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## More than 100 Civil Rights, Digital Justice, and Community-Based Organizations Raise Concerns About Pretrial Risk Assessment

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For Immediate Release

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WASHINGTON – Today, a broad coalition of more than 100 civil rights, digital justice, and community-based organizations released a shared statement of civil rights concerns (<http://civilrightsdocs.info/pdf/criminal-justice/Pretrial-Risk-Assessment-Full.pdf>) highlighting concerns with the adoption of algorithmic-based decisionmaking tools (also known as risk assessment instruments) as a substitution for ending money bail.

These tools use data to forecast an individual's likelihood of appearance at future court dates and/or risk of re-arrest. While many jurisdictions claim that these tools are a necessary part of an effort to end money bail and create a fairer pretrial system, the signers, representing millions of people impacted by mass incarceration, urge jurisdictions to reconsider their use of these tools, and to center transparency and accountability to the communities judged by the tools.

In the statement, the groups underscore that risk assessment tools are not a panacea to reforming our unjust and broken bail systems, and that, in fact, these tools can worsen racial disparities and allow further incarceration. The groups urge jurisdictions to not embed risk assessment tools in pretrial decisionmaking, but instead reform their systems to significantly reduce arrests, end money bail, severely restrict pretrial detention, implement robust due process protections, preserve the presumption of innocence, and eliminate racial inequity.

In jurisdictions where such tools are still used, the statement provides specific and vitally important instructions on how to mitigate the harm that they can cause. The signatories believe that pretrial detention should be treated as a last resort, and urge policymakers to end secured money bail and create policies for ensuring people are not jailed pretrial – without the use of risk assessment tools that can exacerbate racial disparities in the system.

A recording of the press call can be found here (<http://civilrightsdocs.info/audio/press-calls/Risk-Assessment-Press-Call.mp3>).

"America's pretrial justice system is broken. If our goals are to shrink the justice system and end racial disparities, we can't simply end money bail and replace it with risk assessments. Ending money bail requires a commitment to restoring legitimacy to our institutions. It requires a commitment to racial justice. And it requires a commitment to reform that is driven by people and communities who are most affected by the criminal legal system." –

**Vanita Gupta, president and CEO of The Leadership Conference Education Fund**

"Pretrial detention reform that addresses the injustice of people being jailed because of their poverty is urgently needed, but substituting risk assessment instruments for money bail is not the answer. Biased policing practices in communities of color result in racial disparities in the data risk assessment tools rely on, making Black and Brown people look riskier than White people. Pretrial detention reform must include solutions that will reduce the disproportionate incarceration of people of color, not worsen it." – **Monique Dixon, deputy director of policy and senior counsel for the NAACP Legal Defense and Educational Fund**

"The ACLU is committed to dramatically reducing the number of people jailed pretrial, ending our country's over-reliance on money bail, and combatting systemic racism at all stages of the criminal justice system. Everyone should have a fair chance to secure their freedom while they are presumed innocent. For those reasons, we have signed this important statement of concern." – **Jeffery Robinson, deputy legal director for the American Civil Liberties Union (ACLU)**

"Our communities need policies and practices that reverse mass incarceration, not ones that reinforce the racism already painfully present in the system. Until we address the inherent racism in our justice system and focus on meeting the needs of our communities, technological 'solutions' like risk assessments will continue to fall short." – **Scott Roberts, senior criminal justice campaign director at Color of Change**

"At the Brooklyn Community Bail Fund, we see every day the disastrous impact of pretrial detention on individuals, families, and communities. Our results show that pretrial freedom leads to better case and life outcomes, and that people return to their court dates, despite the fact that a court tool has wholesale deemed many of them to be "risky." Case in point – New York City court's risk assessment system judged 88% of our clients to be moderate to high risk of flight and not recommended for release. However, 95% of our clients make all of their scheduled court dates. Our results – we've paid bail for over 3,000 New Yorkers in need – strongly calls into question the ability of any such assessment tool to determine risk: the one used in New York City couldn't have gotten it more wrong. Presumptively innocent people should be free to return to their communities and fight their cases from a position of freedom, not held in a cage whether because of the inability to afford bail or because of a biased risk assessment instrument. To the degree that failure to appear is a problem – which it is not – we should pursue common sense solutions (such as phone call reminders) rather than relying on demonstrably unfair and inaccurate algorithms. – **Rachel Foran, managing director of the Brooklyn Community Bail Fund**

"We are in drastic need of bail reform, as a free society should not be incarcerating people for days, months, and years simply because of an accusation. Risk assessment tools are often seen as a panacea, when in reality they are more likely to perpetuate over incarceration and disparities. These nuanced and carefully designed principles give advocates and policy-makers a much needed reality check, while describing carefully limited circumstances under which such tools could be calibrated to achieve the goals of curbing mass incarceration and significantly reducing racial and economic disparities." – **Mark Houldin, policy director for Philadelphia Defenders Association**

"People need to stop and ask, 'risk of what?' These tools use data about things like failed drug tests and missed court dates, and tempt judges to imagine that they predict a person's chance of hurting someone else, or fleeing the jurisdiction. The data we have cannot answer the questions that truly matter at a bail hearing." – **David Robinson, managing director for Upturn**

"For decades we've been told that we can fix bias in the system with science. But sentencing guidelines, predictive policing, body worn cameras, have all led to more bias in the system and a mass criminalization of Black, Brown, and poor people. We can end money bail and send far more people home without risk assessments – and give anyone who might lose their freedom a chance to fight for it in a fully blown hearing. But if you're going to put risk assessments into the movement to end money bail, then we demand power over them – that they are transparent, that we get proof that they are being used to send more people home, and that they truly reduce racial disparities, rather than being satisfied with the totally unacceptable status quo." – **Hannah Sassaman, policy director of the Media Mobilizing Project and a Soros Justice Fellow focusing on risk assessment in pretrial decisionmaking**

"Civil Rights Corps has seen firsthand the devastating effects of caging people – all of them presumptively innocent – because they are poor and cannot pay for their freedom. We must abolish this system of wealth-based detention. But in doing so, we cannot turn to a tool that entrenches the racial biases of the current system. There are no shortcuts for determining who should be detained pretrial, but there is a clear answer about the necessary process – an individualized hearing with the robust protections that our Constitution and our conscience require." – **Thea Sebastian, policy counsel for Civil Rights Corps**

"It's far overdue for government jurisdictions to end the money bail systems that have kept poor people and people of color locked up while awaiting their day in court. Many jurisdictions, however, are turning to pretrial risk assessments, placing a technological barrier between people and their freedom. Algorithms cannot undue the racial bias that exists in the criminal legal system. These and other high tech tools will always disadvantage communities of color and threaten to replace mass incarceration with digital prisons. We join the chorus of civil and human rights organizations in calling on jurisdictions to reconsider their use of pretrial risk assessments and adopt solutions that actually set people free." – **Myaisha Hayes, criminal justice & tech organizer for Center for Media Justice**

View the statement of concern, signers, and more quotes here (<https://leadershipconferenceedfund.org/pretrial-risk-assessment/>).

*The Leadership Conference Education Fund builds public will for federal policies that promote and protect the civil and human rights of all persons in the United States. The Education Fund's campaigns empower and mobilize advocates around the country to push for progressive change in the United States. It was founded in 1969 as the education and research arm of The Leadership Conference on Civil and Human Rights. For more information on The Education Fund, visit <http://leadershipconferenceedfund.org/> (<http://leadershipconferenceedfund.org/>).*

*Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation's first civil and human rights law organization and has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.*

*The American Civil Liberties Union (ACLU) is a national organization that works daily in courts, legislatures and communities to defend the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country.*

*Color Of Change is the nation's largest online racial justice organization. We help people respond effectively to injustice in the world around us. As a national online force driven by over one million members, we move decision-makers in corporations and government to create a more human and less hostile world for Black people in America.*

*The Brooklyn Community Bail Fund pays bail for New Yorkers who can't afford even modest amounts, and who would be jailed or forced to plead guilty just to go home. The Fund partners with every public defender agency in Brooklyn, Manhattan and Staten Island. We also work with reentry specialists and social service providers to connect clients in need with resources in the areas of employment, education, housing and counseling. We work with allies here in New York and across the country in the fight to end cash bail. Ours is a radical intervention in a system that treats people differently based on wealth, skin color and influence. We're challenging the criminalization of race and poverty, the practice of putting a price on fundamental rights, and the persistent myth that bail is a necessary element of the justice system.*

*The Defender Association of Philadelphia is an independent, non-profit corporation which was created in 1934 by a group of Philadelphia lawyers who were dedicated to the ideal of high quality legal services for indigent criminal defendants. That ideal continues today as over 200 full time Assistant Defenders represent clients in adult and juvenile state courts, at civil and criminal mental health hearings, and as child advocates for dependent and neglected children.*

*Upturn promotes equity and justice in the design, governance, and use of digital technology. Our research and advocacy combines technical fluency and creative policy thinking to confront patterns of inequity, especially those rooted in race and poverty.*

*Media Mobilizing Project (MMP) is a Philadelphia-based racial and economic justice organization, focusing at the intersection of everyday people and the technology that mediates their lives and their dignity. MMP helps to coordinate the Coalition for a Just District Attorney, is the fiscal sponsor for the Philadelphia Community Bail Fund, and is intimately engaged with helping people impacted by mass incarceration gain power in moves to reform criminal justice in the City of Philadelphia and beyond.*

*Civil Rights Corps is a non-profit organization dedicated to challenging systemic injustice in the American legal system. We work with individuals accused and convicted of crimes, their families and communities, people currently or formerly incarcerated, activists, organizers, judges, and government officials to challenge mass human caging and to create a legal system that promotes equality and human freedom. Civil Rights Corps engages in advocacy and public education and specializes in innovative, systemic civil rights litigation with the goal of resensitizing the legal system and our culture to the injustice and brutality that characterize the contemporary American criminal system.*

*The Center for Media Justice fights for racial and economic equity in a digital age. We boldly advance communication rights, access, and power for all communities harmed by persistent inequality.*

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