



Proposition 25 Will Strengthen the Prison Industrial Complex and Harm Our Communities

This November, Californians will have the opportunity to vote on Proposition 25, a piece of legislation concerning bail reform. This proposition comes from SB10 in 2018, a piece of legislation that attempted to address the harms of pretrial detention/imprisonment (the caging of people before they are ever convicted) by ending money bail. However, there are grave problems with a reform like SB10, and Critical Resistance (CR) [was firmly opposed to it, particularly after it was amended.](#) Proposition 25 seeks to uphold SB10, so CR is resolutely against it.

RISK ASSESSMENT TOOLS

The serious problem with SB10, and thus Prop 25, is it seeks to replace money bail with a system of racist Risk Assessment Tools (RATs), meaning that people would undoubtedly continue to be locked up pretrial based on how much they are deemed a “risk.” These assessment tools review someone’s current charge and history with the criminal legal system. It has been widely proven that Black and Indigenous communities, people of color, trans people, and working class people are overwhelmingly and disproportionately targeted by the prison industrial complex; tools that assess someone’s past of criminalization will only reproduce these racial, gender, and economic biases. Risk assessments that also factor in employment status and neighborhood of residence will further entrench systemic inequities. Furthermore, legal scholars and researchers from Harvard, MIT, NYU, Columbia, and other universities [published a statement](#) in 2019 titled, “Technical Flaws of Pretrial Risk Assessments Raise Grave Concerns,” in which they detail the ways that RATs are deeply rooted in racial bias.¹ Ultimately, risk assessments make automatic people’s pretrial imprisonment based on deeply racist tools.

NO GUARANTEE OF PEOPLE BEING FREED

While the system of money bail is deeply harmful, racist, and benefits the bail industry, there is the possibility of posting bail and being released in many cases. If passed, Prop 25 would remove the pathway for people to be able to pay bail and get released. Instead, it would give judges much greater discretion to order that people be detained before a guilty conviction - without even the possibility of release. Even worse, Prop 25 introduces the concept of “preventive detention,” giving courts and prosecutors yet another opportunity to argue for people’s continued pretrial imprisonment. Rather than resulting in people’s freedom, we can anticipate that more people will be locked up while legally innocent as a result of this proposition.

MORE FUNDING AND POWER TO POLICING AND IMPRISONMENT

Currently, people can be released on bail without having to report to anyone, since they are legally innocent. Prop 25 seeks to give vast amounts of money to probation departments to oversee risk assessments, and monitor and surveil people who might end up getting released as a result of being deemed “low risk.” This is an expansion of the power that our policing and imprisonment systems currently have, in that probation departments would have new powers over legally innocent people if Prop 25 passes.

WHAT WE WANT AND NEED

Rather than just focusing on money bail, we must understand that the fundamental problem is pretrial imprisonment. Real pretrial reform would reject replacing money bail with a racist system of risk assessments. Real pretrial reform would work to ensure that legally innocent people are not locked up, and would instead set us up to free ALL people from the surveillance and control of the PIC. Anti-imprisonment advocates should reject Prop 25 to create an opportunity for reforms that will actually fight the practice of pretrial imprisonment.

¹ Technical Flaws of Pretrial Risk Assessments Raise Grave Concerns, 2019. “To generate predictions, risk assessments rely on deeply flawed data, such as historical records of arrests, charges, convictions, and sentences. This data is neither a reliable nor a neutral measure of underlying criminal activity. Decades of research have shown that, for the same conduct, African-American and Latinx people are more likely to be arrested, prosecuted, convicted and sentenced to harsher punishments than their white counterparts. Risk assessments that incorporate this distorted data will produce distorted results.” https://dam-prod.media.mit.edu/x/2019/07/16/TechnicalFlawsOfPretrial_ML%20site.pdf (Many thanks to the JusticeLA Coalition for coordinating the publication of the statement.)