# The Roles of Interest Groups in The California Money Bail Reform Act

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# Dedication

This thesis is dedicated to all those those who have lost time, employment, property, family, and their lives to a system that punishes people not for criminality, but for poverty.

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# Abstract

Political scientists have thoroughly studied the policy making process and interest groups' role in it. However, little attention has been paid to policy making and interest groups in the criminal justice field, which possesses unique properties that frustrate conventional analyses. Existing research suggests that groups with a professional interest in the outcomes of criminal justice policy exert a higher level of influence over the policy making process than non-professional groups. This paper finds evidence supporting this prevailing observation in the case of The California Money Bail Reform Act. Process tracing is employed to explore the roles of professional and non-professional interest groups and the comparative influence of each category of group at different stages throughout the creation, passage, and eventual repeal of the act. Four hypotheses are tested and the results are discussed in light of the existing literature.

# Contents

*The civil and criminal procedure of the Americans has only two means of action — committal and bail...It is evident that a legislation of this kind is hostile to the poor man, and favorable only to the rich. The poor man has not always a security to produce, even in a civil cause; and if he is obliged to wait for justice in prison, he is speedily reduced to distress. The wealthy individual, on the contrary, always escapes imprisonment in civil causes; nay, more, he may readily elude the punishment which awaits him for a delinquency by breaking his bail. So that all the penalties of the law are, for him, reducible to fines. Nothing can be more aristocratic than this system of legislation.*

–Alexis de Tocqueville, *Democracy in America*, 1835

# Introduction

On April 6th, 1961, Attorney General Robert F. Kennedy appointed Professor Francis A. Allen of the University of Michigan Law School as Chairman of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice, which was tasked with identifying problems faced by impoverished defendants in the federal criminal justice system.[1] One year later, Attorney General Kennedy testified to the American Bar Association that "Professor Allen's committee has established conclusively that the question of whether a man will be kept in jail pending trial or be free is directly influenced by how wealthy he is."[2] The findings of the Allen Committee inspired Attorney General Kennedy to convene the National Conference on Bail and Criminal Justice in May 1964, where he said in his closing remarks,

> What has been determined here is that usually only one factor determines whether a defendant stays in jail before he comes to trial. That factor is not guilt or innocence. It is not the nature of the crime. It is not the

1. *Report of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice* (Washington, D.C.: G.P.O., February 1963), //catalog.hathitrust.org/Record/102745398.

2. Robert F. Kennedy, *Address by Attorney General Robert F. Kennedy to the American Bar Association House of Delegates*, San Francisco, California, August 1962, http://www.justice.gov/ag/rfkspeeches/1964/08-10-1964.pdf.

> character of the defendant. That factor is, simply, money. How much money does the defendant have?[3]

The American money bail system requires arrestees to pay an amount of money, or bond, set by a judge to secure their release from custody while awaiting trial. Robert F. Kennedy's leadership in recognizing that money bail "ha[d] become a vehicle for systematic injustice,"[4] because it allows those who can afford to pay their bond to escape jail time while detaining those who cannot afford to pay, brought national attention to a bail reform movement that had been building since the 1920s. This movement culminated in the successful passage of the Bail Reform Act of 1966, which aimed "to assure that all persons, regardless of their financial status, shall not needlessly be detained."[5] The Bail Reform Act of 1966 was a decided victory for the bail reform movement. However, politicians, activists, and scholars everywhere in America are still leading bail reform efforts today, citing the very same concerns about the discriminatory effects of the bail system.

One such effort was the The California Money Bail Reform Act. California State Senator Bob Hertzberg and Assemblymember Rob Bonta introduced the act in a joint press conference alongside the Lieutenant Governor and representatives from several interest groups on December 5th, 2016. Echoing the sentiments espoused by Attorney General Kennedy over half a century earlier, Senator Hertzberg said, "every

3. *Proceedings and Interim Report of the National Conference on Bail and Criminal Justice* (Washington, D.C., April 1965), https://www.ncjrs.gov/pdffiles1/Photocopy/355NCJRS.pdf.

4. Robert F. Kennedy, *Testimony by Attorney General Robert F. Kennedy on Bail Legislation before the Subcommittees on Constitutional Rights and Improvements in Judicial Machinery of Senate Judiciary Committee*, August 1964, https://www.justice.gov/sites/default/files/ag/legacy/2011/01/20/08-04-1964.pdf.

5. *Bail Reform Act of 1966, Pub. L. No. 89-465, §2, 80 Stat. 214* (1966), http://uscode.house.gov/statutes/pl/89/465.pdf.

day, thousands of Californians who are awaiting trial are forced to be in jail because of one simple reason: they don't have the money to get out."[6] The introduction of the act capitalized on national momentum for bail reform, as well as California Chief Justice Tani Cantil-Sakauye's public questioning of the bail system in her 2016 State of the Judiciary Address and later creation of a Pretrial Detention Reform Workgroup tasked with recommending ways to make California's bail system fairer, safer, and more effective.[7] The momentum of The California Money Bail Reform Act only grew after its introduction, garnering the support of several of the state's most prominent political figures and a broad coalition of interest groups.

Governor Jerry Brown signed The California Money Bail Reform Act into law on August 28th, 2018, making California the first state in America to completely abolish its money bail system. The act had survived fierce opposition from the bail industry, law enforcement, and other groups over for almost two years. However, the bill that was finally signed into law bore little resemblance to the one introduced in 2016. As shown in the timeline of events in Table 1, the bill was rewritten entirely just two weeks before it was signed. The amendments caused the coalition of interest groups behind the bill to collapse. Several groups that had shaped and advocated for it since 2017 now opposed it, claiming that it could actually worsen racial and economic disparities and lead to an increase in pretrial detention. The bail industry and other opponents of bail reform suddenly found unlikely allies in progressive advocacy

6. *Sen.Hertzberg - Hertzberg, Bonta to Unveil Bail Reform Legislation* (California State Capitol: California Senate Democrats, December 2016), https://www.youtube.com/watch?v=w25bDzaLTKw.

7. Pretrial Detention Reform Workgroup, *Pretrial Detention Reform: Recommendations to the Chief Justice* (October 2017), https://www.courts.ca.gov/documents/PDRReport-20171023.pdf.

Table 1: California Money Bail Reform Act Timeline

| | |
|---|---|
| March 16, 2016 | Chief Justice Tani G. Cantil-Sakauye questions the effectiveness of bail in California and calls for increased pretrial release in her State of the Judiciary Address. |
| August 18, 2016 | Senator Bob Hertzberg Amends SB 163 to a "spot marker" bill addressing bail reform. |
| October 28, 2016 | Pretrial Detention Reform Workgroup created to evaluate and make recommendations to improve the bail system. |
| December 5, 2016 | Senator Bob Hertzberg and Assemblymember Rob Bonta introduce SB 10 and AB 42, collectively called the California Money Bail Reform Act. |
| August 25, 2017 | Governor Brown, Chief Justice Cantil-Sakauye, Senator Hertzberg and Assemblymember Bonta announce plan to work together on bail reform. |
| October 2017 | Pretrial Detention Reform Workgroup issues its recommendations for bail reform in California. |
| January 25, 2018 | The California Court of Appeal issues a decision in *In re Humphrey*, stating that bail decisions in California must consider an arrestee's ability to pay and impose the least restrictive conditions to ensure reappearance in court. |
| August 16, 2018 | SB 10 passes from committee with dramatic amendments, splintering the coalition of interest groups behind the bill. |
| August 20, 2018 | SB 10 passes Assembly by a vote of 42-31. |
| August 21, 2018 | SB 10 passes Senate by a vote of 26-12. |
| August 28, 2018 | Governor Brown signs SB 10 into law. |
| August 29, 2018 | Bell, McAndrews & Hiltachk LLP file a request with the California Initiative Coordinator for a referendum of SB 10 on behalf of Californians Against the Reckless Bail Scheme. |
| January 16, 2019 | The California Secretary of State certifies 576,813 signatures gathered by Californians Against the Reckless Bail Scheme, forcing a referendum on the November 2020 ballot. |
| November 3rd, 2020 | California Proposition 25, the Replace Cash Bail with Risk Assessments Referendum, is defeated 56.41%-43.59%. SB 10 is repealed. |

groups, and took full advantage. After an aggressive campaign, The California Money Bail Reform Act was successfully repealed via referendum on November 3rd, 2020.

The California Money Bail Reform Act is a curious case in bail reform efforts

in the United States. Over the course of nearly two years, an extraordinarily broad coalition of political leaders and key interest groups was built, which successfully created and passed the most ambitious bail reform in American history to date. In another two years, the reforms were undone completely. The spectacular failure of The California Money Bail Reform Act and the dramatic example of interest group politics surrounding it provokes several questions. How and why did the act change so dramatically? What about the changes to the act caused core members of the supporting coalition to suddenly oppose it? Why did some groups maintain their support for the act? Why did seemingly incompatible groups come together in opposing the act? Why did Californians vote to repeal the act? In sum, the overarching research question motivating this research became: how did interest groups influence the creation, passage, and repeal of The California Money Bail Reform Act?

This paper assesses this question by employing process tracing to empirically examine the influence of different types of interest groups at each stage in the process of creating, passing, and repealing The California Money Bail Reform Act. Its theory is rooted in a small body of literature on the criminal justice policy making process and interest groups' role in it that emphasizes the role of interest groups professionally invested in the outcomes of criminal justice policy, as opposed to those invested in a non-professional, i.e., advocational or ad hoc, nature. It finds that non-professional groups exerted a significant level of influence over the content and outcome of The California Money Bail Reform Act; however, professional groups were ultimately more influential throughout the process. In doing so, it contributes to an area of

research deserving of more attention and explores the underlying mechanisms of a significant chapter in the history of bail reform in America.

# Literature Review

### *Introduction*

One cannot understand the mechanisms underlying the creation, passage, and repeal of The California Money Bail Reform Act without first locating the act temporally and substantively within the American bail system and the history of its reforms. Likewise, the study of interest groups and their role in the act must be built upon scholars' existing knowledge of how criminal justice policies are made and how interest groups function within this process. In this section, I review the existing literature related to bail and bail reform in America, the criminal justice policy making process, and the roles of interest groups within the criminal justice policy making process. Such literature will contextualize bail reform efforts in America, outline expected stages of the policy making process, and define different types of interest groups and how they interact with the process.

### *Origins of American Bail System*

Numerous scholars have thoroughly documented the history of bail and bail reform efforts in America.[8] The American bail system traces its earliest roots to

8. See Thomas, 1976; Carbone, 1983; Goldkamp, 1985; Schnacke et al., 2010; and Van Brunt

medieval Anglo-Saxon England; however, philosophical, customary, and practical differences led to significant liberalization in the administration of bail in America as early as 1645. Pennsylvania's 1682 constitution extended the right to bail much further than in English legal tradition and served as the basis for that of almost every other state constitution.[9] The 8th Amendment and Judiciary Acts of 1789 established three fundamental principles of the early American bail system that stood for nearly two centuries: "(1) Bail should not be excessive, (2) A right to bail exists in non-capital cases, and (3) Bail is meant to assure the appearance of the accused at trial."[10]

### *Rise of Money Bail*

The American system, much like the British system it inherited, initially relied on unsecured personal sureties, or people who would volunteer to guarantee the appearance of a defendant for trial. This system did not require prepayment, because payment was only made upon default.[11] America's more liberal application of bail, combined with low population density and ease of flight on the vast western frontier, quickly presented issues. With a lack of people to act as sureties, arrestees were required to post monetary bonds, or give the court cash that would be refunded when they returned to trial. However, because many people lacked the requisite funds

and Bowman, 2018.

9. Timothy R. Schnacke, Michael R. Jones, and Claire M. B. Brooker, *The History of Bail and Pretrial Release* (September 2010), pp. 1-5.

10. Schnacke, Jones, and Brooker, p. 5.

11. Alexa Van Brunt and Locke E. Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," *Journal of Criminal Law and Crimiology* 108, no. 4 (2018): p. 713-714.

to do so, this system lead to rising numbers of defendants detained pretrial.[12] The commercial bail bond industry was created in response, which enabled defendants to secure pretrial release even if they lacked a personal surety or the funds to post their own bond. For an non-refundable fee and some form of collateral, commercial bail agents would pay the bond of arrestees unable to afford the full amount.[13] The commercial bail bond industry was entirely unique to America at its inception in the latter half of the 19th century. Today, only the United States and the Philippines maintain a commercial bail industry.[14] Yet this system existed without major controversy well into 20th century, when the first significant movement for reforming the money bail system took place.

### *First Wave of Bail Reform*

While the fundamental principles of the American bail system have remained intact since the late 18th century, successive generations have brought significant reforms. Scholars, beginning with John Goldkamp (1985) have generally categorized bail reform efforts in America into three "generations" or "waves." The first wave of bail reform took place between the 1920s and the 1960s, coinciding with the Civil Rights Movement and War on Poverty.[15] Several seminal studies on bail practices in America were published in this era, such as those from Arthur L. Beeley (1927) and

12. Schnacke, Jones, and Brooker, *The History of Bail and Pretrial Release*, p. 9.

13. Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," 714–715.

14. Schnacke, Jones, and Brooker, *The History of Bail and Pretrial Release*; Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next."

15. Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," p. 704.

Caleb Foote (1954).[16] These studies exposed pervasive inequities within the bail system, including the vast power of bail bondsmen, the overdetention of defendants in harsh conditions due to their inability to afford bond, and judges' rampant misuse of bail determinations to punish defendants or protect society from perceived danger.[17] Such findings inspired a reform movement in the 1960s, including the Vera Foundation's landmark Manhattan Bail Project in 1961 and Attorney General Robert F. Kennedy's National Conference on Bail and Criminal Justice in 1964.[18]

According to Goldkamp, reformers of this period had five main criticisms of the bail system:

> [that it was] (1) arbitrary and chaotic; (2) that [it] discriminated among defendants based on their relative wealth or lack of it; (3) that judges abused their discretion in deciding bail and wielded bail and detention punitively or in line with other nonlegitimate purposes; (4) that judges used bail not only to assure the appearance of defendants in court but to detain defendants they viewed as dangerous; and (5) that detention before trial was tantamount to punishment prior to adjudication.[19]

Congress addressed several of these concerns with the passage of the Bail Reform Act of 1966, the first major modification to the American bail system since the 18th

16. See also Pound and Frankfurter (1922) and Roberts and Palermo (1958).

17. Wayne H. Thomas, *Bail Reform in America* (Berkeley: University of California Press, 1976), p. 15, ISBN: 978-0-520-03131-9.

18. Timothy R. Schnacke, *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform* (September 2014); Schnacke, Jones, and Brooker, *The History of Bail and Pretrial Release*.

19. John S. Goldkamp, "Danger and Detention: A Second Generation of Bail Reform," *Journal of Criminal Law and Criminology* 76, no. 1 (1985): p. 3.

century. Principally, the act established a presumption of pretrial release without up-front financial conditions. Financial conditions could be imposed only for the purpose of ensuring defendants' return to trial, and judges were required to use the least restrictive means possible to do so.[20] Ultimately, the Bail Reform Act of 1966 and the first wave of bail reform represented a legitimate if limited step forward, but it was mostly reversed in the coming decades.

### *Second Wave of Bail Reform*

The second wave of bail reform took place during the 1970s and 1980s, amid Americans' rising concerns about crime and public safety and politicians' widespread adoption of a tough-on-crime stance during the War on Drugs.[21] Bail policies release accused criminals into the public naturally came under scrutiny in this environment, and scholarly research shifted its focus from the failure of the bail system to release bailable defendants to the failure of the bail system to detain dangerous ones.[22][23] Consequently, the policies of the second wave were designed to protect public safety by detaining defendants that potentially posed a threat. Thus, as Goldkamp asserts, "the spirit and substance of [second wave policies] stand in striking contrast to goals related to assuring the defendant's appearance at court proceedings that dominated

20. Schnacke, Jones, and Brooker, *The History of Bail and Pretrial Release*; Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next."

21. Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," p. 705.

22. See Kennedy (1980)

23. Schnacke, *Fundamentals of Bail: A Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform*, p. 71.

debate and reform efforts during the 1960's."[24] Defendants' risk of not returning to court, or flight risk, had historically been the only legitimate consideration for restrictions on pretrial release.[25] The dangerousness of defendants had implicitly been considered by judges when making bail determinations for decades, though, who often ensured pretrial detention of defendants perceived as dangerous by setting impossibly high bond amounts.[26]

Consideration of public safety in bail determinations was first allowed by the District of Columbia Court Reform and Criminal Procedure Act of 1970, which allowed for preventive detention of defendants without money bond "for the safety of any person or the community."[27] Congress then codified the use of preventive pretrial detention for both flight and public safety risk federally in the Bail Reform Act of 1984. The Supreme Court upheld the practice in 1987 with its decision in *United States v. Salerno*, and most states passed legislation mirroring the federal act.[28] While second wave policies expressly outlawed the use of excessive monetary conditions to ensure pretrial detention in most of the nation, they also granted judges broad discretion to order preventive detention without financial conditions. Second wave policies lead to a massive increase in the number of pretrial detainees and the proliferation of race and wealth-based discrimination, inspiring a third wave of reform.[29]

24. Goldkamp, "Danger and Detention: A Second Generation of Bail Reform," p. 2.
25. Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," p. 731.
26. Goldkamp, "Danger and Detention: A Second Generation of Bail Reform"; Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next."
27. Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," p. 731.
28. Van Brunt and Bowman, p. 732-34.
29. Van Brunt and Bowman, p. 733, 738-39.

### *Third Wave of Bail Reform*

Most scholars agree that America is currently in the midst of a "third wave" of bail reform that has risen alongside a growing consensus against mass incarceration, racism, and the criminalization of poverty in U.S. criminal justice system.[30] This wave has come about in large part due to a large body of research that shows continued race and wealth-based discrimination in the bail system as well an increase in pretrial detention and the use of cash bonds caused by second wave reforms.[31] In many ways, third wave efforts bear a strong resemblance to those of the first wave. Broadly, both movements are primarily concerned with ensuring the pretrail release of low-risk defendants and detainment of high-risk defendants, regardless of wealth or race.[32] However, third wave efforts look to succeed where first wave efforts failed by eliminating the use of secured money bonds.[33]

The third wave possesses considerable advantages over the first that makes achieving its goals much more likely, though it is not without its own problems. Thomas Schnacke (2017) identifies three key advantages of the third wave: (1) reforms are being implemented individually at the state level instead of implementing them at the federal level and leaving states to their own devices; (2) knowledge has matured to the point that states can implement reforms that are well researched, legally sound, and

30. Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," p. 706, 743.

31. Timothy Schnacke, "The Third Generation of Bail Reform," *Trends in State Courts* 2017 (2017): 8–13; Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next."

32. Schnacke, "The Third Generation of Bail Reform"; Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next."

33. Schnacke, "The Third Generation of Bail Reform," pp. 9-10.

capable of achieving their stated purpose; and (3) judges, including Chief Justices, federal judges, and state and local judges, are far more involved in the development and implementation of reforms than in the previous two waves.[34] While these advantages are promising, Van Brunt and Bowman (2018) note that the third wave risks replacing the current system with an empirical risk assessment-based system that results in the same pretrial detention rate, imposing other highly restrictive conditions for pretrial release such as GPS tracking or electronic monitoring, or retaining too high a degree of the money bail system.[35]

### *The Criminal Justice Policy Making Process*

The process of how policies are made and implemented has has received a great deal of attention from political scientists. However, this research most commonly examines areas such as education policy, health policy, and others. A small number of scholars have proposed frameworks specifically focused on the process of criminal justice policy making. Peter Solomon (1981, 2014) divides the criminal justice policy making process into four intentionally vague stages: agenda setting, where social learning takes place to establish viability of policy; decision making, where proposals are debated and either adopted or discarded; implementation, where final decisions are made and some policies are blocked; and evaluation, where the impacts of policies are assessed. The organization of these stages is intended to "establish a clear demarcation between two phases of policy-making prior to adoption, each of which

34. Schnacke, "The Third Generation of Bail Reform," pp. 10-13.
35. Van Brunt and Bowman, "Toward a Just Model of Pretrial Release: A History of Bail Reform and a Prescription for What's Next," pp. 753.

serves a distinct function and is likely to have a distinct pattern of politics associated with it."[36] Yet, the loose definition of the stages accommodates what Solomon calls "the developmental nature of policy-making," where "some policy proposals will follow a smooth path of development which can be easily analyzed... while others take a more intricate path which requires a more flexible approach."[37]

Barbara Ann Stolz (2002) proposes another framework for studying the criminal justice policy making process. Like Solomon, Stolz attempts to trace the development of policies by broadening the scope of her framework beyond the formal legislative process. Her framework proposes seven stages of the criminal justice policy making process, based on those identified by Roby (1969), to Solomon's four: "Agenda Setting (initiating or blocking legislation); Legislative Drafting; Public Hearings; Legislative Deliberations (markup and debate); Legislative Enactment; Legislative Implementation; and Legislative Reauthorization."[38] Drawing on interest group literature within and outside the realm of criminal justice policy, this formulation is intended to identify both "participation by groups often missed or unreported," and "the types of strategies used by various types of groups at different points in the policy making process."[39] Stolz's framework better defines specific stages of the policy making process compared to Solomon's. However, it compromises on the flexibility central to Solomon's model, reducing its applicability to cases less obviously suited

36. Peter H. Solomon, "The Policy Process in Canadian Criminal Justice: A Perspective and Research Agenda," *Canadian Journal of Criminology* 23, no. 1 (January 1981): p. 8, ISSN: 0704-9722, https://doi.org/10.3138/cjcrim.23.1.5.

37. Solomon, p. 9.

38. Barbara Ann Stolz, "The roles of interest groups in US criminal justice policy making: Who, when, and how," *Criminal Justice* 2, no. 1 (February 2002): p. 59, ISSN: 1466-8025, https://doi.org/10.1177/1748895802002001030l.

39. Stolz, p. 60.

to each of the seven stages.

Karim Ismaili (2006) presents a "contextual approach to examine the criminal justice policy-making environment and its accompanying policy-making process."[40] While Solomon's model is intentionally flexible enough to accommodate the complexities of policy making, Ismaili's engages with them directly. According to Ismaili, "one of the principal benefits of [his contextual] approach is its emphasis on addressing the complexity inherent to policy contexts."[41] The works of Paul Sabatier (1991) and Fisher and Forester (1993), as models of Harold Lasswell's contextual orientation and "cultivation of creativity", serve as the foundation of the framework.[42] With these works as examples, Ismaili's "principle of contextuality" guides his framework[43] Ismaili's contextual approach sacrifices concrete and delineated stages of the policy making process, but it also eliminates the challenges posed by ill-fitting models and emphasizes the unique characteristics of each case.

### *Interest Groups in the Criminal Justice Policy Making Process*

The roles of interest groups and the influence they exert over the criminal justice policy making process have also been examined in varying degrees by these researchers. Groups are most commonly divided into the two primary categories identified by Fairchild in 1981: professional groups and non-professional, or lay groups. Fairchild defines the former category as "groups that are professionally

40. Karim Ismaili, "Contextualizing the Criminal Justice Policy-Making Process," *Criminal Justice Policy Review* 17, no. 3 (September 2006): p. 257, ISSN: 0887-4034, https://doi.org/10.1177/0887403405281559.
41. Ismaili, p. 257.
42. Ismaili, p. 259-60.
43. Ismaili, p. 260.

concerned with the outcomes [of criminal justice policy]," and observes that these groups "seem to exert more influence" than their non-professional counterparts.[44] Professional groups generally include law enforcement personnel, corrections officials, lawyers, members of the judiciary, and the respective associations of such groups, among others.[45] Because researchers have primarily focused on professional groups, non-professional groups are much more loosely defined. Conceptions of non-professional groups therefore range from dedicated criminal justice organizations to otherwise unrelated groups participating in the criminal justice field in an ad hoc nature.

Solomon identifies three groups of actors present in criminal justice policy making: politicians, professionals, and the public. Politicians are elected officials with authority over decision making, professionals are those regularly involved with the operation or evaluation of policies, and the public includes both elite and general public opinion.[46] "This way of grouping the actors in criminal justice policy-making," according to Solomon, "enables one to ask about the role and relative influence of the public and its political representatives– i.e., the amateurs– and of the complex of professionals who deal with justice and law enforcement."[47] Public attention paid to issues and the symbolic dimension of policies are also strong considerations in the

44. Erika S. Fairchild, "Interest Groups in the Criminal Justice Process," *Journal of Criminal Justice* 9, no. 2 (January 1981): p. 188, ISSN: 0047-2352, https://doi.org/10.1016/0047-2352(81)90021-0.

45. Fairchild, "Interest Groups in the Criminal Justice Process"; Ismaili, "Contextualizing the Criminal Justice Policy-Making Process."

46. Solomon, "The Policy Process in Canadian Criminal Justice: A Perspective and Research Agenda," pp. 9-10.

47. Solomon, p. 10.

criminal justice context.[48] Solomon's groups of actors include, but are not primarily focused on, interest groups. His conceptualizations of professionals and the public are closely related to the conceptualization of professionals and non-professionals put forth by Fairchild, though, and his framework of how these groups interact is complementary to their study.

Stolz finds that "the sparse criminal justice literature that addresses the role of interest groups in US criminal justice policy making has emphasized the importance of professional criminal justice organizations relative to [non-professional] groups."[49] In order to remedy this shortcoming and examine the "important role" of non-professional groups that researchers have overlooked,[50] she expands Fairchild's conceptualization of criminal justice interest groups from two to eight categories in accordance with groups' priorities and preferences. The groups Stolz identified are: professional, business, social welfare, civic, ad hoc, victim, ex-offender, and offender groups.[51] Stolz's conceptualization identifies a diverse set of interest groups, both professional and non-professional, which exert influence at several stages in the policy process: before, during, and after implementation. While it does not measure the extent to which these groups influence the policy making process,[52] it better defines and identifies the relevant groups and when they may influence policy making process.

48. Solomon, "The Policy Process in Canadian Criminal Justice: A Perspective and Research Agenda," p. 33.
49. Stolz, "The roles of interest groups in US criminal justice policy making: Who, when, and how," p. 51.
50. Stolz, p. 51.
51. Stolz, p. 62.
52. Stolz, p. 66.

Ismaili applies his principle of contextuality to actors in the criminal justice policy making process using the concepts of policy communities, as described by Pross (1986), and policy networks, as described by Coleman and Skogstad (1990) and Atkinson and Coleman (1992). Informed by Marion (2002)'s acknowledgement of the significant role American federalism plays in criminal justice policy, he imagines 51 unique policy communities coexisting across the country.[53] Within each of these communities are subgovernments of elected officials and unelected actors, including bureaucrats, interest groups, judicial actors, and an expanding attentive public educated on criminal justice issues primarily through the media.[54] Ismaili's construction of a contextualized policy network effectively outlines the structures and relationships of actors in the criminal justice policy making process, better showing when and how interest groups can exert influence.

### *Gaps in the Literature*

In general, researchers still know little about the criminal justice policy making process and interest groups' roles in it. With limited exceptions,[55] few studies on the topic of criminal justice policy making have been published. Authors interested in this field have lamented this deficiency for decades. Peter Solomon first raised the alarm on this deficiency in 1981.[56] Solomon's call to action spurred a small increase in attention to this subject, but the field is still relatively anemic. This fact is made

53. Ismaili, "Contextualizing the Criminal Justice Policy-Making Process," p. 263.
54. Ismaili, pp. 264-266.
55. See Miller (1973); Solomon (1981); Fairchild & Webb (1984); Stolz (1985); Rock (1995); Stolz (2002); Ismaili (2006); and Marion & Oliver (2012)
56. Solomon, "The Policy Process in Canadian Criminal Justice: A Perspective and Research Agenda," p. 5.

clear by the fact that, 25 years later, Karim Ismaili echoed the same complaint, saying, "an important dimension of policy making—one that could benefit from the cultivation of criminological expertise—has instead become an unfortunate blind spot."[57] Still, contributions to the study of the criminal justice policy making process have been nearly nonexistent in the 17 years since Ismaili reiterated the existence this blind spot. Jones and Newburn (2002) attribute the absence of research to the tendencies of criminologists to focus on the impacts rather than the origins of policies and of political scientists to study the origins of policies outside of the criminal justice sphere.[58] Regardless of the reason, the literature regarding the criminal justice policy making process is dated and sparse.

As a consequence of the lack of attention paid to the study of the criminal justice policy making process, specific research into interest groups' role in it in is also lacking. Fairchild observed in 1981 that, despite political scientists' strong interest in interest group politics and the high levels of attention paid to crime policy by legislators and the public, especially in the so-called "law and order" period of American politics, "What has been missing in the study of the politics of criminal justice... has been systematic empirical research about general questions related to interest-group influence and operations."[59] Stolz identified the exact same gap nearly 20 years later, bluntly stating, "[t]he study of interest groups in federal criminal justice policy making is sparse."[60] The dearth of research persists to this day, leaving broad questions

57. Ismaili, "Contextualizing the Criminal Justice Policy-Making Process," p. 257.

58. Trevor Jones and Tim Newburn, "Policy Convergence and Crime Control in the USA and the UK: Streams of Influence and Levels of Impact," *Criminal Justice* 2, no. 2 (May 2002): p. 179, ISSN: 14668025, 00000000, https://doi.org/10.1177/1466802502002002718.

59. Fairchild, "Interest Groups in the Criminal Justice Process," p. 128.

60. Stolz, "The roles of interest groups in US criminal justice policy making: Who, when, and

about how criminal justice policies come to be and how and when different types of interest groups influence this process in desperate need of further exploration.

how," p. 56.

# Theory

The primary theory of this paper is that the influence of professional interest groups was at its highest point during the formal legislative process of The California Money Bail Reform Act, while the influence of non-professional interest groups was at its highest point before and after the formal legislative process took place. I theorize that the degree of influence that professional groups are able to exert is higher inside of formal legislative processes such as drafting, amending, and lobbying for or against legislation and lower outside of such processes. In contrast, I theorize that non-professional groups' influence is lower inside formal legislative processes and higher outside, including during agenda setting and evaluation. Despite these fluctuations, professional groups may be more influential than non-professional groups at every stage of the criminal justice policy making process.

Professional criminal justice interest groups are most influential during formal legislative processes because the primary assets they possess are expertise and access. Criminal justice policy is extraordinarily complex.[61] An extreme example of American federalism and separation of powers, criminal justice policies affecting the judiciary, law enforcement, detention, and more differ dramatically between fed-

61. Ismaili, "Contextualizing the Criminal Justice Policy-Making Process," p. 260.

eral, state, and local levels. The complexity of the criminal justice system fosters a dependent relationship between legislators crafting criminal justice policy and the professionals who understand and operate the system. Legislators thus rely on the expertise of these professionals in both crafting and determining their positions on criminal justice policies. Many legislators are also former criminal justice professionals themselves and maintain strong connections to their past professions.[62] Legislators' reliance on and connection to criminal justice professionals thus lends itself to a powerful lobby whose support is often a prerequisite to the success of a proposed policy, and whose opposition can be a disqualification.

However, professional interest groups likely possess less power outside of formal legislative processes. Professional criminal justice groups either have their input solicited by legislators or focus their efforts almost entirely on what researchers call "inside lobbying," that is, focusing lobbying efforts on decision makers and political elites rather than engaging the public.[63] Their expertise and access to legislators are critically important qualities for successful inside lobbying. Because much of the formal legislative process, including drafting and deliberating legislation, is not publicly oriented or receives little public engagement, inside lobbying capability is essential to influence policy at this stage. Outside of the formal legislative process, at stages such as agenda setting and legislative evaluation, public engagement through outside lobbying may be more important. We would thus expect to see professional interest groups whose expertise and access are less conducive to engaging the public

62. Fairchild, "Interest Groups in the Criminal Justice Process," p. 192.

63. Andreas Dür and Gemma Mateo, "Gaining access or going public? Interest group strategies in five European countries," *European Journal of Political Research* 52, no. 5 (August 2013): 660–686, ISSN: 03044130, https://doi.org/10.1111/1475-6765.12012.

through outside lobbying exert a lower level of influence at these stages.

Non-professional criminal justice interest groups are less influential in formal legislative processes. These groups are primarily concerned with the outcomes rather than the intricacies of policy. Because of this, they lack the perceived expertise of professional groups and are less likely to shape the details of policies. They instead choose to either support or oppose legislation, levying the support of the communities they represent to add credibility to their positions. The positions of these groups, including advocacy groups, victim groups, ex-offender groups, and more, are thus considered by politicians when drafting legislation, but outweighed by the technical guidance of professional groups.

Non-professional groups are better oriented toward outside lobbying tactics and are therefore able to exert more influence outside of formal legislative processes. Because they represent groups of people rather than professional interests, non-professional groups are better able to communicate public attitudes to legislators and drum up public support for or opposition against legislation. This is particularly important in agenda setting and evaluation. Policies that are publicly controversial are likely to be kept off the agenda and non-professional groups play an important role in educating legislators about the positions of the groups they represent. Non-professional groups' perceived representation of many communities directly affected by criminal justice policies contributes to increased influence during the evaluation stage as well.

Despite the apparent advantages of non-professional groups outside of the formal legislative process, professional groups may exert a higher overall level of influence at

each stage of the policy making process. While public attitudes can create political pressure that contributes to agenda setting, agenda setting does not always happen on the public level. Groups or actors often set the agenda internally through lobbying trusting legislators to either take up or reject a cause. Evaluation also does not always engage the public. Many policies, especially esoteric or highly technical policies like many in the criminal justice field, can fly under the radar of the public, engaging only the most informed actors. When evaluation does engage the public, especially in the form of direct democracy, it is often groups with the most resources that exert the most influence.[64] Even if non-professional groups are able to exert more influence outside of formal legislative processes than they are inside them, they may still lag behind highly connected and well-resourced professional groups. The theory presented here will be tested using four hypotheses detailed in the next section.

64. Clive S. Thomas, *Research Guide to U.S. and International Interest Groups* (Westport, Conn.: Praeger, 2004), p. 149, ISBN: 0-313-29543-3.

# Hypotheses

*H1: The level of influence exerted by non-professional groups is higher outside the formal legislative process than inside the formal legislative process.*

The first hypothesis predicts that non-professional groups exert more influence at stages outside the formal legislative process (i.e., during agenda setting and evaluation rather than legislative drafting, legislative deliberation, and legislative enactment) regardless of the influence of professional groups. A positive finding for the first hypothesis would support Stolz's claim that non-professional groups play an important role in criminal justice policy making outside of the formal legislative process. This hypothesis refers only to the level of influence exerted by non-professional groups, meaning a positive finding would also not oppose Fairchild's finding that professional groups tend to be more influential than non-professional groups.

*H2: The level of influence exerted by professional groups is higher inside the formal legislative process than outside the formal legislative process.*

The second hypothesis is the inverse of the first hypothesis; it predicts that pro-

fessional groups exert more influence at stages inside the formal legislative process. This hypothesis refers only to the level of influence exerted by professional groups. A positive finding would therefore not prevent a positive finding on the first hypothesis nor challenge Stolz's findings. It would lend slight support to Fairchild's findings.

*H3: Professional groups are more influential than non-professional groups throughout the policy making process.*

The third hypothesis predicts that the influence of professional groups is always higher than that of non-professional groups. A positive finding for the third hypothesis would support Fairchild's findings, without necessarily opposing Stolz's findings.

*H4: Non-professional groups are more influential than professional groups during stages of the policy making process outside the formal legislative process.*

The fourth hypothesis posits that non-professional groups exert a level of influence higher than that exerted by professional groups at points outside the formal legislative process. A positive finding for the fourth hypothesis would challenge Fairchild's findings. A positive finding would also not only support Stolz's assertion that non-professional groups play an important role in criminal justice policy making, but also go further by showing that their importance exceeds that of professional groups at certain stages.

# Methods and Measures

### *Process Tracing*

The influence of professional and non-professional interest groups in the process of creating, passing, and repealing The California Money Bail Reform Act will be evaluated in this study using process tracing. Process tracing can be used to either evaluate or generate hypotheses within a single case or between cases. For the purpose of this study, process tracing can be defined as it was by David Collier (2011), as "the systematic examination of diagnostic evidence selected and analyzed in light of research questions and hypotheses posed by the investigator."[65] Like most process tracing studies, this study will examine evidence from a single case over time to evaluate the hypotheses proposed in the previous section.

Process tracing tests hypotheses by employing four types of evidentiary tests, pioneered by Van Evera (1997), as shown in Table 2. Each of these tests possesses a different degree of inferential power and is either necessary or sufficient to confirm hypotheses. Straw-in-the-wind tests measure the relevance of a hypothesis, but passage or failure of them can only slightly alter one's confidence in it. Smoking gun

65. David Collier, "Understanding Process Tracing," *PS: Political Science & Politics* 44, no. 4 (2011): p. 823, ISSN: 1049-0965, https://doi.org/10.1017/S1049096511001429.

tests can be used to confirm a hypothesis if passed, but failure of a smoking gun test does not eliminate hypotheses. Conversely, failure of a hoop test eliminates a hypothesis, but passage does not confirm one. Finally, passage of a doubly decisive test simultaneously confirms one hypothesis and eliminates others.

Table 2: Process Tracing Tests

| **1. Straw-in-the-Wind** | **3. Smoking Gun** |
|---|---|
| Passing: Affirms relevance of hypothesis, but does not confirm it. | Passing: Confirms hypothesis. |
| Failing: Hypothesis is not eliminated, but is slightly weakened. | Failing: Hypothesis is not eliminated, but is somewhat weakened. |
| Implications for rival hypotheses:<br>Passing: slightly weakens them.<br>Failing: slightly strengthens them. | Implications for rival hypotheses:<br>Passing: substantially weakens them.<br>Failing: somewhat strengthens them. |
| **2. Hoop** | **4. Doubly Decisive** |
| Passing: Affirms relevance of hypothesis, but does not confirm it. | Passing: Confirms hypothesis and eliminates others |
| Failing: Eliminates hypothesis. | Failing: Eliminates hypothesis. |
| Implications for rival hypotheses:<br>Passing: somewhat weakens them.<br>Failing: somewhat strengthens them. | Implications for rival hypotheses:<br>Passing: eliminates them.<br>Failing: substantially strengthens them. |

*Source: Chart adapted from Collier (2011, p. 825), who adapts from Bennett (2010, p. 210)*

These tests will be used to evaluate the probative value of evidence collected through stakeholder interviews and content analysis of various resources. Potential interviewees were identified using web searches, document review, and snowball sampling. Interviews lasting between 25 and 90 minutes were then conducted over the phone or Zoom. The interviews were loosely structured; interviewees were asked a base set of questions about their roles and the roles of their respective organiza-

tions, their perceived influence of involved organizations, and opinions about events related to the act. Interviewees were also asked to share any relevant documentation or other resources and to refer me to other potential interview targets. Subsequent questions were dependent on the responses provided to the base questions. A list of the base questions is shown in Appendix A. All interviews were recorded and later transcribed and processed. Resources for content analysis were gathered primarily through web mining. Google search was used in addition to the University of Michigan Library catalog and several California government websites. Other resources were provided by interviewees. Each resource was analyzed for relevancy, credibility, and significance according to the process tracing tests.

A piece of evidence satisfies a straw-in-the-wind test if it supports a conclusion that an interest group exerted any level of influence over any stage in the policy making process. Thus, passage of such a test is treated as a prerequisite for inclusion in this study's data set. Satisfying a doubly decisive test would require explicit proof of a certain type of group exerting more influence at a certain stage of the policy making process. Since evidence of this nature cannot exist in this case and passage of a straw-in-the-wind test is a prerequisite, this study will focus primarily on smoking gun and hoop tests.

Passing a hoop test requires evidence to show that a certain group or certain groups considerably influenced the content and/or outcome of The California Money Bail Reform Act at a certain stage in the process. Evidence supporting the passage of a hoop test could come in the form of an explicit recognition of a group's influence by decision makers or other primary actors, a group's appearance on official documents

related to the process of The California Money Bail Reform Act, or other concrete examples of a group changing the outcome of the act in a certain direction. Position statements or inclusion of preferred policies, for example, would not be adequate on their own to pass a hoop test, as it cannot be determined whether such evidence alone had a measurable effect on an outcome. However, such evidence taken in concert can support the passage of a hoop test.

Smoking gun tests require evidence showing that a certain group or groups exerted comparatively more influence than other groups at a certain stage in the process of The California Money Bail Reform Act. Decision makers showing preference to a certain group, decision makers or other actors explicitly recognizing higher levels of influence of certain groups, or preferred policies of certain groups prevailing over the objection of others would support the passage of a smoking gun test. Crucially, to pass a smoking gun test, evidence must either show that a certain group wielded more influence over a competing group vying for a different outcome or that decision makers deferred to the opinion of a certain group at the expense of the opinions of other groups.

### *Case Selection*

The California Money Bail Reform Act was selected as a case because of its prominence, substantial interest group engagement, and recency. At a time when many states were implementing various types of bail reform, the act received nationwide attention for its unprecedented promise to completely abolish all forms of cash bail in California, potentially upending the criminal justice system in America's most pop-

ulous state. The repeal of the act following its referendum was seen as a significant setback to the bail reform effort nationwide. Throughout an extended development period and referendum process, it saw high levels of involvement from and curious alliances between a diverse set of interest groups ranging from small grassroots organizations to multi-billion dollar corporations. These factors, combined with the recency of the act, make it particularly ripe for study.

### *Interest Groups*

Interest groups relevant to this study are better labelled as criminal justice interest groups. They are defined as they were by Fairchild as "those organizations that are entirely or partially dedicated to influencing the formulation and execution of public policy in the areas of crime and criminal justice administration."[66] However, the operationalization of interest groups in this study is broader. Interest groups that are not entirely or primarily concerned with criminal justice policy are included, as they can wield the influence they have in other policy areas to influence criminal justice policy. Thus, this definition encompasses traditional criminal justice groups, such as law enforcement associations, defense attorneys, and prosecutors; advocacy groups like the ACLU and NAACP; and several other types of groups, including labor unions, ex-offender groups, and corporations.

The groups included in this study are sorted into two primary categories and several subcategories derived from the relevant literature on criminal justice interest groups, as shown in Table 3. The first primary category is labeled 'professional

66. Fairchild, "Interest Groups in the Criminal Justice Process," p. 183.

criminal justice interest groups' or simply 'professional groups.' Borrowing largely from Fairchild's definition, professional groups are defined as those primarily and professionally concerned with the outcomes of criminal justice policy.[67] That is, professional groups are comprised of members whose professions are directly affected by criminal justice policy, such as judges, lawyers, and bail bondsmen. These groups work entirely or primarily within the criminal justice system and possess specialized knowledge about the system and its related processes. Subcategories of professional groups include judicial, legal, law enforcement, business, and administrative groups.

The second primary category is labeled 'non-professional criminal justice interest groups' or 'non-professional groups'. It consists of groups that are not professionally concerned with the outcomes of criminal justice policy or whose involvement in criminal justice policy is not their primary focus. The professions of members of non-professional criminal justice interest groups are not directly affected by criminal justice policies. These groups may regularly engage with criminal justice policy or include criminal justice professionals among their membership, but they do not primarily operate as a part of the criminal justice system. For example, the ACLU is largely comprised of lawyers and regularly works to influence criminal justice policy, but its primary role is advocacy and its direct involvement in the criminal justice system is selective. Subcategories of non-professional groups include advocacy, victim, ex-offender, labor,[68] and ad hoc groups.

67. Fairchild, "Interest Groups in the Criminal Justice Process," p. 188.

68. The Service Employees International Union, or SEIU of California, was the primary labor union involved with The California Money Bail Reform Act. The act would have employed SEIU members in its proposed pretrial services agencies, which would support categorizing labor unions as professional groups. However, because SEIU leadership and interviewees identified motives for the SEIU's involvement beyond potential employment and because the SEIU's membership spans

Table 3: Interest Group Types

| Professional | Non-professional |
|---|---|
| Judicial | Advocacy |
| Legal | Victim |
| Law Enforcement | Ex-offender |
| Business | Labor |
| Administrative | Ad hoc |

***Interest Group Influence***

The operationalization and measurement of influence presents a significant challenge. However, the strengths of process tracing make it the method best suited and most frequently employed to address this challenge.[69] This study largely adopts Dür and De Bièvre's operationalization of interest group influence as "control over outcomes," which encompasses official positions taken by decision makers such as legislators and executives and the implementation of preferred policies.[70]

This study will measure influence by tracking interest groups' involvement in the processes related to The California Money Bail Reform Act over time. Groups' methods of involvement and policy preferences will also be examined. The methods of involvement tracked, shown in Table 4, are policy drafting, policy deliberation, position statement, consultation, lobbying, grassroots organizing, advertising, and financial contribution. The set of policy preferences tracked, shown in Table 5,

several industries, labor was categorized as a non-professional group type.

69. Heike Klüver, "How To Measure Interest Group Influence," in *Lobbying in the European Unionè: Interest Groups, Lobbying Coalitions, and Policy Change* (Oxford: OUP Oxford, 2013), p. 61, ISBN: 978-0-19-965744-5, http://proxy.lib.umich.edu/login?url=https://search.ebscohost.com/login.aspx?direct=true&db=e000xna&AN=570280&site=ehost-live&scope=site.

70. Andreas Dür and Dirk De Bièvre, "The Question of Interest Group Influence," *Journal of Public Policy* 27, no. 1 (May 2007): p. 3, ISSN: 0143-814X, 1469-7815, https://doi.org/10.1017/S0143814X07000591.

includes preserving financial conditions of bail, use of risk assessment algorithms, preserving judicial discretion, and presumption of release for bail decisions.

Table 4: Methods of Involvement

| Method | Description |
|---|---|
| Policy Drafting | Drafting the language employed in the act. |
| Policy Deliberation | Assisting in amending the language employed in the act. |
| Position Statement | Issuing a formal position statement. |
| Consultation | Providing solicited input on policy formation. |
| Lobbying | Soliciting support or opposition from legislators or other groups. |
| Grassroots Organizing | Mobilizing public support. |
| Advertising | Creating, supporting, or funding advertisements. |
| Financial Contribution | Making financial contributions in the proposition campaign. |

Table 5: Policy Preferences

| Preference | Description |
|---|---|
| No Money Bail | Abolishing all financial conditions of bail. |
| Risk Assessments | Using risk assessment algorithms to make bail decisions. |
| Judicial Discretion | Preserving judges' power to make final bail decisions. |
| Presumption of Release | Setting release as the default pretrial decision, as opposed to detention. |

***The Policy Making Process***

This study seeks to examine interest group influence at each stage of the process behind The California Money Bail Reform Act. The policy making process has been divided into five stages derived from the stages of the criminal justice policy making process identified by Solomon and Stolz and informed by the contextual approach promoted by Ismaili. They are as follows: agenda setting, legislative drafting, legislative deliberation, legislative enactment, and evaluation. Table 6 displays the stages and descriptions of each. These five stages incorporate aspects of the policy

making process often disregarded by researchers, as Stolz recognizes. However, they are tailored to the case of The California Money Bail Reform Act while preserving the flexibility of Solomon's stages.

Table 6: Stages of Policy Making Process

| Stage | Description |
|---|---|
| Agenda Setting | Where the viability of policies is determined and policies are introduced or rejected. |
| Legislative Drafting | Where legislation is initially created. |
| Legislative Deliberation | Where amendments are debated, adopted, and rejected. |
| Legislative Enactment | Where final determinations are made and legislation is passed and enacted or rejected. |
| Evaluation | Where enacted legislation is upheld, altered with further legislation, repealed, or put to referendum. |

# Data

### *Stakeholder Interviews*

Nine interviews were conducted with stakeholders closely involved with The California Money Bail Reform Act at each stage of the policy making process, including legislators, legislative staff, and interest group representatives.[71] Information and resources gathered from interviews were particularly valuable for determining the perceived influence of groups on decisions makers. In many cases, interviewees were able to provide situational context and other information about key events and actors is not publicly accessible. The information gathered in interviews was thus weighted heavily, but examined with consideration of possible inaccuracies and biases. Conflicts in responses were either resolved by cross examining claims with other sources or excluded from consideration.

### *Content Analysis*

Over 400 official documents, web pages, press releases, correspondences, video recordings, and other resources were reviewed over the course of this research. Ex-

71. Many attempts were made to contact other stakeholders on both sides of the reform and were unsuccessful for various reasons. Opposition groups are underrepresented not by design, but by practical limitation.

cluding interviews and confidential resources that cannot be identified, a list of 17 resources supporting passage of hoop and/or smoking gun tests was compiled, as shown in Appendix B. Content analysis was performed on these documents and several others passing straw-in-the-wind tests.

***Influential Interest Groups***

An initial review of all evidence gathered through stakeholder interviews and content analysis identified nearly 300 distinct interest groups involved in efforts to support or oppose SB 10 or Proposition 25 in some capacity. This list was then narrowed to those whose involvement could support the passage of hoop or smoking gun tests. In determining the passage of these tests, each group's methods of involvement as displayed in Table 4 and attainment of policy preferences as displayed in Table 5 were evaluated. Groups excluded primarily consisted of those whose involvement was one-dimensional, such as those whose only record of involvement was a position statement or a single financial contribution.[72] The list, shown in Table 7, was ultimately reduced to the 33 groups deemed to be most influential.

72. Financial contributions alone are generally not sufficient to satisfy a hoop or smoking gun test. However, interviewees emphasized the influence of large donors on each side of the Proposition 25 campaign and the overarching importance of financial resources in California referendum campaigns. Exceptionally large contributions or contributions from groups otherwise identified as influential were therefore considered to support passage of these tests.

73. Also listed as John Arnold.

74. Also listed as Steven and Connie Ballmer and associated entities.

75. Also listed as Californians for Safer Communities and No on Prop 25 - Stop the Unfair, Unsafe, and Costly Ballot Proposition.

76. Also listed as NextGen Climate Action and Tom Steyer

Table 7: Key Interest Groups

| Group Name | Group Category | Group Type |
|---|---|---|
| Action Now Initiative[73] | Non-professional | Ad hoc |
| AIA Surety | Professional | Business |
| Aladdin Bail Bonds/Triton Management Services | Professional | Business |
| American Bail Coalition | Professional | Business |
| American Surety Company | Professional | Business |
| Anti-Revidivism Coalition | Non-professional | Ex-offender |
| Association of Deputy District Attorneys | Professional | Legal |
| Ballmer Group[74] | Non-professional | Ad hoc |
| Bankers Insurance Company | Professional | Business |
| California Association of Code Enforcement Officers | Professional | Law enforcement |
| California Bail Agents Association | Professional | Business |
| California District Attorneys Association | Professional | Legal |
| California Narcotics Officers' Association | Professional | Law enforcement |
| California Police Chiefs Association | Professional | Law enforcement |
| California Public Defenders Association | Professional | Legal |
| California State Association of Counties | Professional | Administrative |
| California State Sheriffs' Association | Professional | Law enforcement |
| Californians Against the Reckless Bail Scheme[75] | Non-professional | Ad hoc |
| Californians for Safety and Justice | Non-professional | Advocacy |
| Chief Justice Pretrial Reform Workgroup | Professional | Judicial |
| Chief Probation Officers of California | Professional | Law enforcement |
| Crime Victims United | Non-professional | Victim |
| Ella Baker Center for Human Rights | Non-professional | Advocacy |
| Essie Justice Group | Non-professional | Ex-offender |
| Golden State Bail Agents Association | Professional | Business |
| Human Rights Watch | Non-professional | Advocacy |
| Judicial Council of California | Professional | Judicial |
| Lexington National Insurance Corporation | Professional | Business |
| NAACP | Non-professional | Advocacy |
| NextGen California[76] | Non-professional | Ad hoc |
| SEIU California | Non-professional | Labor |
| Silicon Valley De-Bug | Non-professional | Advocacy |
| Western Center on Law and Poverty | Non-professional | Advocacy |

# Findings

This section details the findings of the process tracing performed in this study. To reiterate, the hypotheses proposed by this study are as follows:

*H1: The level of influence exerted by non-professional groups is higher outside the formal legislative process than inside the formal legislative process.*

*H2: The level of influence exerted by professional groups is higher inside the formal legislative process than outside the formal legislative process.*

*H3: Professional groups are more influential than non-professional groups throughout the policy making process.*

*H4: Non-professional groups are more influential than professional groups during stages of the policy making process outside the formal legislative process.*

Findings are presented in order of each stage in the policy making process (agenda setting, legislative drafting, legislative deliberation, legislative enactment, and eval-

uation) and key themes and events in each stage are discussed throughout. The findings presented in this section are then used to assess the hypotheses proposed by this study in the next section.

### *Agenda setting*

Criminal justice interest groups were not found to have had a major role in the initial stages of agenda setting for bail reform in California. Influential legislators and California Supreme Court's Chief Justice, inspired by bail reform efforts in jurisdictions around the country and state, were the primary drivers of agenda setting at the initial stages of reform in California. Two non-professional groups, the ACLU and Californians for Safety and Justice (CSJ), played a limited role. As momentum for bail reform grew, the creation of the Pretrial Detention Reform Workgroup, a professional group, helped to set the agenda for The California Money Bail Reform Act. However, the recommendations for reform later issued by the workgroup effectively reset the agenda and fundamentally changed what The California Money Bail Reform Act would come to be.

#### *Parallel Thinking*

The sponsors of The California Money Bail Reform Act were inspired to pursue bail reform in California by observing bail reform efforts across the country. Senator Bob Hertzberg and Assemblymember Rob Bonta expressly cited the bail systems used by Kentucky, the District of Columbia, the Federal Government, as well as Santa Clara County, San Francisco, and several other jurisdictions across the state as

influences for pursing statewide bail reform in California. In floor speeches, Senator Hertzberg characterized the act was "part of a national effort," and said that he had personally visited the Federal Government and Kentucky to learn more about their bail systems.[77] Senator Hertzberg and Assemblymember Bonta initially worked independently to promote bail reform before later coming together.

Simultaneously but independent of each other and all other actors, the ACLU and CSJ also took up the issue of bail reform in California. Like the legislators, representatives of these groups attributed their inspiration to do so to bail reform efforts around the country and the state, as well as pressure from donors that felt California's bail system was outdated and prejudicial. After discovering their shared interests, the ACLU and CSJ formed a coalition with each other and later with Senator Hertzberg and Assemblymember Bonta to begin pursuing bail reform legislation. This coalition became the primary driver of bail reform legislation in California.

*The Chief Justice and her Workgroup: Setting and Resetting the Agenda*

Several interviewees noted the importance of Chief Justice Tani Cantil-Sakuye's State of the Judiciary Address in March 2016 to the bail reform movement in California. In it, she questioned the underlying purpose of the cash bail system and whether it protects public safety or simply penalizes the poor.[78] This tacit endorsement of bail reform by California's highest judicial officer, a Republican appointee, legitimized the nascent efforts of the reform coalition and brought the issue of bail

77. *Senate Public Safety Committee, Tuesday, April 4, 2017* (California State Senate, April 2017), https://www.senate.ca.gov/media/senate-public-safety-committee-20170404/video.

78. Tani G. Cantil-Sakauye, *State of the Judiciary Address*, California Supreme Court, March 2016, https://www.courts.ca.gov/34477.htm.

reform to the forefront of California politics. It also led to the creation of the Chief Justice's Pretrial Detention Reform Workgroup on October 28th, 2016. The workgroup was a panel of eleven judges and one court officer tasked with building on pretrial reform programs implemented by the Judicial Council by studying California's bail system and issuing recommendations on how to make it fairer, safer, and more effective.[79]

The workgroup participated in education and information gathering efforts over the course of the next year, hearing over 40 presentations from representatives of the judicial system and bail industry, regulators, victim and civil rights advocates, and experts familiar with pretrial services and pretrial reform efforts in California and across the country. Its recommendations, issued in October 2017, were far more extensive than either proponents or opponents of reform expected. They called for abolishing California's cash bail system entirely and replacing it with a system of pretrial risk assessment tools and pretrial services agencies.[80] The workgroup recommendations effectively reset the agenda for bail reform in California and upended the reform efforts that had taken place over the previous year, as discussed later in this chapter.

### *Legislative Drafting*

The initial drafting of The California Money Bail Reform Act took place near the end of 2015 and beginning of 2016 within a small coalition comprised of the

79. Pretrial Detention Reform Workgroup, *Pretrial Detention Reform: Recommendations to the Chief Justice*.

80. Pretrial Detention Reform Workgroup.

ACLU, CSJ, and the offices of Senator Hertzberg and Assemblymember Bonta. Much of the initial draft came from work that the ACLU, and to a lesser extent CSJ, had already done independently. In February 2016, this coalition held stakeholder meetings with several professional interest groups, including the Judicial Council of California, California State Sheriffs' Association (CSSA), and the California State Association of Counties (CSAC), about introducing the bill. Drafting continued within coalition with input from these and select other professional groups.

Participants in the initial drafting report that the coalition met three to four times per week and the process was largely egalitarian. Legislative offices had final say over the bill and lawyers from the ACLU did the vast majority of drafting, but changes were generally only made with a consensus of coalition members. The first version of the act containing primarily placeholder language was introduced as two identical bills, SB 10 and AB 42, by Senator Hertzberg and Assemblymember Bonta in their respective chambers on December 5th, 2016. The Ella Baker Center for Human Rights was added to the coalition in early 2017 at the request of the ACLU, and on March 27th, 2017, the act was amended and replaced with the final language that had been crafted, deliberated, and agreed upon by this coalition.

*The Initial Bill: Provisions*

As introduced on March 27th, 2017, the proposed act would have established pretrial services agencies in every county in California, required such agencies to conduct a public safety and flight risk assessment on all arrestees, and required judges to consider the risk assessment in making a pretrial determination. Considering the

arrestee's risk assessment, judges could have elected to release without conditions, release with conditions, or impose monetary bail at the least restrictive level necessary to ensure appearance in court if the judge saw fit. For the highest risk individuals, the act would have also allowed for judges to order preventive pretrial detention. Most arrestees charged with misdemeanors would be automatically released without seeing a judge.[81] In terms of the policy preferences tracked in this study, this version of the act preserved the use of money bail in certain circumstances, included the use of risk assessment tools, reduced judicial discretion, and established a presumption of release for arrestees.

### *Legislative Deliberation*

*The Initial Bill: Response*

As the March 27th amendments were implemented, the reform collation was expanded. The ACLU and Ella Baker Center lobbied for the inclusion of organizations familiar with the day-to-day work and effects of the bail system to add credibility to the coaltion. Five additional groups were thus added as cosponsors of the bill: the Anti-Recidivism Coalition (ARC), the California Public Defenders Association (CPDA), Essie Justice Group, Silicon Valley De-Bug, and the Western Center on Law & Poverty. CSJ also worked to secure the support of SEIU, which was recruited to join because of its reputation as California's most powerful labor union. The coalition thus grew from three groups to nine, and came to include not only advocacy

81. *SB-10 Pretrial release or detention: pretrial services. Bill Anaylsis 5/15/17 - Senate Appropriations* (Senate Committee on Appropriations, May 2017), https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB10#.

groups, but also victim, ex-offender, labor, and legal groups.

Dozens of other interest groups also took official and unofficial positions on the bill. A bill analysis from the Senate Public Safety Committee in April 2017 listed 52 other groups in support and ten groups in opposition, with dozens more testifying on both sides in the committee. Groups in support were diverse and mostly non-professional; the list was predominantly comprised of advocacy groups but included some professional groups (primarily public defender offices). Opposition groups were almost exclusively professional, including several law enforcement and business groups (i.e., bail bonds companies and their sureties).[82] A July bill analysis from the Assembly Public Safety Committee expanded the total list of supporters to 142 groups and the list of opponents to 25. While the additional supporters were mostly advocacy groups, as well as some legal and labor groups, the additional opponents included highly powerful professional groups including the Judicial Council, CSAC, California District Attorneys Association (CDAA), Chief Probation Officers of California (CPOC), and the California Police Chiefs Association (CPCA).[83] Interviewees identified the opposition of these groups as notable obstacles to implementation of the act.

*Political Roadblocks*

Both SB 10 and AB 42 successfully passed the Public Safety and Appropriations

82. *SB-10 Pretrial release or detention: pretrial services. Bill Analysis 4/03/17 - Senate Public Safety* (Senate Committee on Public Safety, April 2017), https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB10#.

83. Sandy Uribe, *SB-10 Pretrial release or detention: pretrial services. Bill Analysis 7/10/17 - Assembly Public Safety*, July 2017, https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB10#.

committees of their respective chambers without substantive amendments, despite the significant opposition. However, while strong in the Senate, the bill lacked the votes to pass the Assembly. AB 42 failed in the Assembly on June 1st, 2017 despite significant lobbying efforts from coalition members. Interviewees identified CSJ and SEIU as the most effective lobbyists supporting reform, and the ACLU also participated in lobbying efforts. Opposition groups lobbied legislators as well, with the American Bail Coalition, California Bail Agents Association, Crime Victims United, and a collective law enforcement lobby identified as primary actors.[84] Ultimately, several interviewees said that the bill as amended March 27th had simply garnered too much opposition to pass.

The most significant opposition came not from the bail industry or prominent administrative, legal, and law enforcement groups, but from the Judicial Council. On June 30th, 2017, the Judicial Council's Director of Governmental Affairs authored a letter to the Chair of the Assembly Public Safety Committee. The letter outlined several "substantial concerns about SB 10" as amended March 27th, claiming that the bill would create an unrealistic and unworkable bail system that infringes on judicial discretion and independence.[85] Under Governor Jerry Brown, the Judicial Council was very powerful in California. Interviewees attested that the Governor would defer to the position of the Judicial Council in most matters related to crim-

84. The identified lobby opposed the act procedurally rather than substantively, encouraging legislators to wait for the recommendations of the Pretrial Detention Reform Workgroup. Law enforcement groups represented include the Association for Los Angeles Deputy Sheriffs, Association of Deputy District Attorneys, California Association of Code Enforcement Officers, California Narcotics Officers, Los Angeles Police Protective League, and more.

85. Cory T. Jasperson, *Senate Bill 10 (Hertzberg), as amended March 27, 2017 – Letter of Concern*, June 2017, https://www.courts.ca.gov/documents/ga-position-letter-assembly-sb10-hertzberg.pdf.

inal justice or the judiciary. The Judicial Council therefore wielded a great deal of power over the outcome of the act, and its opposition was an insurmountable obstacle in getting it passed.

*Internal and External Friction*

The expanded reform coalition soon caused internal issues detrimental to SB 10's progress. Though the coalition had tripled in size, changes to the bill still required a consensus of all coalition members. Securing a consensus of nine groups of varying backgrounds and levels of legislative experience proved to be virtually impossible. Despite requiring changes to pass the assembly and earn the approval of the Judicial Council, coalition members could not come to a consensus on amendments. Between the introduction of the original language on March 27th, 2017 and July 5th, 2017, the bill was amended just one time to include provisions advocated for by the Western Center prohibiting all monetary costs of release (i.e., arrestees released pretrial would not be liable for the costs of monitoring systems or other conditions of their release). SB 10 was amended just two more times from July 5th to August 6th, implementing only minor changes in language and policy.[86]

Interviewees unanimously identified the ACLU and CSJ, the groups with the most legislative experience, as the most influential coalition members. Key functions of these groups included the ACLU retaining drafting authority and CSJ acting as a facilitator and moderator of debate. Groups with the least legislative experience,

86. *Bill History - SB-10 Pretrial release or detention: pretrial services.* (California Legislative Information), https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201720180SB10.

particularly advocacy groups, were seen as more idealistic and less compromising in deliberations. As opposition to the bill as written grew to include powerful professional groups like the Judicial Council, CDAA, and CPOC, the coalition's inability to amend it seriously threatened its viability moving forward.

*New Partners, New Developments*

SB 10 reached the Assembly Appropriations Committee on August 21st, 2017. Despite progressing to this point, the internal and external conflicts detailed above endangered the bill and bail reform in California in general. In an effort to resolve these conflicts and preserve the promise of bail reform, Senator Hertzberg, Assemblymember Bonta, Governor Brown, and Chief Justice Cantil-Sakauye formally announced a commitment to work together to implement bail reform on August 25th, 2017.[87] This new coalition announced that SB 10 would become a two-year bill and would be revisited in 2018, the second year of the legislative session, to give time for discussion and amendments. This announcement significantly delayed the bill, but it also added the Chief Justice, who leads the Judicial Council and the Governor, who defers to its position, to its coalition. This newfound connection to the Judicial Council, the most significant opposition to the bill and the addition of two of the most powerful political figures in the state was extraordinarily unusual, and it restored the viability of SB 10.

As previously noted, the Chief Justice's Pretrial Detention Reform Workgroup

87. Office of Governor Edmund G. Brown Jr., *Governor Brown, Chief Justice Cantil-Sakauye, Senator Hertzberg and Assemblymember Bonta Commit to Work Together on Reforms to California's Bail System* (Office of Governor Edmund G. Brown Jr., August 2017), https://web.archive.org/web/20181204021658/https://www.gov.ca.gov/2017/08/25/news19917/.

issued its recommendations for changing the bail system less than two months later in October 2017. The Chief Justice, and by extension the Judicial Council and the Governor, endorsed the recommendations in their entirety. This posed problems for SB 10, as the recommendations differed dramatically from the provisions included in the current version of the bill. While SB 10 would have preserved the use of money bail in certain circumstances, reduced judicial discretion, and established a presumption of release for arrestees,[88] the workgroup recommended eliminating money bail altogether, preserving full judicial discretion, and expanding the use of preventive detention.[89] Of the policies tracked in this study, the only preference SB 10 shared with the workgroup recommendations was the use of validated risk assessment tools. Over the course of the next year, the coalition was tasked with reconciling these differences.

*SB 10 Reimagined*

As the Governor and Chief Justice became more involved with the bill and the coalition considered the recommendations of the Pretrial Detention Reform Workgroup, existing problems in the coalition intensified. By August 2018, the coalition had become almost completely unworkable. Members were unable to reach a consensus regarding implementation of the workgroup recommendations necessary to secure the approval of the Judicial Council and the Governor. This inaction led to Senator Hertzberg's office, the Governor's office, and the Judicial Council drafting an entirely new bill without any input from the original coalition behind SB 10.

88. *SB-10 Pretrial release or detention: pretrial services. Bill Anaylsis 5/15/17 - Senate Appropriations.*

89. Pretrial Detention Reform Workgroup, *Pretrial Detention Reform: Recommendations to the Chief Justice.*

Senator Hertzberg introduced this bill as an amended version of SB 10 on August 14th, 2018 against the will of the original coalition, and it was officially adopted by the Assembly on August 20th, 2018.[90] The new bill shared zero language with the version of SB 10 created by the coalition. It instead essentially codified the work-group recommendations, including completely abolishing money bail, implementing risk assessment tools, protecting judicial discretion, and expanding the use of preventive detention.[91]

### ***Legislative Enactment***

*A Broken Coalition*

Replacing the bill that traced its origins to 2015 sent shockwaves throughout the coalition and broader support network behind SB 10. Coalition members Essie Justice Group and Silicon Valley De-Bug immediately changed their positions to oppose the bill on August 14th.[92] By August 20th, the ACLU, one of the coalition's founding members, also changed its position to oppose SB 10.[93] CPDA, the Ella Baker Center,

90. *Bill History - SB-10 Pretrial release or detention: pretrial services.*

91. Mary Kennedy, *SB-10 Pretrial release or detention: pretrial services. Bill Analysis 8/21/18 - Senate Floor Analyses*, August 2018, https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180SB10#.

92. *Essie Justice Group Withdraws Support for SB 10* (Essie Justice Group, August 2018), https://essiejusticegroup.org/2018/08/essie-justice-group-withdraws-support-for-sb-10/; *Silicon Valley De-Bug's Letter of Opposition to California's False Bail Reform Bill (SB10)* (Silicon Valley De-Bug, August 2018), https://siliconvalleydebug.org/stories/silicon-valley-de-bug-s-letter-of-opposition-to-california-s-false-bail-reform-bill-sb10.

93. *ACLU of California Changes Position to Oppose Bail Reform Legislation* (ACLU of Southern California, August 2018), https://www.aclusocal.org/en/press-releases/aclu-california-changes-position-oppose-bail-reform-legislation.

and dozens of other former supporters withdrew their support of the bill as well.[94][95] CSJ, SEIU, ARC, and the Western Center were the only members of the expanded coalition that remained in support of SB 10 after the August 2018 amendments. However, key groups that had previously opposed the bill changed their positions with the amended version. The Judicial Council and CPOC officially registered their support in a Senate Rules Committee analysis of the final bill published on August 21, 2018,[96] while CSAC, CDAA, CPCA, and CSSA[97] all changed their positions to neutral.[98]

Groups that opposed the new version of SB 10 cited the use of risk assessment tools, change from a presumption of release, and excessive judicial discretion as primary reasons for their opposition. Several experts and advocates publicly voiced concerns between March 2017 and August 2018 that algorithms used by risk assessments would perpetrate or potentially worsen racial and economic disparities. Several groups changed their policy preferences to oppose risk assessments in light of this, despite the fact that risk assessments had been a component of all previous versions of SB 10. According to interviewees, the chief concern of coalition members

94. *Los Angeles Community Groups Join Statewide Call to Stop Deceptive Senate Bill 10 (Hertzberg)* (LA CAN - Los Angeles Community Action Network, August 2018), https://cangress.org/los-angeles-community-groups-join-statewide-call-to-stop-deceptive-senate-bill-10-hertzberg/.

95. CPDA later reversed course, supporting the supporting the "yes" campaign on Proposition 25 to uphold SB 10. The Ella Baker Center remained neutral on Proposition 25. Citations not provided for groups outside of the primary support coalition that changed their position on SB 10.

96. Kennedy, *SB-10 Pretrial release or detention: pretrial services. Bill Analysis 8/21/18 - Senate Floor Analyses.*

97. The CSSA also later reversed course, supporting the "no" campaign on Proposition 25 to repeal SB 10.

98. *Assembly Floor Session, Monday, August 20, 2018* (California State Assembly, August 2018), https://www.assembly.ca.gov/media/assembly-floor-session-20180820.

and many other groups was the bill changing from a presumption of release for arrestees in 2017 to a presumption of preventive detention in 2018. The official bill text changed from stating the intent being "to safely reduce the number of people detained pretrial, while addressing racial and economic disparities in the pretrial system,"[99] to the intent being "to permit preventive detention of pretrial defendants."[100] This, many groups felt, could potentially lead to even more pretrial detention than the existing bail system when combined with what they saw as excessive judicial discretion.

*New Opposition and Strange Bedfellows*

Among the leaders in the opposition promoting these sentiments were Human Rights Watch and the NAACP, neither of which had any significant involvement with SB 10 beyond statements of support before the August 2018 amendments. Human Rights Watch's opposition to the bill was particularly strong during the legislative enactment stage, lobbying legislators to vote against the measure. These groups, along with the defectors from the coalition and broader support group behind SB 10, thus found themselves on the side of the bail bonds industry and several law enforcement agencies from around the state. Legislators in both chambers highlighted this peculiar alignment of groups ordinarily diametrically opposed to one another as an obvious reason to oppose SB 10, though interviewees noted that their agreement fell short of a coalition. Despite the now diverse opposition, the bill successfully

99. *California Money Bail Reform Act, Cal. S. B. 10 (2017-2018), (Cal. Stat. 2018)* (March 2017), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB10.
100. *California Money Bail Reform Act, Cal. S. B. 10 (2017-2018), Chapter 244 (Cal. Stat. 2018)* (August 2018), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB10.

passed both chambers within one week of the new amendments being released. The Judicial Council penned a letter to Governor Brown requesting his signature on August 23rd,[101] and SB 10 was signed into law five days later on August 28th, 2018.

### *Evaluation*

*An Industry's Last Stand*

The day Governor Brown signed SB 10, a lobbyist for the California Bail Agents Association told the Sacramento Bee, "You don't eliminate an industry and expect those people to go down quietly. . . Every single weapon in our arsenal will be fired."[102] Interviewees stated that significant opposition efforts from a group called Californians Against the Reckless Bail Scheme[103], including television advertisements, mailers, and more began immediately. The American Bail Coalition directed the efforts of the group, which included the law enforcement organizations and officials, bail bonds industry members, and victim groups that opposed SB 10, but large sureties provided the vast majority of funding.[104] 70 days after the bill was signed, the group had gathered 576,813 signatures from registered voters. When the Secretary of State verified the signatures on January 16th, 2019, the implementation of SB 10's reforms

101. Martin Hoshino, *Senate Bill 10 (Hertzberg) – Request for Signature*, August 2018, https://www.courts.ca.gov/documents/ga-position-letter-assembly-sb10-hertzberg.pdf.

102. Tony Bizjak, Molly Sullivan, and Alexei Koseff, "How will no cash bail work in California? Here are answers to common questions," *The Sacramento Bee*, August 2018, ISSN: 0890-5738, https://www.sacbee.com/news/local/crime/article217483800.html.

103. The coalition also went by the names "Stop the Unfair, Unsafe, and Costly Ballot Proposition" and "Californians for Safer Communities".

104. *NO ON PROP 25 - STOP THE UNFAIR, UNSAFE AND COSTLY BALLOT PROPOSITION, SPONSORED BY THE AMERICAN BAIL COALITION* (California Secretary of State - CalAccess - Campaign Finance), https://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1410088&session=2019&view=received.

came to a halt, and SB 10 was set for a referendum on the November 3rd, 2020 ballot.[105]

*Proposition 25*

The referendum on SB 10 became Proposition 25, the Replace Cash Bail with Risk Assessments Referendum. A "yes" vote on Proposition 25 was to uphold SB 10, while a "no" vote was to repeal it.[106] The remaining coalition members behind SB 10 led the "yes" vote campaign, excluding the Judicial Council and CPOC, which were unable to get involved in political affairs. Some interviewees noted the significant role that SEIU played in on-the-ground campaigning efforts, but all stressed the overarching importance of financial resources in referendum campaigns in California. The largest donors to the "yes" campaign, accounting for several million dollars in donations, were philanthropists and philanthropic organizations involved in bail reform in an ad hoc nature, including the Action Now Initiative and affiliated entities, the Ballmer Group and affiliated entities, NextGen California and affiliated entities, and more. SEIU also contributed over $1,000,000, and Democratic politicians and the California Democratic Party accounted for hundreds of thousands of dollars in donations.[107] In total, the "yes" campaign listed 82 groups in support[108] and officially

105. *BREAKING: Implementation of CA Senate Bill 10 Halted by Referendum Effort* (American Bail Coalition, January 2019), https://ambailcoalition.org/breaking-implementation-of-ca-senate-bill-10-halted-by-referendum-effort/.

106. *California Proposition 25, Replace Cash Bail with Risk Assessments Referendum (2020)*, https://ballotpedia.org/California_Proposition_25,_Replace_Cash_Bail_with_Risk_Assessments_Referendum_(2020).

107. *YES ON PROP 25, A COALITION OF JUSTICE REFORM AND LABOR ORGANIZATIONS* (California Secretary of State - CalAccess - Campaign Finance), https://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1422734&session=2019&view=received.

108. *Coalition for Reform* (Yes on 25, October 2020), https://web.archive.org/web/202010081237

spent $15,290,555.65.[109]

The "no" campaign was led by the American Bail Coalition's Californians Against the Reckless Bail Scheme. The official Stop Prop 25 website listed 59 coalition members.[110] As previously noted, large sureties, as well as bail bonds companies and individual bail agents were the primary funders of the "no" campaign. The largest donors included Aladdin Bail Bonds/Triton Management Services, Bankers Insurance Company, AIA Holdings, Lexington National Insurance Corporation, and American Surety Company.[111] Financial disclosure records show that the "no" campaign spent a total of $10,276,545.90 across three ballot commissions, with Californians Against the Reckless Bail Scheme accounting for $9,766,530.20.[112] However, interviewees noted that these figures do not include expenditures made before the ballot committee was formally created, and thus do not reflect money spent gathering signatures and other early campaigning efforts against SB 10. Though official figures show that the "no" campaign spent roughly $5 million less than the "yes" campaign, interviewees close to the "yes" campaign argue that they were significantly outspent in reality.

*Capitalizing on the "Coalition"*

By and large, the "no" campaign was not a formal nor an informal coalition between the advocacy groups that defected from and opposed SB 10 and the coali-

04/https%5C%3A%5C%2F%5C%2Fyesoncaprop25.com%5C%2Fbail_reform_supporters.
109. *California Proposition 25, Replace Cash Bail with Risk Assessments Referendum (2020).*
110. *Coalition* (Stop Prop 25), https://stopprop25.com/coalition-members-2/.
111. *NO ON PROP 25 - STOP THE UNFAIR, UNSAFE AND COSTLY BALLOT PROPOSITION, SPONSORED BY THE AMERICAN BAIL COALITION.*
112. *California Proposition 25, Replace Cash Bail with Risk Assessments Referendum (2020).*

tion of bail industry representatives, law enforcement groups and officials, and other groups that opposed bail reform from the beginning. While many prominent former supporters of SB 10, such as the ACLU,[113] Essie Justice Group, and Silicon Valley De-Bug publicly opposed Proposition 25,[114] they did not collaborate with or contribute to the campaign led by the American Bail Coalition and were not listed as members of the Stop Prop 25 coalition. However, the American Bail Coalition recognized the importance of their unusual alignment. The "no" campaign co-opted the messaging of the defectors from SB 10, focusing their communication efforts on the perceived threats of racial and economic bias in risk assessment tools and overuse of preventative detention.

The NAACP's relationship to the "no" campaign was a significant exception. Unlike other advocacy groups who opposed Proposition 25 independently without collaborating with the bail industry, the NAACP was actively involved in the "no" campaign. Stop Prop 25's website listed the California State Conference of the NAACP and six NAACP chapters and conferences as coalition members.[115] Most significantly, the President of the California NAACP, Alice Huffman, appeared in the first television ad produced by the campaign. She warned of the potential dan-

113. Only two chapters of the ACLU issued public position statements on Proposition 25. The Southern California Chapter opposed the measure, while the Northern California Chapter remained neutral. One interviewee reported that the statement of neutrality was an attempt to salvage the organization's relationship with Senator Hertzberg and other bill sponsors. All ACLU chapters in California publicly opposed SB 10. See *ACLU SoCal 2020 Ballot Guide*, *ACLU of Northern California Statement on Prop. 25*, and *ACLU of California Changes Position to Oppose Bail Reform Legislation*.

114. Emma Ayers, *Essie Justice Group Statement of Opposition to California Proposition 25*, October 2020, https://essiejusticegroup.org/2020/10/statement-of-opposition-to-prop-25/; *JusticeLA: Free Our People, No on Prop 25*, https://www.hrw.org/sites/default/files/media_2020/10/JLA-Opposes-Prop-25.pdf.

115. *Coalition*.

gers of risk assessments and urged Californians to vote against Proposition 25 on behalf of the NAACP. It was later revealed that the "no" campaign paid Huffman's political consulting company $200,000 for producing the ad, causing significant controversy that precipitated Huffman's resignation from the NAACP.[116] Despite the controversy, several interviewees close to the "yes" campaign cited the Alice Huffman ad as the single most significant blow to their cause.

*Failure and Fallout*

Proposition 25 was defeated by a vote of 56.41%–43.59% on November 3rd, 2020, repealing SB 10 and killing The California Money Bail Reform Act.[117] In addition to the setbacks the failure of Proposition 25 and SB 10 caused to the bail reform movement in California, the tumultuous process created significant rifts between several of the state's criminal justice groups. Some, including CSJ, SEIU, the Western Center, and the Ella Baker Center, attempted to salvage some of the SB 10 coalition's work by supporting bail reform bills in subsequent sessions, to no avail. Many of the other groups involved with SB 10 have abandoned the pursuit of bail reform entirely. Interviewees attested that collaboration between certain groups is harmed to this day as a result of the fallout. The bail industry, meanwhile, has publicly celebrated the repeated failures of bail reform efforts in California.[118]

116. Melody Gutierrez, "California NAACP leader to step down amid conflict-of-interest criticism," *Los Angeles Times*, November 2020, https://www.latimes.com/california/story/2020-11-20/california-naacp-leader-to-step-down-alice-huffman.
117. *California Proposition 25, Replace Cash Bail with Risk Assessments Referendum (2020).*
118. *Six Year Effort to End Cash Bail in California Finally Ends in Resounding Legislative Defeat* (American Bail Coalition, September 2022), https://ambailcoalition.org/six-year-effort-to-end-cash-bail-in-california-finally-ends-in-resounding-legislative-defeat/.

# Assessing the Hypotheses

This study employed process tracing to measure the influence of professional and non-professional interest groups throughout the processes of creating, passing, and repealing The California Money Bail Reform Act. The findings show that professional groups were highly influential at all stages, with exception of legislative drafting, in which they saw little involvement. Their influence did not decrease outside of the formal legislative process, as professional groups controlled outcomes in both the agenda setting and evaluation stages. Findings also show little evidence indicating that non-professional groups were able to exert a higher level of influence outside of the formal legislative processes, with their influence reaching its highest point during legislative drafting. Non-professional groups exerted a significant level of influence over both the content and the outcome of the act at all stages of The California Money Bail Reform Act. However, professional groups ultimately proved to be more influential throughout the process. This section presents an evaluation of the original hypotheses in light of the findings of this study, followed by implications for the relevant literature and key themes relevant to further study on this topic.

*H1: The level of influence exerted by non-professional groups is higher outside the*

*formal legislative process than inside the formal legislative process.*

**Finding: Not supported**

With the exception of the ACLU and CSJ's independent pursuit of bail reform before forming a coalition with Senator Hertzberg and Assemblymember Bonta, this study found little evidence of non-professional interest group involvement during agenda setting. Instead, both these groups and the sponsors of the act appear to have been following an agenda primarily set at through policy diffusion, as discussed later in this section. The interest group driving agenda setting specific to California almost exclusively was the Pretrial Detention Reform Workgroup, a professional group comprised of judges and a court administrator. While bail reform efforts had begun to take shape before the Chief Justice appointed the workgroup, its creation brought statewide attention and lent legitimacy to the efforts, and its recommendations redefined what bail reform could look like in California.

The formation and later expansion of the core coalition of interest groups behind SB 10 enabled non-professional groups to exert a great deal of influence over formal legislative processes. In fact, the ACLU and CSJ proved to be the most influential groups during the legislative drafting stage. Alongside their sponsors, these two groups shaped the initial versions of SB 10 and AB 42. Throughout the legislative drafting and legislative deliberation stages, the coalition of primarily non-professional groups including the ACLU, ARC, CSJ, Ella Baker Center, Essie Justice Group, SEIU, Silicon Valley De-Bug, and the Western Center shaped the legislation and led political support and lobbying efforts for it. The groups that maintained support for the act after the August 2018 amendments also played a significant role in ensuring

that it was passed and signed during the legislative enactment stage.

With some exceptions, non-professional groups tended to be less influential during the evaluation stage. CSJ, the Western Center, the ACLU, Essie Justice Group, Silicon Valley De-Bug, and many others continued to be involved on both sides of the Proposition 25 campaign. However, the importance of resources, especially financial resources, diminished the influence of many non-professional groups at this stage. Other non-professional groups proved to be more influential at this stage; SEIU's financial resources and large membership were acknowledged to be critical to the "yes" campaign effort. Most funding for the "yes" campaign also came from philanthropic organizations acting as ad hoc groups. Yet their resources did not enable these groups to sufficiently influence the public to uphold SB 10. The NAACP was potentially the most influential interest group, professional or non-professional, during the referendum campaign; however, its influence was made possible through the resources of Californians Against the Reckless Bail Scheme provided by The American Bail Coalition and bail sureties. It was these professional interests that proved to be most influential and propel the "no" campaign to victory.

*H2: The level of influence exerted by professional groups is higher inside the formal legislative process than outside the formal legislative process.*

**Finding: Not supported**

Professional interest groups were highly influential for the majority of time inside the formal legislative process of The California Money Bail Reform Act. Because of its connections to the Chief Justice and Governor Brown's deferral to their position

to determine his support, the Judicial Council was the single most influential group during legislative deliberations and legislative enactment. Also at these stages, the American Bail Coalition, California Bail Agents Association, and several law enforcement groups participated in lobbying efforts in opposition to the act and CPDA served as a member of the main support coalition. Several legislators and interviewees also explicitly emphasized the influence of the CDAA, CSAC, and CPCA, as well as CPOC, whose respective positions of neutrality and support following the August 2018 amendments were important in securing passage of the act.

However, the influence of professional groups remained high outside of the formal legislative process and at times limited in scope inside the formal legislative process. As previously stated, the professional Pretrial Detention Reform Workgroup was of paramount importance in agenda setting. Highly resourced professional groups successfully influenced the public to vote against Proposition 25 in the evaluation stage. Professional groups were also limited to a consultative role during the legislative drafting stage. Meetings were held between stakeholders including CSSA and CSAC, but this study found no evidence showing that any professional groups were involved in the drafting process. Excluding the CPDA and Judicial Council, most professional groups were also limited to consultation in influencing the content of the act during the legislative deliberations and enactment stages. Most professional groups' influence during formal the legislative process, while significant, was exerted via lobbying or position statements. In sum, professional groups did not exert considerably more influence inside of the formal legislative process than outside it.

*H3: Professional groups are more influential than non-professional groups throughout the policy making process.*

**Finding: Supported**

The influence of professional groups not only remained high throughout the process of The California Money Bail Reform Act, it exceeded the influence of non-professional groups. The professional Pretrial Detention Reform Workgroup effectively set the agenda single-handedly. While the non-professional ACLU and CSJ were the only groups significantly involved in legislative drafting, the August 2018 amendments, created primarily between Senator Hertzberg's office and the Judicial Council, rewrote the act entirely. In addition, judicial, business, and law enforcement the initial groups led the opposition efforts that stalled the bill during the legislative deliberations stage. During legislative enactment, the changed positions of the Judicial Council, CPOC, and CDAA were significant factors in securing the votes to pass the act despite the defection of key non-professional groups in the support coalition. Finally, the Californians Against the Reckless Bail Scheme campaign, directed by the American Bail Coalition and funded by sureties, was able to defeat the massive donations from ad hoc philanthropic groups and organized efforts of the SEIU and Democratic Party.

*H4: Non-professional groups are more influential than professional groups during stages of the policy making process outside the formal legislative process.*

**Finding: Not supported**

As shown in the analysis of the third hypothesis, this study found that professional

groups were more influential than non-professional groups throughout the process of The California Money Bail Reform Act, including stages outside the formal legislative process. The NAACP, SEIU, and several ad hoc groups were very influential in campaigning during the evaluation stage. However, the NAACP's message was promoted by the bail industry and the SEIU and ad hoc groups campaigned on the losing side. While their influence was not found to exceed that of professional groups, this finding does not suggest an overall lack of influence among non-professional groups. Non-professional groups were found to be influential at several stages of the policy making process, regardless of the fact that professional groups were moreso. This phenomenon is explored further later in this section.

### *Implications for Literature*

Generalization of results is often difficult and problematic in case studies employing process tracing.[119] Because this study examined the influence of specific interest groups in a specific case study, its findings cannot be readily applied to other cases. They can, however, contribute to the broader understanding of interest group influence in the criminal justice policy making process. To accomplish this, the theory of this paper put the works of Fairchild and Stolz in conversation with one another, guided by Solomon's developmental nature of policy making and Ismaili's contextual approach. Fairchild found that professional interest groups tend to exert more influence over the criminal justice policy making process. Stolz qualified Fairchild's findings, arguing that previous research overlooked the important role non-professional

119. *Process Tracing: From Metaphor to Analytic Tool*, Strategies for social inquiry (Cambridgeè; New York: Cambridge University Press, 2015), ISBN: 978-1-107-04452-4.

groups play outside of the formal legislative process. This paper sought to examine Stolz's argument by examining the influence of both professional and non-professional interest groups inside and outside of the formal legislative process.

Fairchild's observations were supported by this study, while Stolz's were challenged. These findings suggest two implications for research on interest groups in the criminal justice policy making process. First, more attention should be paid to the mechanisms by which professional groups influence the policy making process. In particular, this research uncovered an apparent dependent or deferential relationship between decision makers and certain professional criminal justice interest groups that is worthy of further exploration. Second, more attention should be paid to the role of non-professional interest groups not only outside the formal legislative process, but inside as well. Observations from this research did not support Stolz's claim that non-professional groups "do not usually play an important role in determining the details of legislation." Instead, a coalition of primarily non-professional groups drove the formation and promotion of The California Money Bail Reform Act before their efforts were intercepted by powerful professional groups. Several other key themes potentially relevant to future research in this field also arose in the process of conducting this research, which are discussed below.

### ***Key Themes***

*Influential versus Indispensable*

An important theme identified in the course of this research is that, while non-professional groups proved to significantly influential, they were never indispensable,

as some professional groups were. Non-professional groups were the driving force behind The California Money Bail Reform Act at the beginning. The ACLU and CSJ led the initial drafting of the act, while an expanded coalition of primarily non-professional groups supported it through 2017. However, opposition from professional groups, especially the Judicial Council, was an insurmountable obstacle. The opposition of professional groups caused Senator Hertzberg to completely replace the act as it had existed for nearly two years, opting instead for a new version drafted in collaboration with the Judicial Council to meet the recommendations outlined by the Pretrial Justice Reform Workgroup. At the legislative enactment stage, the newfound positions of support or neutrality of the Judicial Council and other professional groups outweighed the high-profile defection of members of the original coalition and were a significant factor in SB 10's passage. And in the legislation evaluation stage, the messaging of the NAACP and other non-professional groups in opposition was effective because it was amplified by the bail industry.

These observations suggest that decision makers may perceive influence from professional criminal justice interest groups differently from non-professional groups. Non-professional interest groups are able to shape legislation or affect the likelihood of its success considerably, but decision makers may be more likely to view their influence as suggestive. In contrast, the expertise and access of professional groups discussed in previous sections may cause decision makers to view their influence as instructive. Several factors may limit the generalizability of these observations. Governor Brown's unique deference to the Judicial Council, for instance, granted it extraordinary power, and the fact that progressive advocacy groups took the same

position as bail bondsmen and county sheriffs likely added to the "no" campaign's legitimacy in opposing Proposition 25.[120] However, the patterns present in this case suggest the possibility that professional groups exert a substantively different kind of influence from non-professional groups.

*A Case of Diffusion?*

The influence of bail reforms in other jurisdictions, particularly Kentucky, Washington D.C., the Federal Government, and several counties across California, was another major theme identified by this study. Senator Hertzberg explicitly identified the policies of these jurisdictions in multiple speeches promoting SB 10, and interviewees close to supporting coalition cited them as major influences in the drafting of the bill. The significant influence of bail reform policies from other jurisdictions suggests that policy diffusion, rather than interest group activity, may have been the primary vehicle of agenda setting in the context of The California Money Bail Reform Act Diffusion of criminal justice has been studied by various authors.[121] The findings of this study suggest that The California Money Bail Reform Act is worthy of attention from policy diffusion scholars.

*Semi-Professional Groups*

Of the non-professional groups involved in the process of The California Money Bail Reform Act, this study found that those most similar to professional groups

120. See Phinney (2017) for research showing the effectiveness of diverse interest group coalitions.
121. See Sliva (2016) for a systematic review of criminal justice policy diffusion literature and Wenzelburger and König (2022) for a study of the diffusion of pretrial risk assessment tools in US states.

were also the most influential. The ACLU, for example, was one of if not the most influential non-professional group examined in this study. Unlike many other non-professional groups, the ACLU is largely comprised of attorneys. Interviewees cited this fact as a primary reason for the ACLU's influence, as one attorney from the ACLU did nearly the entirety of the drafting for initial versions of the act and representatives were better able to communicate about details of the legislation. Other non-professional groups that shared traits with professional groups such as connections with legislators or technical expertise, including CSJ and the Western Center, were also cited as being more influential.

*Key Political Figures*

The California Money Bail Reform Act attracted an extraordinary level of involvement from high profile political figures. Chief Justice Cantil-Sakauye's 2016 State of the Judiciary Address and subsequent appointment of the Pretrial Detention Reform Workgroup single-handedly brought bail reform to the forefront of California Politics. Senator Hertzberg was one of the California Senate's most prominent and respected leaders; both him and Assemblymember Bonta were well-known and ambitious figures in their respective chambers. Lieutenant Governor Gavin Newsom was one of The California Money Bail Reform Act's earliest supporters and collaborators, even speaking at the 2016 press conference where the act was first introduced. Attorney General Xavier Becerra also supported the act and collaborated with the authors. Finally, Governor Jerry Brown was exceptionally invested in the act; interviewees noted that his office even helped draft the August 2018 amendments to SB 10, which

is highly unusual.

Key political figures were highly influential at all stages of the policy making process of The California Money Bail Reform Act. Chief Justice Cantil-Sakauye, Governor Brown, and their respective office in particular were much more influential than the vast majority of interest groups at any given time. Much of the influence of the Judicial Council, likely the single most influential group identified in this study, came out of its connection to both of these figures. Though their involvement is outside the scope of this study, some evidence was found to support Berk and Rossi's (1977) findings that interest groups were less important to criminal justice reform than administrators and legislators,[122] prompting a question for further study.

122. While Berk and Rossi did study criminal justice reform, their focus was on corrections rather than pretrial detention.

# Conclusion

This study found that professional criminal justice interest groups were more influential than non-professional criminal justice interest groups throughout the creation, passage, and eventual repeal of The California Money Bail Reform Act. Employing process tracing within this case study showed how non-professional groups exerted a significant level of influence both inside and outside the formal legislative process, helping to shape the act and affect its outcome at each stage of the process. Professional groups' expertise, connections, and resources, however, made their support indispensable and contributed to a higher overall level of influence. The findings of this study provide novel insight into the criminal justice policy making process and how and when professional and non-professional interest groups exert influence over it, contributing to two sorely underappreciated topics in the political science literature.

Additional research into the underlying mechanisms driving the creation of criminal justice policies like The California Money Bail Reform Act, especially the role of interest groups in influencing such policies, is required. The implications of this study suggest a particular need to examine how decision makers perceive influence from professional versus non-professional groups and how the characteristics of non-

professional groups affect the level of influence they exert. In the era of mass incarceration and amidst the third wave of bail reform in the United States, it is imperative that we continue to further our collective understanding of the development of criminal justice policies, the actors responsible for their creation, and the reasons behind their design. Doing so will both contribute to an unfortunate and longstanding gap in the political science literature and support the creation of more effective, durable, and equitable criminal justice policy.

# Appendices

## Appendix A: Base Interview Questions

1. What organization or legislator do you work for (both now and at the time of SB 10/Proposition 25, roughly 2016-2020, if different)?

2. What is your position in your office (both now and at the time of SB 10/Proposition 25, roughly 2016-2020, if different)?

3. What groups, events, people, etc. caused bail reform, and specifically The California Money Bail Reform Act (SB 10/Proposition 25), to become such a prominent issue in California?

4. Did your group support or oppose The California Money Bail Reform Act (SB 10)? Why?

5. Did this position change over time? When and why?

6. What was your group's role in the formulation of The California Money Bail Reform Act (SB 10)?

7. Did your group or other groups collaborate to influence the formulation of The California Money Bail Reform Act (SB 10)?

8. Which groups and/or actors were, in your opinion, most influential in the formulation of The California Money Bail Reform Act (SB 10)?

9. Did your group support or oppose the 2020 referendum on The California Money Bail Reform Act (Proposition 25)? Why?

10. What was your group's role in the 2020 referendum on The California Money Bail Reform Act (Proposition 25)?

11. Did your group or other groups collaborate to influence the outcome of the 2020 referendum on The California Money Bail Reform Act (Proposition 25)?

12. Which groups and/or actors were, in your opinion, most influential in support of Proposition 25 (i.e., upholding The California Money Bail Reform Act)?

13. Which groups and/or actors were, in your opinion, most influential in opposition of Proposition 25 (i.e., repealing The California Money Bail Reform Act)?

14. Why do you believe the 2020 referendum on The California Money Bail Reform Act (Proposition 25) failed?

15. Do you have any documents (position papers, letters, email exchanges, etc.) that you would be willing to share that support any of the answers provided above?

16. Is there anything else you would like to let me know about your group or other groups' involvement in the formulation of The California Money Bail Reform Act (SB 10) or the 2020 referendum on it (Proposition 25)?

17. Is there anything else you would like to let me know about the formulation of The California Money Bail Reform Act (SB 10) or the 2020 referendum on it (Proposition 25) in general?

18. Could you refer to me any other people or groups with knowledge of this matter that you believe could assist me with this research?

# Appendix B: List of Key Resources

This is a list of resources gathered that support passage of hoop and/or smoking-gun tests.

| Resource Name | Resource Type | Source | Date |
|---|---|---|---|
| Assembly Floor Session | Video | California State Assembly | 8/20/2018 |
| California Proposition 25, Replace Cash Bail with Risk Assessments Referendum (2020) | Website | Ballotpedia | n.d. |
| Governor Brown Signs Legislation to Revamp California's Bail System, Protect Public Safety | Press Release | Office of Governor Edmund G. Brown | 8/28/2018 |
| Governor Brown, Chief Justice Cantil-Sakauye, Senator Hertzberg and Assemblymember Bonta Commit to Work Together on Reforms to California's Bail System | Press Release | Office of Governor Edmund G. Brown | 8/25/2017 |
| Hertzberg, Bonta, Sponsors & Co-Authors Unveil Updated Bail Reform Proposal | Video | California Senate Democrats | 8/16/2018 |
| NO ON PROP 25 - STOP THE UNFAIR, UNSAFE AND COSTLY BALLOT PROPOSITION, SPONSORED BY THE AMERICAN BAIL COALITION | Database | California Secretary of State | n.d. |
| Pretrial Detention Reform: Recommendations to the Chief Justice | Document | Judicial Branch of California | 9/2017 |
| SB-10 Pretrial release or detention: pretrial services. Bill Anaylsis 4/03/17 - Senate Public Safety | Document | California Legislative Information | 4/3/2017 |
| SB-10 Pretrial release or detention: pretrial services. Bill Analysis 5/30/17 - Senate Floor Analyses | Document | California Legislative Information | 5/30/2017 |
| SB-10 Pretrial release or detention: pretrial services. Bill Analysis 7/10/17 - Assembly Public Safety | Document | California Legislative Information | 7/10/2017 |
| SB-10 Pretrial release or detention: pretrial services. Bill Analysis 8/21/18 - Senate Floor Analyses | Document | California Legislative Information | 8/21/2018 |
| Sen.Hertzberg - Hertzberg, Bonta to Unveil Bail Reform Legislation | Video | California Senate Democrats | 12/5/2016 |
| Senate Bill 10 (Hertzberg) – Request for Signature | Letter | California Courts | 8/23/2018 |
| Senate Bill 10 (Hertzberg), as amended March 27, 2017 – Letter of Concern | Letter | California Courts | 6/30/2017 |
| Senate Bill 10 (Hertzberg), as proposed to be amended on August 16, 2018 – Support | Letter | California Courts | 8/16/2018 |
| Senate Floor Session | Video | California State Senate | 8/21/2018 |
| Senate Public Safety Committee | Video | California State Senate | 4/4/2017 |
| YES ON PROP 25, A COALITION OF JUSTICE REFORM AND LABOR ORGANIZATIONS | Database | California Secretary of State | n.d. |

*Note: This list does not include evidence gathered from interviews.*

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