CACJ Announces Opposition to Proposition 25

*Calls for alternative reform to pretrial detention in California*

**Sacramento** - Today the California Attorneys for Criminal Justice (CACJ), California's statewide association of criminal defense lawyers in private practice and working in public defender offices, has voted to oppose Proposition 25 and calls for alternative reforms to pretrial detention. CACJ President Eric Schweitzer said “Prop 25 would install an unfair and potentially unconstitutional system of preventive detention prior to trial, while perpetuating racial and economic discrimination in the decision whether to release the accused pending trial. We have to do better than this.”

California's pretrial detention scheme is in need of a complete overhaul. The premise of imposing incarceration prior to adjudication not only subverts the fundamental principle of the presumption of innocence, but also tears apart the lives of individuals and their families before they even have their day in court. We welcome the goals of SB 10 and the desire to eradicate profit motives for pretrial detention and the attempt to devise alternatives to incarceration.

Nonetheless, CACJ has voted to oppose Proposition 25. CACJ’s primary concerns include SB 10’s reliance on risk assessment tools that are potentially racially and socio-economically biased. Multiple experts and studies have highlighted the real risk that these tools could disproportionately incarcerate the very individuals whose liberty we must preserve until they are convicted and sentenced. This year the California legislature recognized the growing concern about these tools and adopted a bill to study risk assessment impacts. Unfortunately, this review takes place post-implementation. CACJ recommends an extensive review, analysis and appropriate changes before attaching these tools to pretrial detention in California.

Furthermore, CACJ opposes Proposition 25’s creation of categories of presumptive incarceration for certain offenses. This includes a variety of misdemeanors. While Prop 25 will bring relief for many Californians, it will impose greater restrictions on many others when compared to current law. CACJ is concerned that thousands of individuals charged with low-level offenses will lose current opportunities to obtain immediate release before appearing in court.

CACJ’s position on Prop 25 is also influenced by the recent action of the California Supreme Court. In the *In re Humphry* case, the state high court issued a statewide order to impose individualized bail levels that are tailored to the economic situation of those facing criminal charges. It also broadens the use of alternatives to pretrial detention. This is welcome relief to the current bail structure and moves California in the right direction. Currently, bail schedules are unjustifiably high and judges are reluctant to adjust the amounts to meet the financial means of individuals.

If Prop 25 fails, CACJ renews its commitment to pursue appropriate changes to pretrial statutes and lessen the profit-motives related to pretrial detention. If Prop 25 passes, CACJ will seek to reduce the categories of cases subject to presumptive detention.

**Summary:**

California Attorneys for Criminal Justice (CACJ), California’s statewide association of criminal defense lawyers in private practice and working in public defender offices, has voted to oppose Proposition 25 and calls for alternative reforms to pretrial detention. CACJ is concerned with SB 10’s over-reliance on potentially racially biased risk-assessment tools, and the creation of presumptive no-release holds for a wide category of offenses including misdemeanors. CACJ supports the California Supreme Court’s recent action to require individualized bail amount evaluations and exploration of non-monetary options. CACJ will continue to advocate for additional changes to current law and move away from profit-driven strategies to pretrial release.