

January 19, 2021

The Honorable Gavin Newsom
Governor, The State of California
California State Capitol Building
Sacramento, California 95814

RE: Oppose the Carve Out of Incarcerated People as Qualified Recipients of the Golden State Stimulus

Dear Governor Newsom:

We write to express our concern about the exemption of incarcerated people from the Golden State Stimulus, as proposed in the Trailer Bill Language, and to respectfully request that the exemption be removed.

The Golden State Stimulus would provide much-needed, rapid cash support to low-income Californians. On January 8, the Department of Finance released trailer bill language providing more details on the distribution of the additional tax refund. Specifically, Amendment 4 authorizes the State Controller to make a one-time \$600 tax refund payment to qualified recipients.¹ The proposed language outlines who is determined to be a “qualified recipient” of the stimulus as well as those who are not.

As drafted, a qualified recipient shall not be deceased or “incarcerated, other than incarceration pending the disposition of charges, in a jail, prison, or similar penal institution or correctional facility.”²

We strongly oppose the exemption of incarcerated people from receiving this tax refund.

Incarceration is a result of the systematic oversurveillance, overpolicing, and overpunishment of Black and Brown communities. The institution of the police in the United States can be traced back to slave catching patrols and Native American suppression during the antebellum period.³ During Reconstruction, a proliferation of

¹ Cal. Department of Finance, Golden State Stimulus, <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/224>.

² *Id.*

³ See, e.g., Victor E. Kappeler, *A Brief History of Slavery & The Origins of American Policing* (2014), available at, <https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing>.

anti-Black laws, the Black Codes, were written into statute.⁴ These laws, which criminalized such behavior as being Black and unemployed, required the Black people convicted under these statutes to be re-enslaved through prison plantations, convict leasing, and chain gangs.⁵ The racialized project of policing and criminalization, as a way to dis-enfranchise, exploit, and strip wealth and labor from Black and Brown people and communities, continues today.⁶

Across California, incarcerated people continue to be overwhelmingly Black, Brown, and poor. Nationally, as of 2019, Black and Hispanic Americans were disproportionately represented in state and federal prisons.⁷ In 2019, more than 1% of all Black Americans were serving time in a state or federal prison.⁸ This rate was 5 times the rate of White Americans and 2 times the rate of Hispanic Americans.⁹ These disparities persist across age and gender.¹⁰ The rate of imprisonment for men was 13 times the rate of women.¹¹ Black men are incarcerated at 5.7 times the rate of White men, while Black women are incarcerated at a rate 1.7 times the rate of White women.¹² Black men ages 18-19 had the highest incarceration rate of all.¹³ A 2018 report from the People’s Policy Project found that the Black and White wealth gap is the primary factor in the disproportionate incarceration rates.¹⁴

Incarceration costs a tremendous amount to people and their loved ones. According to a report by the Ella Baker Center, women bear the brunt of the costs associated with incarceration and conviction, including court costs, costs of phone calls, commissary costs, and others.¹⁵ These costs are enormous; “[a]cross respondents of all income brackets, the average debt incurred for court-related fines and fees alone was

⁴ See, e.g., Black Codes, History.com, available at, <https://www.history.com/topics/black-history/black-codes>. See also, The Southern “Black Codes” of 1865-66, Constitutional Rights Foundation, available at, <https://www.crf-usa.org/brown-v-board-50th-anniversary/southern-black-codes.html>.

⁵ See, e.g., *Dennis Childs, Slaves of the State: From the Chain Gang to the Penitentiary* (2015).

⁶ See generally, Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (2010).

⁷ <https://www.bjs.gov/content/pub/pdf/p19.pdf>, page 10

⁸ <https://www.bjs.gov/content/pub/pdf/p19.pdf>, page 10

⁹ *Id.*

¹⁰ *Id.* at 16

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ People’s Policy Project, *Mass Incarceration, New Jim Crow, Class War, or Both?*, *MassIncarcerationSummary.pdf* <https://www.peoplespolicyproject.org/wp-content/uploads/2018/01/MassIncarcerationPaper.pdf>

¹⁵ Ella Baker Center, *Who Pays?*, available at, <http://whopaysreport.org/key-findings/>.

\$13,607, almost one year's entire annual income for respondents who earn less than \$15,000 per year."¹⁶

Black and Brown communities also face disproportionate harm from the COVID-19 pandemic. Incarcerated people, mostly Black and Brown, caged in unsafe conditions, face explosive rates of viral infection. Santa Rita Jail, in Alameda County, has seen numerous spikes in viral infection, including a record 110 cases in July 2020, and 109 cases in December 2020.¹⁷ Despite spikes in the infection of incarcerated people and staff, people continue to be incarcerated at rates approaching pre-pandemic.¹⁸ Family members on the outside face record numbers of layoffs and unemployment. As communities face increased health costs and dramatic unemployment, the need for economic relief for incarcerated people is higher now more than ever.

The harm of withholding stimulus payments from incarcerated people has already been recognized by the courts. In 2020, the Trump Administration attempted to withhold incarcerated people from receiving \$1,200 CARES Act Stimulus payments. The Administration was subjected to a class action lawsuit. The Northern District of California granted a preliminary injunction in the case, finding that withholding of stimulus payments caused irreparable harm to incarcerated people and their families.¹⁹

The trailer bill language already limits recipients of the Golden State Stimulus to people who received the California Earned Income Tax Credit (CalEITC).²⁰ But the language goes even further by carving out two groups of people in particular—those who are deceased and those who are incarcerated. While deceased people do not need stimulus payments, incarcerated people desperately do—to pay for phone calls to stay in touch with family and friends, to pay for safer food, medical supplies, and cleaning supplies in the commissary, and to save money to pay for rising costs of reentry. This need is exacerbated by the extremely low wages that individuals who are incarcerated receive for their labor. By grouping incarcerated people with the deceased as exempt recipients, California would effectively be saying to incarcerated people that they do not have life, value, or a role in our communities.

¹⁶ Ibid.

¹⁷ Angela Ruggiero, Santa Rita Jail sees second biggest COVID outbreak of the pandemic, East Bay Times (Jan. 8, 2021), available at, <https://www.eastbaytimes.com/2021/01/07/santa-rita-jail-sees-second-biggest-covid-outbreak-of-the-pandemic/>.

¹⁸ Ibid.

¹⁹ Scholl v. Mnuchin, Case No. 20-cv-05309-PJH, 28, 31-33, available at, <https://clearinghouse.net/chDocs/public/PB-CA-0058-0002.pdf>.

²⁰ Cal. Department of Finance, Golden State Stimulus, <https://esd.dof.ca.gov/trailer-bill/public/trailerBill/pdf/224>.

California can and must do better for ALL of its residents. We demand that incarcerated people be eligible to receive the Golden State Stimulus.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Danica Rodarmel, State Policy Director
San Francisco Public Defender

A handwritten signature in blue ink, featuring a stylized 'E' and 'D' followed by a horizontal line.

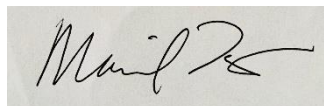
Elisa Della-Piana, Legal Director
Lawyers' Committee for Civil Rights of the SF Bay Area

A handwritten signature in blue ink, written in a cursive style.

Donna Harati, Director of Legal Services/Staff Attorney
Homeboy Industries

A handwritten signature in black ink, with a prominent 'J' and 'B' followed by a horizontal line.

Jhumpa Bhattacharya, Vice President of Programs and Strategies
Insight Center for Community Economic Development

A handwritten signature in black ink, written in a cursive style.

Marisabel Torres, Director of California Policy
Center for Responsible Lending



Dauras Cyprian, Executive Director
For Justness Sake



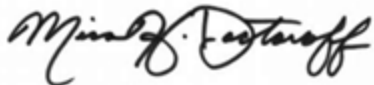
Katherine Katcher, Executive Director
Root and Rebound



Asher Waite-Jones, Staff Attorney & Clinical Supervisor
East Bay Community Law Center



Kyle Magallanes Castillo, Deputy Director
Community Works




Mica Doctoroff, Legislative Attorney
ACLU of California



Dorsey Nunn, Executive Director
Legal Services for Prisoners with Children



Vinuta Naik, Senior Attorney
Community Legal Services in East Palo Alto



Jesselyn Friley, Staff Attorney
Public Counsel

Cc:

Senator Nancy Skinner, Chair, Senate Budget and Fiscal Review Committee

Assemblymember Phil Ting, Chair, Assembly Committee on Budget

Senator Maria Elena Durazo, Chair, Senate Budget Subcommittee 5

Senator Anna Caballero, Chair, Senate Budget Subcommittee 4