

Zero Bail in Riverside: Case Study

Goal of this Case Study

Bail reform has been a recurring theme for our speakers and readings throughout this semester. States like [New York](#) and [Virginia](#) have implemented major reforms to their bail laws, reducing the frequency with which cash bail may be imposed while still requiring individualized bail determinations in many cases. California, on the other hand, invests significant authority in its trial-level courts to set bail schedules that generally avoid individualized determinations. In 2020, California voters rejected [Proposition 25](#), which would have moved toward a system utilizing algorithmic determinations of flight risk and danger.

Our goal with this case study is to use bail reform--and the competing public safety concerns raised by it--as a way to gain a deeper understanding of policy making. Understanding how **different interest groups perceive, frame, and advocate for legal change** can help us think more critically as future advocates. In the immediate future, it may also help you with your policy briefs as you identify potential advocacy strategies and their potential obstacles.

Background Facts

In 2020, the Superior Court judges of Riverside County, California enacted emergency COVID-19 protocols to reduce the spread of the coronavirus inside Riverside's jail facilities. [California Penal Code Section 1296](#) grants municipal and superior court judges authority to set and revise bail schedules. Riverside's current guidelines are set forth in the [4th Temporary Emergency Felony and Misdemeanor Bail Schedule dated June 19, 2020](#) ("Schedule"). Under the Schedule, individuals arrested for offenses that would result in a maximum sentence of up to 4 years will receive \$0 bail unless an enhancement or strike applies (part 2, p. 8). In addition, a law-enforcement officer may seek a bail increase upon filing a factual declaration and obtaining magistrate approval pursuant to rule 6A of the Schedule.

On Saturday, April 3, 2021, 64-year-old Ke Chieh Meng was stabbed to death while walking her dogs in her Riverside neighborhood at 7:30 a.m. The defendant is 23-year-old Darlene Stephanie Montoya, a homeless woman who had been arrested by Riverside police four days earlier for attacking a woman with a skateboard. Montoya had been charged with assault with a deadly weapon that's not a firearm under [California Penal Code Section 245](#). Pursuant to the Schedule, she was released on \$0 bail on the same day. Montoya is currently being held without bail for a homicide charge.

Read this [Washington Post article](#) and [Mercury News article](#) for more facts about the incident and the victim's son's concerns.

Public Hearing Exercise

In the wake of Meng's murder, the Superior Court Judges of Riverside County have announced that they will be re-examining the Schedule for potential revisions. The judges will convene a special public hearing to allow members of the public to offer comments before doing so. Each member of the public will be given exactly **five (5) minutes to speak**.

Each of your teams will be asked to provide public comment during class on April 22. Your comment may be delivered by **1-2 members of your team**. Aim to do the following:

- **Identify** who you are and why you have a credible interest in the bail schedule.
- **Make a specific ask to the judges.** This could be as simple as “keep zero bail for crimes with sentences up to 4 years” or “eliminate zero bail for crimes with sentences up to 4 years.” Or you may ask the judges to take other measures, such as revising the bail presumption in some other way, or to take structured action, such as obtaining specific data. You won't have time to prepare a comprehensive set of reforms here; focus instead on your top 1-2 requests. If you have facts to support your request, that's great, but it's not necessary for an in-class exercise like this.

At the end of the public hearing, we will debrief as a class and the judges will offer their impressions of the comments they heard.

Team Assignments

- **Republican candidate for Riverside County District Attorney.** Choose a name for your candidate; if 2 people present, one can be a campaign manager. Your candidate is concerned that Riverside has gone overboard on bail reform and compassionate release policies. Your candidate believes that public safety in the community has declined and that victims' interests are being ignored. As one metric, you've looked at [re-arrest data](#) published by the Riverside County Sheriff. Assume for this exercise that the incumbent district attorney supports the Schedule.
Amalia, Claire, Rambert, Steven, Shivani

- **Prison abolition group called Sunrise Coalition.** You believe that eliminating bail for most, if not all, offenses, is crucial to ending mass incarceration. You opposed [Proposition 25](#) because you thought it did more harm than good. You applauded the Schedule last year as an important measure to protect the health of arrestees and to reduce pretrial detention. Assume for this exercise that vaccinating inmates of Riverside's jails (or monitoring vaccination rates) is not really viable.

Ariana, Bryanna, Isaac, Mary M., Sujata, Taylor
- **Riverside Merchants Association.** You are an association of 100+ small businesses in Riverside County, some of whom are located within a few blocks of the murder. Your members have noticed an increase in local criminal activity in the form of shoplifting, graffiti/property destruction and car break-ins, as well as an increase in transient individuals standing outside of members' businesses and looking intimidating to potential customers. COVID-19 has already hit your members hard and you're concerned about further financial losses which will close down businesses.

Blair, Chase, Rahima, Sydney, Whitney
- **Riverside County Public Defender.** You are the main [public defender](#) for indigent defendants in Riverside County. Since the implementation of the Schedule (and previous zero bail schedules), you believe that the majority of your clients have benefited from being released without bail. Those who had jobs mostly kept them. At the same time, a small percentage (10-15%) of your clients have been arrested for new offenses while awaiting trial, which will enhance their potential sentences if convicted, and a small percentage of your clients (5-10%) who are undetained are not responding to your communications to prepare for trial. You represent a wide range of clients, some of whom benefit from zero bail and some of whom do not, due to the Schedule's enhancement and strikes provisions.

Alex, Christina, Holly, Marissa, Mary T., Ruby
- **Government watchdog group called California Watch.** You are a nonpartisan nonprofit formed to ensure that all levels of California government are open and transparent. You frequently test the viability of sunshine/Freedom of Information Act laws by making information requests. You believe that the government should eliminate waste, operate efficiently, and impose as low a tax burden as possible on individuals and businesses. You believe, in general, that the California judicial system is wasteful, bureaucratic, slow, and costly.

Cat, Jamison, Helen, Lane, Scott

- **Homelessness advocacy group called Housing Rights/Human Rights.** You are an advocacy organization formed to fight California’s housing crisis and chronic inability to address the problems of homeless individuals. You are deeply concerned by the growing media attention being paid to homeless and mentally ill individuals who have engaged in violent activity, as in this [article](#), and are outraged by the forcible displacement of homeless individuals in neighboring [Echo Park](#). Montoya and thousands of other homeless individuals will be affected by any bail schedule changes.
Emma, Eric, Julia, Montell, Sarah Anne
- **Victims rights advocacy group called My Sister’s Keeper.** You are an advocacy organization focused primarily on assisting female victims of domestic and other forms of violence. You are concerned about the wave of anti-Asian American violence in California and elsewhere, which have targeted more women than men. You’re also deeply worried by the national [surge in domestic violence](#) over the course of the pandemic. Many perpetrators of domestic violence and other violent assaults are currently being released without bail under the Schedule.
Hunter, Juhi, Kiera, Madeleine, Warren
- **Judges of Riverside County Superior Court.** You and your Superior Court judicial colleagues are [elected locally](#) on nonpartisan ballots to six-year terms. Riverside County voted Democratic in the last three presidential elections and “leans liberal,” according to this [website](#). You enjoy broad discretion to revise the Schedule as long as it does not violate California and federal laws.
Jordan, Kevin, Olivia, Cydney

Team Preparation

Before class, prepare a short **discussion post (a few sentences is fine) to share with your team** and reply to at least one post by another team member in order to begin thinking through your stance for the public hearing.

In the first 20 minutes of class on Thursday, you’ll meet with your team to discuss strategy and choose who will present your remarks. Try to be as realistic as possible. Even if you couldn’t disagree more with the orientation of your assigned group/individual, try to inhabit that group’s concerns and values. This will help us all learn more about the complexity of policy making and building professional empathy.