Presumed Guilty
The Pretrial Incarceration Crisis in Los Angeles County

2024 Report
UCLA Report Contributors: Alicia Virani, Brisely Martinez, Marisol Alvarez, Sarah Boyle, Rachael Denny, Sahana Matthews, Anjali Narula, Anna Silver


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EXECUTIVE SUMMARY

During the month of October 2023, UCLA Law students partnered with La Defensa to engage in court watching. This report reflects court watchers’ observations at two courthouses in Los Angeles: Airport Courthouse and Clara Shortridge Foltz Criminal Justice Center (CCB). Court watchers focused on pretrial release decisions to better understand how judges are implementing pretrial release standards.

Court watchers were able to capture an immense amount of information about individual people’s cases and their outcomes at arraignment as well as rich and, at times disconcerting, observations of courtroom culture. Through the data collected on these individual cases, the following findings emerged that paint a picture indicating that the pretrial release is far out of reach for many in Los Angeles County.

- Of all cases observed, 68% had cash bail set while only 21% of individuals were released on their own recognizance (released without cash bail being set).
- The median bail amount ordered in both courthouses observed was $100,000.
- Black and Latine individuals accounted for three-quarters of cases observed.
- Latine individuals had the lowest rates of own recognizance release and highest rates of cash bail set compared to Black and white individuals.
- People were released without additional pretrial release conditions in only 24% of cases observed.
- Despite judges being mandated by the California Supreme Court in *In re Humphrey* to consider a person’s ability to pay bail, court watchers only observed judges making an ability to pay analysis in 23% of cases observed.
WHO WE ARE

La Defensa is a leader in the movement to decarcerate the largest jail population in the United States— the Los Angeles County jail system. We focus our work on reducing the power and scope of the judiciary, law enforcement, and the legal injustice system, while simultaneously educating fellow Angelenos of the ways in which we can replace these systems with care-first policies and programs. We fight for fair and transparent pretrial processes for all people incarcerated in the Los Angeles County jail system, for state & local budgets that prioritize community-first values instead of law enforcement, and for life-affirming alternatives to incarceration.

Our work is informed by the power of the communities we belong to: Latine, Black, Indigenous, AAPI, queer, immigrant, undocumented, and working-class communities. Our co-founders, Eunisses Hernandez and Ivette Alé-Ferlito, saw a gap in movement work when it came to checking judicial power, and sought to ensure that accountability measures on the judiciary would maintain an abolitionist lens.

Notably, in 2021 La Defensa launched the Rate My Judge website, providing community members with a radical tool to rate and review the more than 500 judges sitting in the 38 Superior Courts across Los Angeles County. We know that judges are the primary decision makers fueling incarceration. That is why, in 2023, La Defensa adopted Courtwatch LA, a volunteer court watching program that was formerly run by the National Lawyers Guild of Los Angeles. Through this court watching program, volunteers sit in court rooms across Los Angeles and record their observations. By developing more ways for communities to share their experiences within courtrooms and document judicial behavior — whether good or bad — we aim to increase judicial transparency and reduce judicial power to criminalize and incarcerate Black and Brown Angelenos across the County.

The UCLA Law Pretrial Justice Clinic focuses its advocacy and annual student-led policy projects on the injustices of pretrial incarceration. The clinic takes a two-pronged approach in combating Los Angeles County’s pretrial incarceration epidemic. First, clinic students directly represent clients in felony bail hearings in collaboration with the Los Angeles Public Defender’s Office. Second, students engage in policy-oriented projects focused on systemic issues related to pretrial justice. Together, La Defensa and the Pretrial Justice Clinic partnered to engage in court watching during the month of October 2023 to observe felony arraignments and shine a light on what is happening inside two Los Angeles County courthouses.
Court watching is an indispensable tool for challenging the opacity of the judiciary and empowering community members to demand transparency and judicial accountability. Court Watch LA is a community organizing and power-building model that leverages the collective strength of the community to observe and analyze judicial behavior. Court Watch becomes a mechanism for our communities to reclaim power in a system that profoundly impacts our lives. Every observed proceeding becomes a thread in the fabric of judicial accountability, weaving a narrative that challenges existing power structures. Court Watch LA’s power is in our observation and data collection abilities within the courtrooms— we share the data that the criminal legal system wants to hide.

Every day, judges make orders that lead to the pretrial incarceration of Black and Brown Angelenos because of the high bail that they set. This happens with largely no accountability or redress, even though the law in California states that judges are generally not allowed to set unaffordable cash bail because it disadvantages poor communities, especially poor communities of color.² Court watching allows the community to shine a light on the courtroom, exposing the pervasive criminalization of poverty and houselessness and the detrimental impact of fines, fees, and predatory bail-setting practices.

By raising awareness about these issues, Court Watch LA seeks to illuminate everyday injustices and transform the societal conditions that keep people cycling through the courts. In doing so, it also sheds light on the realities faced by marginalized communities, amplifying stories from Black, Indigenous, and Latine communities, and gender-marginalized individuals. Through court watching, these disparities are not just numbers or statistics. They are vivid narratives that demand attention and meaningful change.

In essence, court watching is far from an act of observation; it is the embodiment of taking a stance against injustice.

By documenting the disparate treatment and punishment of our communities, Court Watch LA contributes to a broader dialogue on the need for change and dismantling structures that fuel incarceration. We firmly believe that true freedom is an effort to acknowledge that our communities hold the power to bring about meaningful change.

We seek to use our community power in this way because we aren’t free until we’re all free.
INTRODUCTION

California locks up a higher percentage of its people than almost any democracy on earth, with more than 199,000 residents locked up in its prisons, jails, youth detention centers, and psychiatric facilities. Los Angeles County has the largest jail system in the country. On June 3, 2024, 12,459 people were incarcerated in the Los Angeles County jail system. More than 50% of those incarcerated are being held pretrial, meaning they are legally presumed to be innocent. Unhoused individuals make up more than a quarter of the total jail population. Black and Latine people are overrepresented in the jail population.

Although Latine people make up 49% of Angelenos, they represent 54% of the jail population. Black people are 8% of Angelenos, yet are alarmingly overrepresented in the jail, making up 29% of the population. Black female identifying people are 31% of the female jail population. These disparities run across the pretrial population, and pretrial decision-making practices perpetuate racial disparities, as revealed by this report.

Pretrial incarceration has been the primary driver of mass incarceration over the last few decades. The harms of pretrial incarceration are at this point in time well documented. The prolonged periods people spend in jail awaiting their trial not only infringes upon their constitutional rights, but it also inflicts profound and enduring damage on their lives, as people risk losing their housing, employment, or losing custody of their children.

Pretrial incarceration can also be a lever to force guilty pleas in exchange for release, even if someone is not guilty.
Even short periods in jail have dire consequences and long term reverberations for the lives of countless individuals caught in the web of pretrial incarceration. Jails can be deadly, and, in particular, deaths in Los Angeles County jails are on the rise. In 2023, forty-five people died in Los Angeles County jails, a devastating record for the County. This prompted an L.A. Times investigation into the increase in deaths, which revealed horrific “medical neglect and incompetence” on behalf of the Los Angeles County Sheriff’s Department.

On March 25, 2021, a pivotal moment in California’s bail landscape occurred when the California Supreme Court issued the In re Humphrey decision, which stated that the practice of conditioning a person’s pretrial release solely on whether they could afford bail was unconstitutional. The ruling requires judges to make individualized determinations about an accused person’s ability to pay when setting bail, and to explore alternatives to incarceration where possible. Yet, the promise of In re Humphrey remains unrealized. Judges across the state have interpreted In re Humphrey to expand the use of no bail holds pretrial. And the number of people held in pretrial custody has not decreased since Humphrey, nor has the median bail amount in California.

In a glimmer of hope, on May 16, 2023, a Los Angeles County Superior Court judge ordered a preliminary injunction in a class action lawsuit Urquidi v. Los Angeles et. al, ruling that it is unconstitutional for Los Angeles County and the City of Los Angeles to hold people in jail pursuant to a bail amount set by the County’s uniform “bail schedule.” The Los Angeles County bail schedule is promulgated annually by the Los Angeles Superior Court and establishes the presumptive bail for all people detained pretrial. Traditionally, the bail schedule assigns a dollar amount to each possible charge, regardless of an individual person’s likelihood of returning to court or risk to public safety. These bail amounts are what law enforcement officials use to determine the amount of cash bail that should be imposed on an individual pre-arraignment and are also relied upon by prosecutors and judges.

In response to the ruling in Urquidi, the Los Angeles County Superior Court implemented a new bail schedule, known as pre-arraignment release protocols (“PARP”). This bail schedule went into effect on October 1, 2023, with an amended version taking effect on January 1, 2024. For most misdemeanors and non-violent, non-serious felony charges, the new bail schedule does not assign cash bail. Instead, people charged with these offenses are to be cited...
and released on their own recognizance (released pretrial without money bail being imposed) at the site of their arrest (“cite and release”)

or booked and then released prior to arraignment (“book and release”). People charged with offenses that do not qualify for cite and release or book and release are referred to magistrate review, where a magistrate judge can release the person on their own recognizance (“OR”), release them OR with the least restrictive conditions, or defer a release decision to arraignment in “limited circumstances.” Charges that do not qualify for any of these three criteria either have a cash bail amount listed next to them or, for an extremely limited number of charges, are designated as “ineligible for release.”

La Defensa, students in the Pretrial Justice Clinic, and other volunteer UCLA Law students decided to watch arraignments in the month of October to not only track how Humphrey is being implemented, but also how this new bail schedule would affect the pretrial decision-making process.

Methodology

This report summarizes the findings of Court Watch LA volunteers who observed felony arraignments in two Los Angeles County Superior Courthouses: Clara Shortridge Foltz Criminal Justice Center/Criminal Court Building (“CCB”) and Airport Courthouse (“Airport”) for the month of October 2023. The volunteers consisted of a professor and seven students from the Pretrial Justice Clinic at the UCLA School of Law as well as additional UCLA School of Law student volunteers. The volunteers received court watch training from La Defensa prior to launching the project. Each week, during the month of October, from Monday through Thursday, court watchers observed felony arraignments in Department 30 in Airport and CCB for two hours in the morning and two hours in the afternoon.

During each session, the court watchers documented information that can loosely be broken into three categories: demographic information, information regarding bail and release conditions, and general observations in the courtroom. Because of the fast-paced nature of arraignments, not every data category was able to be captured for each case. However, court watchers captured sufficient data in each category from which to analyze and draw conclusions.
In more detail, court watchers observed and took note of information pertaining to the following:

1. **Demographics**

   Court watchers recorded their perceptions of every accused individual’s race and gender. Where these were unclear, for example because an individual was not present in court that day, court watchers marked this as “unsure.” Court watchers then used the Los Angeles Sheriff Department’s “inmate locator” website to look up the ascribed race of individuals who they were unsure about. Additionally, court watchers documented whether accused individuals had a private attorney or public defender as well as whether they spoke English, and, if they did not, whether they were provided with an interpreter’s services.

2. **Bail and release conditions**

   In this section, court watchers took note of the judge’s release decision. If the judge set a cash bail amount, they recorded whether the judge considered the defendant’s ability to pay, as well as whether the judge explicitly referenced the California Supreme Court case *In re Humphrey*, and/or the newly implemented Los Angeles County bail schedule. Additionally, court watchers recorded whether the defense and/or the prosecution made any arguments concerning pretrial release. Court watchers documented if individuals were granted release on their own recognizance or with conditions, such as electronic monitoring.

3. **General courtroom observations**

   Finally, court watchers recorded information regarding their general observations of the courtroom. Observations ranged from the actions of judges, defense attorneys, prosecutors, and bailiffs, to the accused individual and their family members in the courtroom.
For the month of October, the primary judges that were observed were Judge Kimberley Guillemet, who is the arraignment judge in Department 30 at CCB, and Judge Keith Schwartz, who is the arraignment judge in Department 30 at Airport. There were a few dates where the assigned judge was out, and another judge stood in for them. Below is a summary of publicly available information we were able to obtain for each judge whom we observed.
Judge Kimberley Baker Guillemet was born and raised in South Los Angeles. She earned her bachelor's degree from Stanford University and worked as an elementary school teacher in Los Angeles County after graduating from college. She obtained her J.D. from USC Law School.

She began her legal career practicing disability rights law representing youth in juvenile and foster care systems. She then transitioned to working for the California Department of Justice as a Deputy Attorney General. In 2015, she was appointed to launch Los Angeles’ first Office of Re-entry where she worked to develop policies for housing and employment to aid formerly incarcerated people. She kept this position until 2018 when she was elected to become a judge. Her current term ends in January 2027.

In the last seven years as a judge, Judge Guillemet has served in criminal, mental health, and substance abuse treatment-related assignments.

She has served as assistant supervising judge of the criminal division, Chair of the Los Angeles Superior Court Judicial Mentor Program, Chair of the Los Angeles Superior Court’s Mental Health Committee, Vice Chair of the Los Angeles Superior Court’s Community Outreach program, Member of the Ad Hoc Research Attorney Committee, and served as a Teen Court Judge for Los Angeles High School. She also serves as a facilitator and instructor in the areas of criminal law, behavioral health, implicit bias, imposter phenomenon, equity, inclusion, reconciliation and social justice related issues.

Rate My Judge is a website where court watchers can leave reviews about judges. Judge Guillemet has a rating of 2.3 out of 5 on Rate My Judge. Her most recent review calls her a “fourth amendment violator.” Observers in her courtroom note that she often disregards defense arguments for release, and when she does release people, she adds extra conditions often beyond what the prosecution asks for. Others noted that she refuses to follow the law and sets bail according to the bail schedule without considering the person’s ability to pay. Additionally, people notice her deference to prosecutors during proceedings.
Judge Deborah Brazil earned her bachelor’s degree from UCLA and her J.D. from Southwestern Law School. After law school, she worked in the Los Angeles County District Attorney’s Office for sixteen years, serving in the Major Crimes Division, Hardcore Gang Division, and Family Violence Division. Judge Brazil has taught Trial Advocacy at Southwestern Law School. Judge Brazil was appointed to the bench by then Governor Jerry Brown in 2013 and began serving in 2014.

Judge Deborah Brazil presided over Department 30 in CCB on one date during the month court watchers observed. One review on Rate My Judge describes her as very smart, professional and respectful. Another review states “This judge is very pro-prosecution and tends to give lectures to defendants who are still presumed to be innocent as if they’ve already been convicted.”

Her current term ends in January 2027.

Judge Keith Schwartz is a Los Angeles Superior Court judge. Prior to being a judge in the Superior Court, he was a judge in Los Angeles County’s Municipal Court. Beforehand, he worked as a Deputy District Attorney in Los Angeles County.

He has presided over several high-profile celebrity cases including Lindsey Lohan’s felony grand theft case and the involuntary manslaughter case of Michael Jackson’s doctor.

Judge Schwartz currently does not have a rating on Rate My Judge.

His current term ends in January 2029.
Commissioner Mark Zuckman (Ret.)

Department 30, Airport Courthouse
Rate My Judge Rating: N/A

Commissioner Mark Zuckman received his bachelor’s degree in history and political science from University of Southern California. He obtained his J.D. from UC Davis School of Law in 1980. After graduating law school, he served as a Deputy Public Defender for Los Angeles County from 1980 until 2002. In 2002, he was appointed as a Commissioner for the Los Angeles Superior Court until he retired in 2019. He has been sitting by appointment at Airport Courthouse since February 2022.

Commissioner Zuckman currently does not have a rating on Rate My Judge. He notably presided over a 2010 misdemeanor case involving Kanye West and his manager, where the charges included battery, vandalism, and grand theft against a photographer.

Judge Gloria White-Brown (Ret.)

Department 30, Airport Courthouse
Rate My Judge Rating: N/A

Judge Gloria White-Brown graduated from Crenshaw High School in 1972. She obtained her bachelor’s degree in political science from University of California, Los Angeles in 1976 and her J.D. from American College of Law in 1980.

After graduating law school, she worked as an attorney at Jacoby & Meyers practicing civil and family law. In 1983, she became a Los Angeles Deputy District Attorney and spent eight years as a prosecutor with a brief assignment in the Hardcore Gang Division. In 1991, she became senior deputy counsel for South Coast Air Quality Management District and served in that role until her appointment to the bench in 2002 by then Governor Gray Davis. Judge White-Brown has served on the Black Women Lawyers Association and the Los Angeles County Bar Association Environmental Section.

Judge White-Brown does not have a rating on Rate My Judge.
For those who have never been inside a criminal courtroom, it is important to understand what they look like and how they operate. Department 30 at Clara Shortridge Foltz Criminal Justice Center (CCB) is a giant, cold room that seats over fifty people in the audience. This courtroom is known as having the highest volume of criminal cases in Los Angeles County. The courtroom is a square with Judge Guillemet sitting on the bench in the far center of the room. It is impossible to miss the human cage in the right corner of the room, which is as tall as the ceiling and covered in metal wire and glass windows. One court watcher described the cage as “sad and dehumanizing.” The people in the cage are chained, surrounded by officers, and speak to those outside the cage through tiny slits. The bailiffs in the courtroom refer to them only by their number and push them into the cage while they wait for their case to be called. One of the most horrific aspects of the cage is the lack of privacy.
Defense attorneys stand outside the cage and whisper closely to their clients through plexiglass or a plastic sheet when trying to conduct an intake interview. The District Attorney sits only a few feet away, making it imperative that accused individuals do not speak too loudly about their case. If the individual is out of custody at their arraignment, defense attorneys generally speak to them in the hallway, which is flooded with police officers, risking client confidentiality and basic privacy.

The following anecdotes provide a glimpse into the tenor of this courtroom:

“In Dept. 30 is a fast-paced environment where defendants are lucky to get more than a couple of minutes in front of the judge. Judge Kimberly Guillemet does not have much patience or tolerance for little hiccups and seems frustrated when she has to repeat herself. Defendants’ cases are processed in the courtroom like a machine…”

“In about two hours, the judge processed more than 20 defendants (including those who did not appear), which was very quick and surprising for me.”

This courtroom also has multiple bailiffs. There are bailiffs on the left and right side of the courtroom as well as in the back of the room near the entrance door. Numerous court watchers provided commentary on the hostile nature of the courtroom created by bailiffs in Department 30 at CCB. They described one bailiff in this department as “aggressive and rude” and that he treated “myself [court watcher] and other people of color much more rudely than any of the white attendees.” This same court watcher said when they walked in, the bailiff gave them an “I’m watching you hand signal,” further contributing to the hostile nature of the courtroom. Other court watchers noted that the bailiff in CCB’s Department 30 made it very hostile for family members who were in the courtroom.
“At the very beginning of court on this day, I watched the bailiff kick a mother out of the courtroom for smiling at her son in custody. The bailiff then went on to make numerous announcements about not communicating with loved ones and threatening to kick out anyone who did. Even with the amount of time I have spent in court, every one of these little moments is still disturbing, upsetting, and sickening. How someone could punish and threaten a mother for smiling at her son, who is locked in a cage, is truly beyond comprehension.”

This type of behavior can be intimidating and disempowering for community members whose lives are being impacted by the judicial system. The courtroom atmosphere is shaped by the conduct of the system’s actors. Court watchers observed cases and interactions at CCB that they described as “haunting,” lacking compassion, and “dehumanizing.”
“She seemed to lack compassion for substance use when she said behavioral health needs do not mitigate criminal activity.”

“Pretty horrible to hear Judge Guillemet call the people in custody by numbers when speaking to counsel about them. This is clear that she does not care to humanize them because other judges make it a practice to call them by their last name. Instead, she kept referring to them by their calendar numbers telling a private defense attorney ‘Are you counsel for 307?’”

Similarly, Department 30 at Airport Courthouse has human cages, a locked glass area, where accused individuals stand when their case gets called. Different from Department 30 at CCB, defense attorneys in this courtroom are able to speak with both in-custody and out-of-custody clients behind closed doors in soundproof rooms where nobody can hear them. There is only one bailiff in Department 30 at Airport.

“Also, [it is] clear [the] judge has bias towards helping young people. In today’s court and other sessions, she’s more forgiving and changes her tone to them (usually only if it’s [a] non-violent case). In a defendant’s case today, she made it a point to give him a moment of advice and told him it should serve as a learning experience when she granted him OR and took his age and no criminal history into account to release him. Again she favors youth with the caveat that it be either no criminal history or non-violent criminal history.”
Department 30 has significantly fewer cases than CCB, making for an atmosphere that is slower paced and less chaotic.

For the most part, court watchers’ observations of Airport differed quite dramatically from those at CCB. While there were a few comments about rudeness or paternalism from the judges, there were also numerous positive anecdotes about the judges.

“This judge seemed pretty fair and willing to seriously consider bail arguments. He released multiple people OR and provided an individualized Humphrey analysis for each defendant. He also thanked each defendant multiple times, told them they looked good, congratulated them on doing well, and wished them luck moving forward....The only time I saw the judge exhibit bias was when he had a case where someone had assaulted a police officer. I felt like the judge’s response to this defendant was extremely inappropriate and off-putting. He stated: ‘I don’t know if you have mental health issues or what is going on, but you clearly have authority issues... If you come in front of me again for assaulting a police officer I’m going to send you to prison for as long as I can.’”

“The defendant is houseless and the judge said “I’m sorry you’re homeless.” The judge then thanked the defendant with complying with court orders and going into sober living. He said, ‘you’re doing outstanding my man, you’re doing a good job — thank you.’”

The layout of the courtroom and the actions of all players that work in the courtroom shape the courtroom atmosphere and court watchers were able to document each courtrooms’ culture through their observations.
FINDINGS

Court watchers observed a total of 233 cases at CCB and Airport courthouses in the month of October 2023. Because of the case flow and size of each courthouse, more cases were observed at CCB (160) as compared to Airport (73).

DEMOGRAPHICS

- Black and Brown individuals made up a majority of the cases observed. Overall, court watchers observed the cases of 88 Black people, 88 Latine people, 20 white people, 6 multi-racial/non-white people, 6 Asian people, and 25 individuals in which their racial/ethnic category was unable to be determined. (See Figures 1 & 2.)

- The majority of individuals observed spoke English and did not require the services of an interpreter. When the accused individual’s language was recorded, court watchers found that the majority of the individuals were English speakers (87%) while only 13% of individuals were non-English speakers.

- Public defenders are overwhelmingly appointed as counsel in arraignments in both CCB and Airport Courthouses as opposed to private counsel. Across both courthouses, there were 21 cases (9%) where a private attorney was counsel, and 177 cases (76%) where the individual was represented by a public defender. This indicates that the majority of individuals are found by the court to be indigent and eligible for representation by the public defender’s office.
In *In Re Humphrey*, the court acknowledges individuals’ fundamental interest in pretrial liberty and the various negative consequences that indigent people may face if forced to remain in custody simply because they cannot afford cash bail. Given the vast adverse consequences of pretrial detention, the *Humphrey* court held that pretrial detention is “impermissible unless no less restrictive conditions of release can adequately vindicate the state’s compelling interests.” The *Humphrey* decision recognizes that individuals who pose “little or no risk of flight or harm to others,” may be released on their own recognizance (“OR”).

Further, individuals may only be held on cash bail if the court determines by clear and convincing evidence “that no non-financial condition of release can reasonably protect” against the state’s interests in public safety and the individual’s re-appearance in court.

Thus, under *Humphrey*, judges have the duty to undertake an individualized bail analysis for each individual, considering the protection to the public and person harmed, the seriousness of the charged offense, the accused individual’s prior criminal record, history of compliance with court orders, likelihood of appearance at future court proceedings, and the individual’s ability to pay. Because *Humphrey* emphasized that cash bail should be used in limited circumstances, and when it is used, the amount set must be affordable, the hypothesis was that
Humphrey would lead to more people being released pretrial. However, our data shows that a disproportionate number of individuals are still being held on cash bail. One of the court watchers overheard frustration about this from a defense attorney at CCB who stated, “Too bad we don’t have another judge that will actually let people out.”

As can be seen in Table 1, judges at both courthouses are imposing cash bail for the vast majority of people arraigned (68%). Own recognizance (OR) releases are ordered less than one quarter of the time at each courthouse. No bail holds, meaning detention pretrial without the setting of cash bail, were far more common at CCB than at Airport.

Table 1: Release Type by Courthouse

<table>
<thead>
<tr>
<th>Release Type</th>
<th>Airport</th>
<th>CCB</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>OR</td>
<td>10 (20%)</td>
<td>30 (22%)</td>
<td>40 (21%)</td>
</tr>
<tr>
<td>Cash Bail</td>
<td>35 (69%)</td>
<td>93 (68%)</td>
<td>128 (68%)</td>
</tr>
<tr>
<td>No Bail Hold</td>
<td>1 (2%)</td>
<td>13 (9%)</td>
<td>14 (7%)</td>
</tr>
<tr>
<td>Other</td>
<td>5 (10%)</td>
<td>1 (1%)</td>
<td>6 (3%)</td>
</tr>
</tbody>
</table>

Release Data and Charge Level

Well over half of the cases observed (59%) were of individuals charged with a non-serious/non-violent felony, while 41% of the cases were for a charge that would be classified as a serious and/or violent felony. When the charge was non-serious and non-violent, judges imposed cash bail 64% of the time, a no bail hold 1% of the time, and OR release 32% of the time. By their nature, these crimes are considered non-serious and non-violent, and yet more than half were held on cash bail. While there may be reasons related to each individual’s record that would justify the imposition of cash bail, it is notable that cash bail was ordered for well over half of these cases.
Release Data and Race

Further, the data shows disparities in release based on race. Across both courthouses, Latine individuals had the lowest rates of OR release (19%), followed by Black individuals at 23%, whereas white individuals had the highest rate of OR release (29%). Latine individuals also had the highest rate of cash bail set (72%), while Black individuals had cash bail set 63% of the time and white individuals had cash bail set 57% of the time. White individuals had the highest rate of no bail holds (14%), followed by Latine individuals (8%) and Black individuals (7%). Court watchers tangibly felt these disparities during their observations:

“I did not see the judge grant OR/other less restrictive conditions for pre-trial incarceration to a single Hispanic defendant all day long.”

“It seems to be a pattern that she has a soft spot for younger defendants and I think especially women. She does not give this same deference, leniency to Black males or any other adult males.”

“This case was sad and hard to watch. It was a young Black male and he was desperate and was yelling to his mom "bail me out of here" (his mom was present in court and suffers from heart failure). This case was definitely one that posed no flight risk or public safety risk. He had zero failures to appear and he only had one open felony case, no other adult criminal history was mentioned. [T]he fact that the DA made reference to "juvenile convictions" broadly and the Judge didn’t even bother to ask what the charges were for show that she didn't do a careful analysis of public safety because it could be the case that those juvenile convictions were minor/petty and non-violent but she didn't do the bare minimum due diligence. Instead, she just caged him under the guise of public safety.”
Table 2: Release Type by Race and Courthouse

<table>
<thead>
<tr>
<th>Race</th>
<th>Airport Cash Bail</th>
<th>No Bail Hold</th>
<th>OR</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black (n=66)</td>
<td>14 (67%)</td>
<td>1 (5%)</td>
<td>6 (29%)</td>
<td>21</td>
</tr>
<tr>
<td>CCB</td>
<td>31 (69%)</td>
<td>4 (9%)</td>
<td>10 (22%)</td>
<td>45</td>
</tr>
<tr>
<td>Latine (n = 70)</td>
<td>11 (91%)</td>
<td>0 (0%)</td>
<td>1 (8%)</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>40 (69%)</td>
<td>6 (10%)</td>
<td>12 (21%)</td>
<td>58</td>
</tr>
<tr>
<td>White (n=14)</td>
<td>2 (50%)</td>
<td>0 (0%)</td>
<td>2 (50%)</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>6 (55%)</td>
<td>2 (22%)</td>
<td>2 (22%)</td>
<td>10</td>
</tr>
<tr>
<td>Asian (n = 5)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>3 (50%)</td>
<td>1 (17%)</td>
<td>2 (33%)</td>
<td>6</td>
</tr>
</tbody>
</table>
Cash Bail Decision-Making

Median Bail

According to the Humphrey decision, judges are obligated to consider a defendant’s ability to pay when setting bail. This means that median bail amounts in California should decrease as a result of Humphrey. In 2017, Human Rights Watch found that the median bail amount in California was $50,000, which was five times higher than the median bail amount in the rest of the country. In 2021, after the California Supreme Court’s decision in In Re Humphrey, the UCLA School of Law Pretrial Justice Clinic and UC Berkeley Law’s Policy Advocacy Clinic conducted further research to see if median bail amounts were being affected by the decision. They found that, of the 12 counties across California that they studied, the county with the highest median bail had a median of $50,000, and the next highest was $25,000. Where the researchers were able to get data pre and post–Humphrey, they determined that bail did not decrease significantly in the aftermath of the decision.

Table 3: Median Cash Bail by Race and Courthouse

<table>
<thead>
<tr>
<th>Race</th>
<th>Courthouse</th>
<th>Median Cash Bail Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black (n=43)</td>
<td>Airport</td>
<td>$62,500</td>
</tr>
<tr>
<td></td>
<td>CCB</td>
<td>$110,000</td>
</tr>
<tr>
<td>Latine (n = 40)</td>
<td>Airport</td>
<td>$84,720</td>
</tr>
<tr>
<td></td>
<td>CCB</td>
<td>$77,500</td>
</tr>
<tr>
<td>White (n = 5)</td>
<td>Airport</td>
<td>$25,000</td>
</tr>
<tr>
<td></td>
<td>CCB</td>
<td>$150,000</td>
</tr>
<tr>
<td>Asian (n = 3)</td>
<td>Airport</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>CCB</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

The data collected by court watchers for this report indicates, similarly, that bail amounts remain unaffordable in Los Angeles. The median bail amount for both courthouses observed was $100,000. Airport’s median bail ($80,000) was lower than CCB’s ($100,000).

Given the small sample size of Asian and white individuals assigned cash bail in our sample, it presents a problem for drawing conclusions about the disparities in median bail assigned.
Nationally, median bail amounts are up to $10,000 higher for Black people than for white people. And yet the data collected through court watching, with a small sample size of five white individuals assigned cash bail, shows white peoples’ bail amounts were higher than Black and Latine folks. This data point is inconsistent with national trends, and it is anticipated it would not hold up if there was a larger sample of white individuals in the cases observed.

Overall, there were only 19 cases in which bail was set at less than $50,000 (the California average). Bail was set over $1 million in 12 of the cases observed. While some of the cases where bail was set over $1 million were for charges of murder, the majority were for charges like robbery and burglary, for which bail can vary (according to the bail schedule) between $50,000 - $100,000. Of course, there are other factors that can increase the bail amount, such as prior convictions or the use of a weapon, however it is still startling to note that bail for these cases was often being set at more than 10 times the bail amount associated with the bail schedule.

Across both courthouses, the median bail amount for all individuals is still higher than the national average and is far beyond most indigent individuals’ ability to pay.

### Ability to Pay

As stated, the *Humphrey* decision requires judges to consider an individual’s ability to pay when setting bail. However, almost three years since the Humphrey ruling, Los Angeles County judges are routinely ignoring their legal obligation to consider an individual’s ability to pay. Court watchers observed that, in the cases where cash bail was set, judges did not consider ability to pay 77% of the time. Court watchers at CCB reported that in 82% of the cases they observed, judges did not consider a defendant’s ability to pay, while at Airport Courthouse, judges did not consider a defendant’s ability to pay in 66% of cases observed.

Court watchers observed judges reduce bail from time to time, but it still was not to an amount that seemed affordable, and often the reductions did not seem to be correlated with an individual’s inability to pay.

> “He reduced bail to $25,000, not mentioning ability to pay, but saying it was because no one was injured…”
As mentioned at the outset of this report, arraignments happen in an almost factory-like manner, with release decisions being made in a matter of minutes. Rarely did court watchers observe robust hearings where extensive arguments were made by either the defense or prosecution.

The data gathered indicates that, in total, defense attorneys at both Airport courthouse and CCB made an argument on behalf of their client regarding pretrial release in 34% percent of cases. Court watchers observed defense attorneys argue their client’s inability to pay in only 7% of the cases in which they made an argument.

“[He] said the evidence was strong enough to conclude that the defendant likely committed the crime (license plate, security videos) but he was persuaded to to reduce [to $50,000] because the defendant was a veteran, 52 yrs old and sole caretaker of 2 disabled kids.”

“She reduced it from the schedule amount of $660,000 [to $300,000] and stated that public safety could be assured with the lower amount. She noted the person’s use of the public defender’s services but also noted that he was employed. But she stated there were no less restrictive means to assure public safety.”

“[She] said bail schedule was at $80k but because the defendant had no criminal history at age 58, reduced it to $50k. [She] didn’t ask about or consider ability to pay.”
When comparing courthouses, court watchers recorded defense attorneys at CCB being much more litigious than those at Airport. At CCB, defense attorneys made an argument on behalf of their clients in 42% of cases, whereas at Airport they made an argument regarding pretrial release in only 16% of their cases. Defense attorneys at CCB made arguments regarding ability to pay more often (9% of cases) than defense attorneys at Airport (only 3% of cases).

While judges are largely at fault for misapplying or outright ignoring the consideration of one’s ability to pay, defense attorneys also have an ethical duty to make these arguments on behalf of their clients. It has been noted that because of many judges’ strong opposition to *Humphrey* defense attorneys may feel deterred in making *Humphrey* arguments for fear of worse outcomes for their clients. Whether due to the fear of impacting a client’s case, workload constraints, or other strategic reasons,
it is troubling that these arguments are not being made when a judge is considering the pretrial custodial status of an individual.

The data also shows that prosecutors at both Airport Courthouse and CCB made an argument regarding pretrial release in 31% of cases. The DAs at Airport Courthouse made an argument regarding pretrial release in 15% of cases, while the DAs at CCB made an argument in 37% of cases. Many of the court watchers recorded commentary about the lack of evidence presented from prosecutors or particular requests made regarding pretrial release or detention.

“[The DA] just read the facts of the case, and said stay away orders should be in place.”

“The DA read the police report as their rebuttal.”

“[The prosecutor] just read off the police report all the allegations about how [the defendant] seemed drunk, but didn’t actually argue for any particular conditions or bail amount.”

Court watchers noted the numerous times that judges at both courthouses imposed cash bail or other conditions of release without the district attorney’s request.
Both of the following observations were made of Judge Guillemet’s decisions:

“I was particularly struck by how the judge went beyond what the prosecution asked for, by imposing GPS monitoring even when the prosecution did not ask for it. It seems like Judge Guillemet is doing the prosecutors' jobs for them, even when the prosecutors don't push for such punishments or penalties.”

On the other hand, court watchers observed Judge Schwartz release someone OR, even without any argument from the defense attorney:

“The prosecutor was given the opportunity to explain and clarify and mentioned defendant's criminal history. [The] Public Defender requested house arrest for the defendant, and [the] prosecuting side did not object. After hearing the prosecuting attorney, the judge decided to issue bail and deny house arrest. The judge stated bail was given due to defendant's previous criminal history and public safety concerns.”

“The defense made no bail argument but the judge took it upon himself to release the defendant OR anyways because he had no prior record. He stated, "I have no basis under Humphrey to hold him." He then spoke to the defendant and said, "I'm letting you out but if you don't come back you're staying in." He then spoke to the defendant a little more and ended with, "Good luck. I'm letting you out, please come back."
Release Conditions

Under *Humphrey*, if the court concludes that the individual does pose a flight risk or public safety concern, the court is instructed to first determine whether non-financial conditions, such as protective orders, weapons restrictions, electronic monitoring, or house arrest, may “reasonably protect” the public or “reasonably assure” the defendant’s return to court. In so doing, the court should set forth only the “least restrictive” conditions to assuage its concerns. In many cases, OR release without conditions is appropriate.

Judges, however, often ignore the requirement to consider only the least restrictive alternatives to detention. Across both courthouses, only 24% of people were released with no additional conditions. People were released OR with no additional conditions more frequently at Airport Court (44%) than at CCB (17%). Twenty-six percent of people were released OR with the condition of electronic monitoring. Every instance where an accused person was ordered to electronic monitoring during our observation period occurred in Judge Guillemet’s courtroom.

Court watchers also observed that Judge Guillemet would often impose multiple conditions of release on individuals, which may not have been the least restrictive option.
Despite the fact that the new bail schedule went into effect on October 1, 2023, the first day of court watching for this project, court watchers observed that it was rarely mentioned during arraignments. Overall, out of 233 observed arraignments, the new schedule was mentioned only 7 times, or 4% of the time. At CCB, the new schedule was mentioned in 2 of the cases, whereas at Airport, the new schedule was mentioned 5 times.\textsuperscript{115}

Where the specific charges were able to be identified in a case,\textsuperscript{116} the data showed that fifty-one cases (30%) were for charges where the new bail schedule required some amount of cash bail pre-arraignment. Eight of the cases (5%) were ineligible for release via the new bail schedule. Thirty cases (18%) would have been assigned to magistrate review. Thirty-four of those cases (20%) would have been assigned book and release and 19 cases (11%) would have been assigned cite and release. Out of those eligible for book and release or cite and release, 20 (38%) of them were in custody at the time of arraignment.

While there may be reasons that someone eligible for book and release or cite and release was not released pre-arraignment, we felt this data point was still significant to note.

For those whom the new bail schedule assigned some amount of cash bail, 75% had bail set (either higher, lower, or at the same amount) during their arraignment, 6% were released OR, and 2% had a no bail hold placed.\textsuperscript{117}

\textbf{38\% of those eligible for mandatory release pre-arraignment were in custody at arraignment when court watchers observed their case.}
The observations and data collected by Los Angeles court watchers provide a window into the daily injustices of Los Angeles County courtrooms. The public might think that these courtrooms are where justice and law are held to their highest standards. However, the data from just one month tracking the inner workings of the court reveal a counter narrative.

Court watchers saw judges and attorneys failing to use the appropriate legal standards, subjecting Angelenos, primarily Black and Brown individuals, to unaffordable cash bail. Court watchers observed the tenor of the courtrooms, particularly CCB, to be intimidating, dehumanizing, and chaotic. And court watchers themselves experienced discomfort in being the observers, despite the fact that they have every right to observe and expose the conduct taking place within these public courtrooms.

This snapshot conveys that there is a long way to go for pretrial justice in Los Angeles County and California as a whole. It should be alarming to everyone that those entrusted with applying the law fail to even mention the legal standard for pretrial release in three quarters of the cases in front of them. These shortcomings point to the ongoing need for judicial accountability. The individuals who had their custodial status decided in these two courtrooms typically have no quick recourse to challenge unlawful decisions. This leaves people lingering in jail while awaiting trial because they cannot afford their bail and renders them vulnerable to accepting plea deals.

The observations also reveal that it is time to enshrine greater protections in California law for pretrial release, including a presumption of release, which more closely aligns with the principle of presuming innocence pretrial.

Until then, the power of court watchers will remain necessary to shine a light on the failures of the legal system to protect the rights of accused individuals.
1. Rate My Judge, ratemyjudge.la (last visited Dec. 5, 2023).

2. *In re Humphrey*, 11 Cal.5th 135 (Cal. 2021).


5. *Id.*


7. Vera Institute, supra note 4.

8. *Id.*

9. *Id.*


16. Memorandum from J. Richard Couzens, Judge of the Placer County Superior Court (Ret.), Procedure for Bail Setting in Accordance with *In re Humphrey* (2021), Appendix E, Virani et. al, supra note 15.

17. *Id.*


Id.

Id.

Los Angeles Sheriff’s Dep’t, Inmate Information Center, https://app5.lasd.org/iic.

Judge Deborah Brazil presided over arraignments in CCB on October 27, 2023. Judge White-Brown presided over arraignments in Airport on October 4, 2023. Judge Zuckman presided over arraignments in Airport on October 9, 11, and 12, 2023. For all other dates, Judge Guillemet was in Department 30 in CCB and Judge Schwartz was in Department 30 in Airport.

Rate My Judge, supra note 1.


Id.


Id.

Id.

Id.


Southern California Mediation Association, supra note 30.

Id.

Id.


Id.

Id.
41 Id.

42 Id.

43 Rate My Judge, Deborah S. Brazil, Superior Court of Los Angeles County Clara Shortridge Foltz CJC, https://ratemyjudge.la/judge/4715 (last visited March 26, 2024).

44 Trellis, Judge Deborah S. Brazil: Professional Background and Legal Expertise, https://trellis.law/judge/deborah.s.brazil (last visited March 26, 2024).

45 Id.

46 Id.

47 Ballotpedia, Deborah S. Brazil, https://ballotpedia.org/Deborah_S._Brazil (last visited March 26, 2024).

48 Rate My Judge, Deborah S. Brazil, supra note 43.

49 Id.

50 Id.

51 Id.


56 Id.

57 Id.

58 Id.

59 La Defensa does not currently have commissioners listed on Rate My Judge, hence the lack of information on commissioners.


63 Id.
64 Id.
65 Id.
66 Id.
67 Chidinma Ume and Brett Taylor, Expanding the Toolkit: Mental Health Diversion in Los Angeles, Center for Justice Innovation (May 18, 2020) https://www.innovatingjustice.org/about/announcements/LA-mental-health-diversion.
68 Court watch volunteer observation, Dept. 30, CCB (Oct. 5, 2023), on file with the authors.
69 Court watch volunteer observation, Dept. 30, CCB (Oct. 4, 2023), on file with the authors.
70 Court watch volunteer observation, Dept. 30, CCB (Oct. 18, 2023), on file with the authors.
71 Court watch volunteer observation, Dept. 30, CCB (Oct. 26, 2023), on file with the authors.
72 Id.
73 Id.
74 Court watch volunteer observation, Dept. 30, CCB (Oct. 24, 2023), on file with the authors.
75 Court watch volunteer observation, Dept. 30, CCB (Oct. 23, 2023), on file with the authors.
76 Court watch volunteer observation, Dept. 30, CCB (Oct. 26, 2023), on file with the authors.
77 Id.
78 Court watch volunteer observation, Dept. 30, Airport (Oct. 25, 2023), on file with the authors.
79 Id.
80 Court watchers documented the primary language of the accused individual in 189 of the 233 cases observed.
81 Humphrey, supra note 2.
82 Id. at 151-52.
83 Id. at 154.
84 Id.
85 Id. at 152.
86 Court watch volunteer observation, Dept. 30, CCB (Oct. 30, 2023), on file with the authors.
87 Release types were recorded by court watchers in 188 of the 233 cases observed.
88 Out of the 233 cases observed, charge level data was able to be identified for 150 of the cases.
89 This could be due to the small sample size of white individuals, the highest rate for no bail holds means that 2 out of 14 white people had no bail holds ordered.
90 Court watch volunteer observation, Dept. 30, CCB (Oct. 26, 2023), on file with the authors.
Release types were recorded by court watchers in 188 of the 233 cases observed.

Humphrey, supra note 2.


Virani et al., supra note 15.


Of the 233 cases observed, there were 189 cases for which this data point was recorded.

Virani et al., supra note 15.

Of the 233 cases observed, there were 182 cases for which this data point was recorded.

Id.

Id. at 46.

Virani et al., supra note 15.

Court watchers reported being unsure whether the new bail schedule was mentioned one time at CCB and three times at Airport.

Out of the 233 cases observed, we were able to determine the first and most serious charge the individual faced in 168 cases.

The remaining 16% either had an “other” outcome or the data was not recorded.