APD has never undertaken – when compared to SF Pretrial’s annual operating budget of \$12.8

million for 96 full-time staff who dedicate themselves to this work, and have done so successfully for 50 years.

- Whether a defendant is granted pretrial release or detained is one of the most important determinations in every criminal case. Detention determinations profoundly impact lives, families, employment status and cases. Pretrial service agencies like SF Pretrial are designed to carry out important legal policies that support each individual released while assuring public safety. The mission of the APD is fundamentally different from SF Pretrial's. APD is a law enforcement agency which administers supervision and punishment to convicted criminals in the form of probation. By contrast, pretrial services agencies are designed to serve those who are not convicted, but presumed innocent, a fundamental difference. SF Pretrial's role is to both safeguard the community and provide much needed services to those accused while their cases proceed in the courts. Establishing and maintaining trust with accused defendants is critical to both the public safety policy and success of pretrial release. If defendants – or their counsel – suspect that information provided to pretrial service officers in the course of seeking pretrial release could be used against them by law enforcement agencies, they will likely refuse cooperation. For communities of color, the issue of trust is especially important and SF Pretrial's presence in and earned trust by communities of color is essential to the success of safe release.
- SF Pretrial is recognized as a national expert based on its track record of innovation and industry-leading outcomes. They are a core element of San Francisco's public safety infrastructure, and their growth and expansion of services directly correlate with positive news about our City's crime rates. As SF Pretrial currently supervises approximately 70% of the people released from the County Jail, this program's impact is a key component of their public safety success.

San Francisco has long been at the forefront of pretrial diversion in California. The predecessor to SF Pretrial, the Own Recognizance Project, was created in 1964 by BASF with the cooperation of the San Francisco Superior Court, District Attorney, Public Defender, Police Department, and the Sheriff. It was an experimental effort to increase release rates among those defendants who could not post money bail to secure pretrial release. The project was a resounding success. In 1968, the American Bar Association awarded BASF an Award of Merit in recognition of the success of the project. As Superior Court Judge Gerald S. Levin wrote in the ABA Journal at the time: "Aiding primarily those whose poverty or minority status might have made the conventional bail release impossible, the project has shown that 'O.R.' release is practical and pay dividends to the community."¹ Judge Levin also noted the agency's "unprecedented" independence from the law enforcement agencies within the Hall of Justice.² In 1975, the Own Recognizance Project was eventually merged with SF Pretrial, a non-profit which is funded by the Board of Supervisors, and remains a statewide model of progressive pretrial services that is independent from any law enforcement agency.

¹ Gerald S. Levin, The San Francisco Bail Project, ABA Journal, vol. 55 (Feb. 1969), 135.

² *Ibid.*

Since 2016, SF Pretrial has also been providing the Superior Court with risk assessments to gauge eligible defendants' likely flight risk and danger to the community. It conducts this analysis using the Public Safety Assessment (PSA) tool developed by the Laura and John Arnold Foundation.³ Taking into consideration PSA scores as well as a formal Decision Making Framework developed collaboratively with the Bar Association of San Francisco, Public Defender, District Attorney, Sheriff, and the Superior Court, SF Pretrial's risk assessments are used to inform decisions about pretrial detention or release for defendants who do not – or cannot – post money bail to secure release. For clients who are not eligible to be released pre-arraignment, upon request, SF Pretrial also conducts in-custody interviews to provide additional information to inform the Court's release decision. Overall, the system is designed to recommend detaining high-risk defendants, releasing moderately risky defendants with intervening conditions (such as drug counseling) designed to mitigate those risks, and releasing low-risk defendants with minimal or no conditions in place.

In 2021, the PSA process was subject to a federal injunction (commonly referred to as the *Buffin* injunction) against the City & County of San Francisco, which required several modifications to the previous process of reviewing PSAs. The new framework required SF Pretrial to expand into a 24/7/365 operation, which is not how APD currently operates. SF Pretrial maintained an approximate 98% to 99% compliance rate based on data submitted to the Federal Court in compliance with the *Buffin* injunction.

In keeping with its independent and neutral status, the agency is committed to carefully vetting the use of PSA tools. SF Pretrial hosts a quarterly PSA Working Group with representatives from all the local criminal justice agencies that study the use and impact of the Arnold Foundation's open PSA tool and conduct regular fidelity reviews to ensure that the tool is being used fairly and accurately. SF Pretrial also partners with the California Policy Lab⁴ to study its PSA data and the tool's impact on outcomes and client demographics.

BASF is very concerned that moving SF Pretrial to the Probation Department could disrupt a local system and culture that has been, and is presently, in model health. Proponents of consolidation tend to argue that the various concerns set forth above can be adequately addressed by imposing firewalls and structural separation within the Probation Department such that pretrial records are not available for probation purposes and personnel are not split between functions. The same arguments made today were made in 2019 and San Francisco leadership wisely agreed pretrial services should remain with SF Pretrial rather than shift to APD pursuant to SB 10. BASF is today as resolute as it was in 2019 and fully supports the continued and robust services of the independent and community-based SF Pretrial.

³ PSA tools are scientifically validated, actuarial algorithms designed to predict the risk of non-appearance or to public safety based on an array of factors that have been found to be most highly predictive.

⁴ The California Policy Lab (CPL) is a University of California research institute that generates data-driven insights to improve government programs and policies across the state.

<https://capolicylab.org/>

Looking to the future, BASF's Criminal Justice Task Force's Bail Subcommittee also believes that the local steward of San Francisco's risk assessment tool should be an independent, neutral agency that is dedicated to achieving transparency and fairness through the use of technology. Consolidating SF Pretrial into the Adult Probation Department could jeopardize the work SF Pretrial has already performed vetting and implementing the Arnold PSA tool with the help of other criminal justice agencies and the California Policy Lab.

Finally, we have learned that it appears to be undisputed that moving pretrial services to a city agency would dramatically increase costs at a time when the City of San Francisco can ill afford increases. Recently, SF Pretrial engaged an economic consulting firm to compare the relative cost of SF Pretrial against Adult Probation and Santa Clara's independent pretrial services agency. They found that SF Pretrial's salary and budget was found to be approximately 30% lower than Santa Clara's on a per capita basis, and SF Pretrial's total salary and benefits to be roughly 40% lower than Adult Probation's similar expenses per capita. Thus, consolidation under APD will significantly increase costs.

For all these reasons, the benefits of preserving SF Pretrial's status as a neutral and independent non-profit agency far outweigh the arguments in support of consolidating SF Pretrial with Adult Probation.

Respectfully Submitted,

Peggy Otum
President
Bar Association of San Francisco

Cc: Hon. Michelle East, San Francisco Superior Court
Hon. Christopher Hite, San Francisco Superior Court
Manohar Raju, San Francisco Public Defender
Brooke Jenkins, San Francisco District Attorney
Paul Miyamoto, San Francisco Sheriff
Steve Betz, Assistant Chief of Public Safety