

## SUMMARY OF CHANGES TO BAIL SCHEDULE

On April 6, 2020, the Judicial Council of California directed all Superior Courts in California to adopt a revised bail schedule beginning on April 13, in response to the COVID-19 crisis. On April 13, 2020, the Superior Court issued a revised bail schedule consistent with the Judicial Council's order.

The new emergency bail schedule is now in effect. As a result, bail for **all** felony and misdemeanor offenses will be zero (meaning no bail is required), **except** for an offense that falls within one of thirteen (13) categories. A list of the crimes that fall within these 13 categories is attached. For the offenses in the 13 categories, the bail amount continues to be the amount reflected in the current San Diego County Superior Court Bail Schedule and can include bail enhancements.

## PROCEDURES

### **Cite and Release With an Order To Appear**

When an arresting officer makes an arrest for an offense or offenses that require zero bail, the arrestee should be cited and released in the field and given a court date. The Sheriff's Department has modified its booking acceptance criteria to not accept arrestees whose total bail is zero.

### **Seeking a modification of bail amount or conditions of release when appropriate**

Arresting officers may seek a bail modification in cases where it is necessary to protect public safety or an individual is unlikely to appear if released with zero bail. The Judicial Council order leaves intact those provisions that allow a court to deny bail if certain conditions are met.

One such provision is Article I, Section 12 of the California constitution. Under section 12, a court must deny bail in the following circumstances.

- For capital crimes, where the facts are evident or the presumption great
- Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others.
- Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has

threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

The Superior Court, under the Judicial Council order, retains the authority to deny bail altogether. In doing so, the court must also take into consideration the seriousness of the offense charged, the arrestee's prior criminal record, and the probability of his or her appearing at the trial or hearing of the case.

The second provision that allows a court to deny bail is Article 28(f)(3) of the California Constitution, which states as follows:

A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations.

If an arresting officer believes that bail should be denied or wants to request a modification of the bail amount or conditions of release for an arrestee, he or she must obtain approval for modification from the daytime or after-hours duty judge utilizing the following procedure:

1. The modification of the bail amount must be obtained **prior** to transporting the arrestee to the jail.
2. In order to request a bail modification, the arresting officer must first complete the Bail Setting Request Form (J-107). A copy of the form is attached to this training bulletin.
3. The completed Bail Setting Request Form should be emailed to the watch commander at the facility where the arresting officer is seeking to have the arrestee with zero bail booked, using the below email addresses:

San Diego Central Jail | [REDACTED]

Vista Detention Facility | [REDACTED]

Las Colinas Detention and Reentry Facility | [REDACTED]

4. The arresting officer must then contact the watch commander at the facility where they are seeking to have the arrestee with zero bail booked. The watch commander can be contacted using the following telephone numbers:

San Diego Central Jail – [REDACTED]

Vista Detention Facility – [REDACTED]  
Las Colinas Detention and Reentry Facility – [REDACTED]

5. After reviewing the Bail Setting Request Form, the watch commander will then initiate a conference call between the arresting officer and the duty judge. The arresting officer should be prepared to talk about the circumstances of the crime and articulate to the judge why, based on the facts of the case, he or she believes that the defendant, if released, is likely to commit great bodily harm on others.
6. If the bail is modified from zero, or release conditions are imposed, the arrestee can then be transported and booked into the appropriate facility.
7. If the request is denied, the arrestee should be cited and released in the field and given a court date to appear.

### **Arrest on a warrant**

If an arrest is made on a warrant, an officer can still take the arrestee directly to jail and book them on the outstanding warrant.