

BAIL, RISK ASSESSMENT AND RACE

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THE PRICE OF FREEDOM: BAIL IN THE CITY OF LOS ANGELES

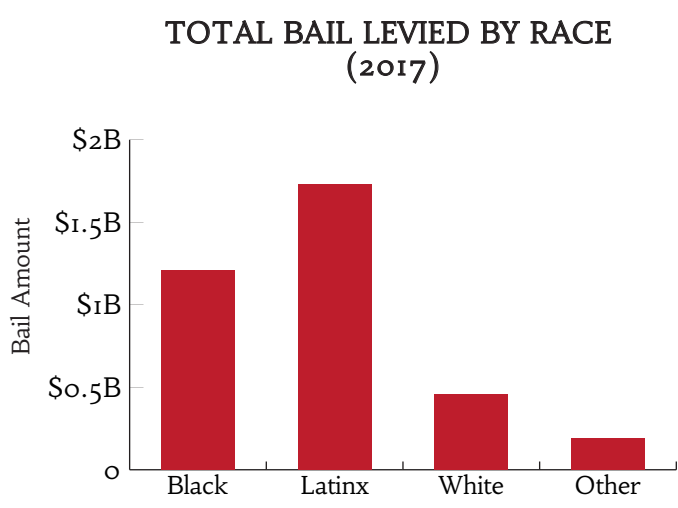
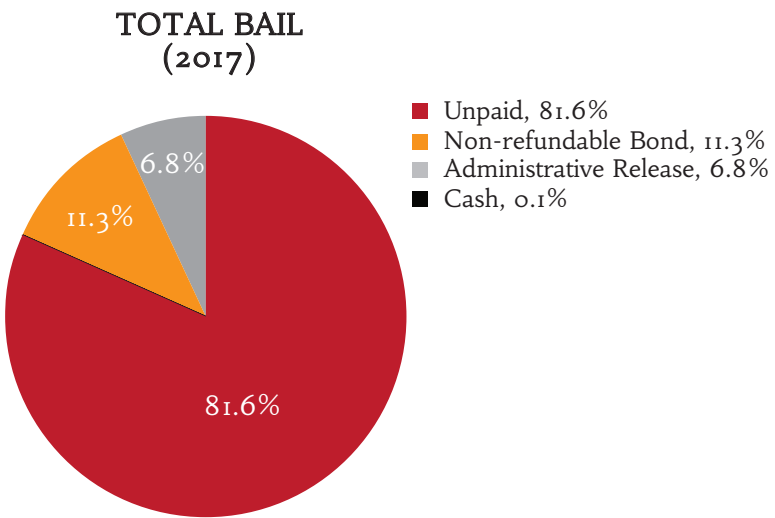
A MILLION DOLLAR HOODS REPORT

Isaac Bryan, Terry Allen MA, Kelly Lytle Hernández PhD, and the Million Dollar Hoods Team

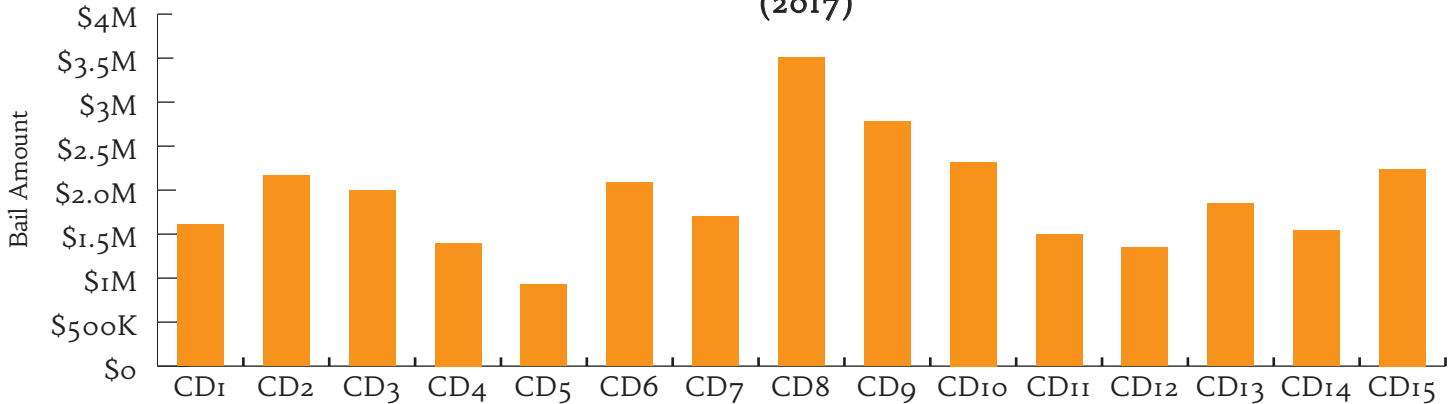


In California, adults facing criminal charges are guaranteed the right to freedom before trial, except in a few cases. One way to secure that freedom is to pay money bail. Between January 1 and December 31, 2017, 65,411 bookings into LAPD custody were levied a total of **\$3,602,693,975 in money bail**. Of the total bail levied, \$517,835,768 was set on houseless individuals. Most persons either could not or otherwise did not pay for release prior to arraignment. Instead, they remained in custody. Of those who did bond out, 0.1% paid in cash and 99.9% contracted with a bail bond agent. Collectively, the persons who used a bail bond agent paid an estimated **\$40,799,500 in non-refundable bail bond deposits**. The most impacted racial/ethnic populations were Latinx and Black residents, paying \$19,614,938 and \$10,169,118 respectively in non-refundable bail bond deposits. Additionally, \$7,884,391 was paid on behalf of women in exchange for their pretrial release.

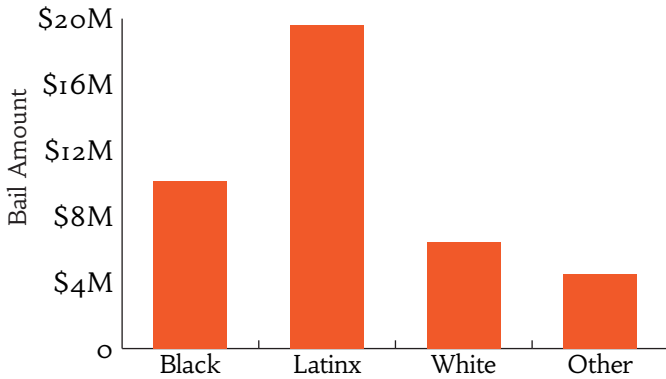
Using 2017 LAPD data, this report provides rare insight into the scale of the money bail system in the City of Los Angeles. Like our previous report, “The Price for Freedom: Bail in the City of Los Angeles, 2012-2016,” it offers just a peek at the total costs. One limitation to this report is that LAPD data only captures the amount of bail levied and paid prior to seeing a judge for the first time. Moreover, LAPD data does not account for any additional charges assessed by bail bond agents. But LAPD data provides one of the most clear-eyed looks at the money bail system in Los Angeles, unmasking the fact that the financial toll for pretrial release largely impacts African Americans, Latinos, and the City’s most economically-aggrieved communities.



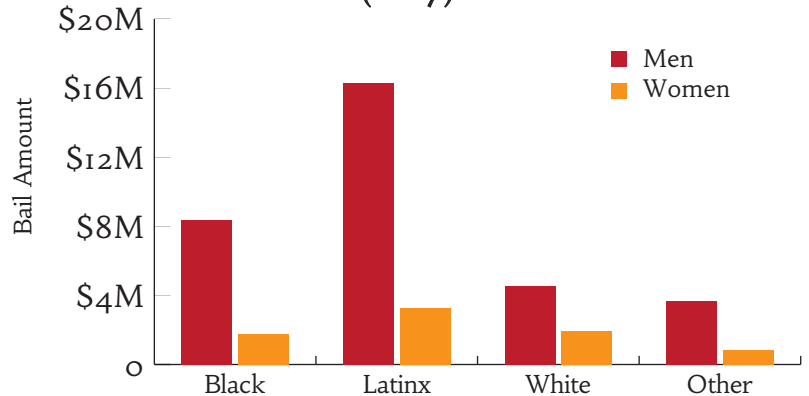
TOTAL NON-REFUNDABLE BOND PAID BY CITY COUNCIL DISTRICT (2017)



TOTAL NON-REFUNDABLE BOND PAID BY RACE (2017)



TOTAL NON-REFUNDABLE BOND PAID BY RACE AND GENDER (2017)



TOP 5 ZIP CODES BY TOTAL NON-REFUNDABLE BOND PAID (2017)

| Zip Code | 90033 | 90044 | 90011 | 90037 | 90002 |
|--------------------------|-------------|-------------|-----------|-----------|-----------|
| Non-Refundable Bond Paid | \$1,227,876 | \$1,017,721 | \$979,949 | \$748,152 | \$550,348 |

Methodology. On March 15, 2018, the LAPD fulfilled a Public Records Act request submitted by Professor Kelly Lytle Hernandez on January 4, 2018. The data provided included more than twenty categories of information for all detention bookings made by the LAPD between January 1, 2012 and December 31, 2017, including arrests made by LAPD and other law enforcement agencies within the City of LA. For this report, we utilized the following categories of information: Race, Sex (gender), Total_Bail (the sum of all bailset), Rel_Reas (release disposition), and Home_Res (home address). To calculate total money bail set, we calculated the sum of all numeric values included in the "Total_Bail" category. To calculate how much was paid to bail bond agents, we estimated that for persons released on "BOND" 10% of their total money bail charge was paid to a bail bond agent. To estimate bail by residence, we geo-coded and cross-referenced the home addresses provided in the "Home_Res" category within The City of Los Angeles. Houseless persons were determined by aggregating individuals with the "Home_Res" "1942 Transient" or the address of a known homeless shelter.

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THE PRICE FOR FREEDOM: BAIL IN THE CITY OF L.A.

A MILLION DOLLAR HOODS REPORT

Isaac Bryan, Terry Allen, Kelly Lytle Hernandez, and Consultant, Margaret Dooley-Sammuli, ACLU-CA

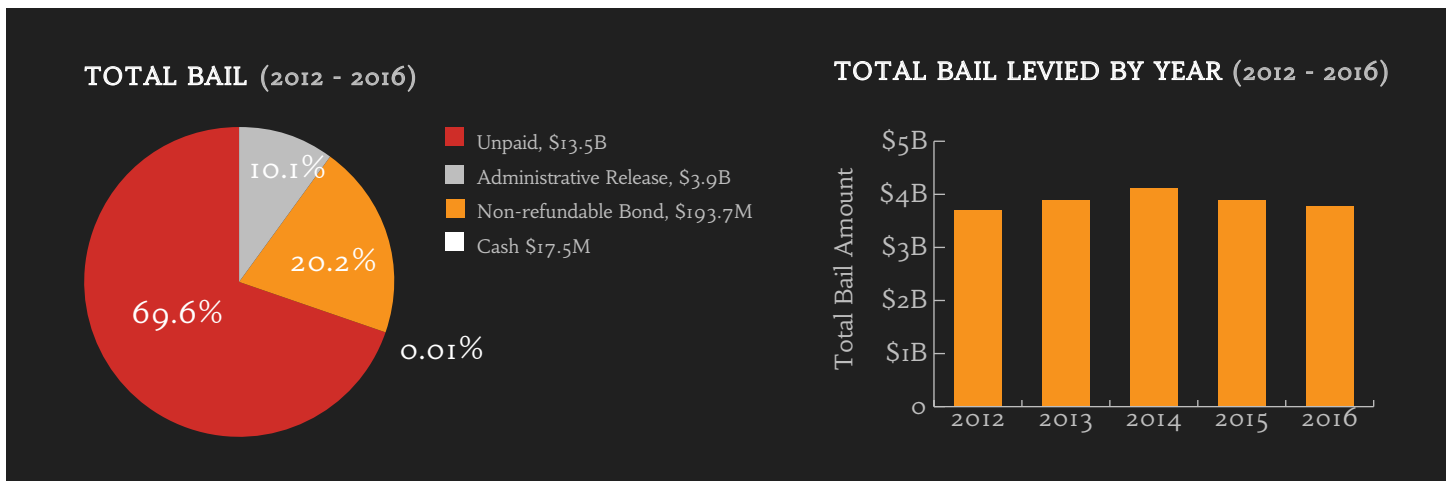
In California, all persons facing criminal charges are guaranteed the right to freedom before trial, except in a few cases. But there is a price for that freedom. Across the state, the money bail system requires many people to pay for pretrial release. When a person, or their representative, pays money bail up front and in full, the money is refunded so long as the person charged with a crime shows up for all of their court proceedings. But most people eligible for money bail cannot afford to pay the total sum up front.¹ Instead, most people eligible for money bail are left with one of two options. The first is to stay in jail until the conclusion of their court proceedings, which can take weeks, months, or even years. The second is to contract with a bail bond agent who provides a surety bond to the court on their behalf. The surety bond operates like a promissory note: the bail bond company does not pay up front but, rather, promises to pay the full bail money amount if the accused fails to appear in court. For this service, a bail bond agent requires the arrested person, or their representative, to pay a nonrefundable deposit, typically amounting to 10% of the total bail amount. A bail bond agent will also charge a series of service fees and often requires some form of collateral, such as a home or car. In California, an estimated 97% of the people who pay money bail use a bail bond agent.²

In the City of Los Angeles, the money bail system is massive. According to new data provided to the Million Dollar Hoods research team, the Los Angeles Police Department (LAPD), using the Los Angeles County Superior Court’s misdemeanor and felony bail schedules, levied **\$19,386,418,544** in money bail on persons arrested by the LAPD between 2012 and 2016. This \$19.4 billion only reflects the amount of money bail set during LAPD booking proceedings. It does not reflect any changes later made by judges to bail assessments. It does not reflect arrests made by any other police departments in the Los Angeles area. And it does not reflect what was actually paid.

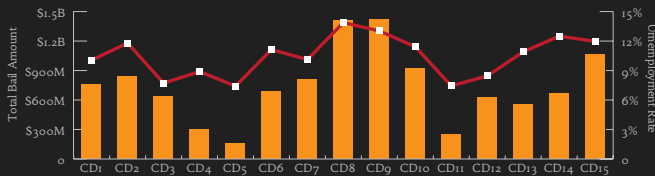
Of the \$19.4 billion set between 2012 and 2016, 62,118 people bailed out of LAPD custody by paying cash or contracting with a bail bond agent. Collectively, they delivered **\$17,561,473** in cash to the court and paid an estimated **\$193,786,349** in nonrefundable bail bond deposits to bail bond agents. These payments do not include any additional service fees an arrested person or their representative might pay to a bail bond company after seeing a judge for the first time (at a hearing called “arraignment”). Nor do they include the value of any assets later seized by bail bond agents.

Of the \$193.8 million paid to bail bond agents, **Latinos paid \$92.1 million**, **African Americans paid \$40.7 million**, and **Whites paid \$37.9 million**. But a recent study by the Ella Baker Center for Human Rights documents that it is women — the mothers, aunts, grandmothers, friends, and wives of the accused — who are most likely to contract with a bail bond agent on behalf of those in custody.³ If so, the estimated \$193.8 paid in nonrefundable bail bond deposits were disproportionately paid by women, namely Black women and Latinas. Moreover, each community likely paid much more when accounting for post-arraignment payments, the service fees charged by bail bond companies, and, in some cases, asset seizures.

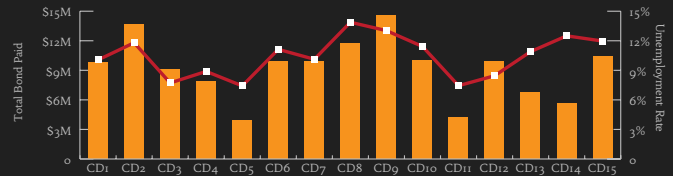
But most money bail was never paid. Of the \$19.3 billion in money bail set, **\$13,508,414,069** was **neither paid** nor waived through an administrative procedure, such as release on “Own Recognizance.” In fact, 70% of the amount levied was not paid during LAPD booking proceedings, which left 223,366 people in LAPD custody prior to arraignment between 2012 and 2016.



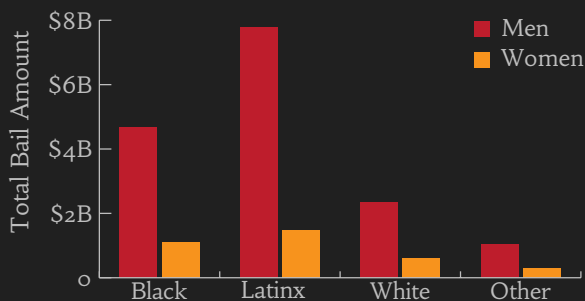
UNEMPLOYMENT RATE AND TOTAL BAIL LEVIED BY CITY COUNCIL DISTRICT (2012 - 2016)



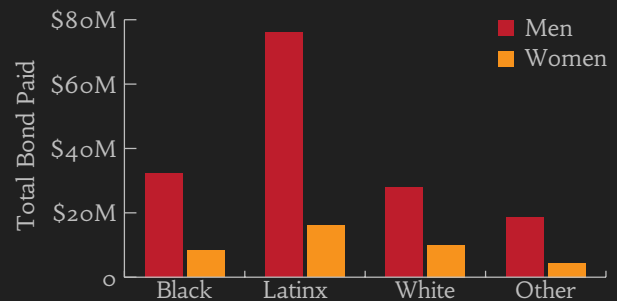
UNEMPLOYMENT RATE AND TOTAL NON-REFUNDABLE BOND PAID BY CITY COUNCIL DISTRICT (2012 - 2016)



TOTAL BAIL LEVIED BY RACE AND GENDER (2012 - 2016)



TOTAL NON-REFUNDABLE BOND PAID BY RACE AND GENDER (2012 - 2016)



The reasons why people did not pay for release during the booking process are not recorded in LAPD records but poverty was likely a major factor. Mapping LAPD data shows that the greatest sums of money bail were levied in the City Council districts with the highest rates of unemployment. Moreover, nearly four billion dollars in money bail was levied on houseless persons.⁴

In sum, the money bail system is a multi-billion dollar toll that demands tens of millions of dollars annually in cash and assets from some of L.A.’s most economically vulnerable persons, families, and communities. For those who pay bail bond agents, that money is never returned and additional fees apply. But most people do not pay money bail. Among them, many individuals as well as their families and communities are simply too poor to pay the price for freedom.

TOP 5 ZIP CODES BY TOTAL BAIL LEVIED AND NON-REFUNDABLE BOND PAID (2012 - 2016)

| Zip Code | SOUTH CENTRAL | | | ARLETA | |
|--------------------------|---------------|---------------|---------------|---------------|---------------|
| | 90044 | 90003 | 90037 | 90011 | 91331 |
| Total Bail | \$506,280,304 | \$475,136,066 | \$415,821,902 | \$411,301,117 | \$294,164,928 |
| Non-Refundable Bond Paid | \$3,769,368 | \$4,225,251 | \$4,013,070 | \$4,870,101 | \$3,106,637 |

Methodology

On March 10, 2017, the LAPD fulfilled Public Records Act requests submitted by Professor Kelly Lytle Hernandez on March 8, 2016 and September 7, 2016. The data provided included more than twenty categories of information for all arrests and bookings made by the LAPD between January 1, 2012 and December 31, 2016. For this report, we utilized the following categories of information: Race, Sex (gender), Total_Bail (the sum of all bail set), Rel_Reas (release disposition), and Home_Res (home address). Release dispositions include codes, such as “BOND,” “CASH,” “OR” (Own Recognizance), “CUST” (custody transfer), “IMP” (imperative release), and “49B1” (D.A. reject). To calculate total money bail set, we calculated the sum of all numeric values included in the “Total_Bail” category. To calculate how much was paid to bail bond agents, we estimated that for persons released on “BOND” 10% of their total money bail charge was paid to a bail bond agent. To determine how much money bail was unpaid we calculated “Total_Bail” for all entries without a release disposition. To determine total bail set and paid by neighborhood, we geo-coded and cross-referenced the home addresses provided in the “Home_Res” category with Los Angeles City Council District boundaries. Lastly, we used the most recently-available U.S. Census data to determine unemployment rates by City Council District.

1 Bernadette Rabuy and Daniel Kopf, “Detaining the Poor,” Prison Policy Initiative, May 10, 2016.
 2 Pretrial Detention Reform Workgroup, Recommendations to the Chief Justice, October 2017, p. 31.
 3 Saneta deVuono-powell, Chris Schweidler, Alicia Walters, and Azadeh Zohrabi. Who Pays? The True Cost of Incarceration on Families. Oakland, CA: Ella Baker Center, Forward Together, Research Action Design, 2015, p. 9.
 4 Houseless Persons are defined as those recorded as “transient” in LAPD data and those who, upon arrest, provide the address of a shelter as their home residence.



MEMORANDUM

TO: University of California Bail Consortium

FROM: Kelly Lytle-Hernandez, PhD, Isaac Bryan, MPP, Danielle Dupuy, MPH, and Terry Allen, MA
UCLA Ralph J. Bunche Center and the Million Dollar Hoods Project

RE: Evaluating SB10

DATE: October 25, 2018

This memo outlines a data framework for ensuring that racial, gender, and economic disparities in pretrial release are not maintained or exacerbated during the implementation of Senate Bill 10.

I. Bail Reform Background

Beginning on October 1, 2019, existing laws regarding bail will be repealed and replaced with the procedures specified in SB 10 (Hertzberg). The bail and pretrial release system currently in place has been shown to adversely impact individuals and communities with lower economic backgrounds.¹ It places financial conditions on pretrial freedom that, if unpaid, can result in lengthy confinement despite having not been convicted of wrongdoing. Reforming the money bail system, as SB 10 seeks to do, has two essential components: 1) removing the financial conditions associated with pretrial release, and 2) ensuring that implicit biases no longer result in disparate outcomes. As signed into law, SB 10 satisfies the first of the previously mentioned goals of bail reform. However, without the collection of high-quality data, and independent monitoring of equity metrics during implementation, it is unclear to what extent the new law will ensure that implicit biases are not maintained or exacerbated.

II. Assessments & Release Conditions

As articulated in SB 10, the use of risk assessment tools and evaluations will become the primary evidence used to determine if an individual will be released from custody pretrial. However, these assessment tools will not be standardized as the law allows for jurisdictional variability. It is important for the State of California to establish a centralized database for the collection and storage of all assessment instrument variations, and to independently evaluate these instruments for their effectiveness in mitigating risk and racial and economic biases. Additionally, Section 1320.17 of the act allows for the court to order nonmonetary conditions that will reasonably assure public safety and a defendant's return to court. However, the range of conditions, or combination of conditions, that may be imposed is not clearly specified. It is therefore important that statewide data be collected on the combinations of pretrial supervision conditions to determine their effectiveness and impact on equity.

III. Recommendations

To ensure that SB 10 promotes equal treatment under the law, and eliminates racial, ethnic, gender, and income-based biases in pretrial detention, The State of California has requested an independent

¹ Isaac Bryan, Terry Allen, Kelly Lytle Hernandez, and Margaret Dooley-Sammuli, "The Price for Freedom: Bail in the City of Los Angeles," Million Dollar Hoods Report. Distributed by UCLA. http://milliondollarhoods.org/wp-content/uploads/2017/10/MDH_Bail-Report_Dec4-2017.pdf

evaluation of its implementation be submitted by January 1, 2024. To ensure that evaluation is both informative and comprehensive, every entity involved in the pretrial process should collect a core set of data, **including the following variables for every arrest/case: name, race, gender, date of birth, charge(s), charge description(s), charge level(s), occupation, occupation status, home address, home zip code.**

In addition to these core variables, the following variables should be collected by appropriate entities across the criminal legal system.

- Arrest and jail booking data
 - To evaluate entry into the pretrial system, it is important that arrest and booking data be included in any evaluation of SB 10 and include variables for: **arrest location, arrest date, arrest time, booking date, booking time, date of release, time of release, release disposition**
- Court arraignment data
 - To ensure that the interpretation of assessment tools, speed of hearings, and other important metrics are captured, court arraignment data should also include variables for: **arraignment location, arraignment date, arraignment start time, arraignment end time, supervision status at time of arrest, release on own recognizance or supervised release, court reason for detention if Defendant is retained in custody, and court reason for release if Defendant is released from custody, conditions of release, past justice system involvement, presence/absence of victim at hearing, victim's comments on the Defendant's pretrial custody status, victim's written statement, if provided, risk assessment score, risk assessment tool.**
- Probation and supervision data:
 - To ensure additional conditions of supervision are not producing outcomes that exacerbate racial and economic inequity, any evaluation of SB 10 should include probation and supervision data.
 - **This data should include all persons assigned supervision conditions during arraignment, and those who are already under supervision prior to an arraignment. It should also include the following variables: conditions of supervision, fines/fees owed, if an individual has past violations, past violation description, supervision start date, length of supervision term.**
- Assessment Tool Data
 - Monitoring the implementation of SB 10 requires that evaluators have access the variations of tools that have been approved by the Judicial Council. **This would include all assessment tool variable lists, weights, and criteria. It would also include any supplemental materials used to justify their validity.**

IV. Conclusion

Senate Bill 10 was designed to eliminate racial, ethnic, gender, and economic disparities in pretrial detention without compromising public safety or exacerbating failures to appear. Section 1320.30 of the act articulates that a research entity will be contracted by the Board of State and Community Correction to monitor the impact of the act by race, ethnicity, gender, and income level. To comprehensively achieve this evaluation goal, high-quality data must be aggregated and collected across all agencies involved in the pretrial process.