

The 2015 State of Pretrial Justice

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Director Emeritus

Presentation to the Conference of
Chief Justices

January 27, 2015



Pretrial Release or Detention Decision Making

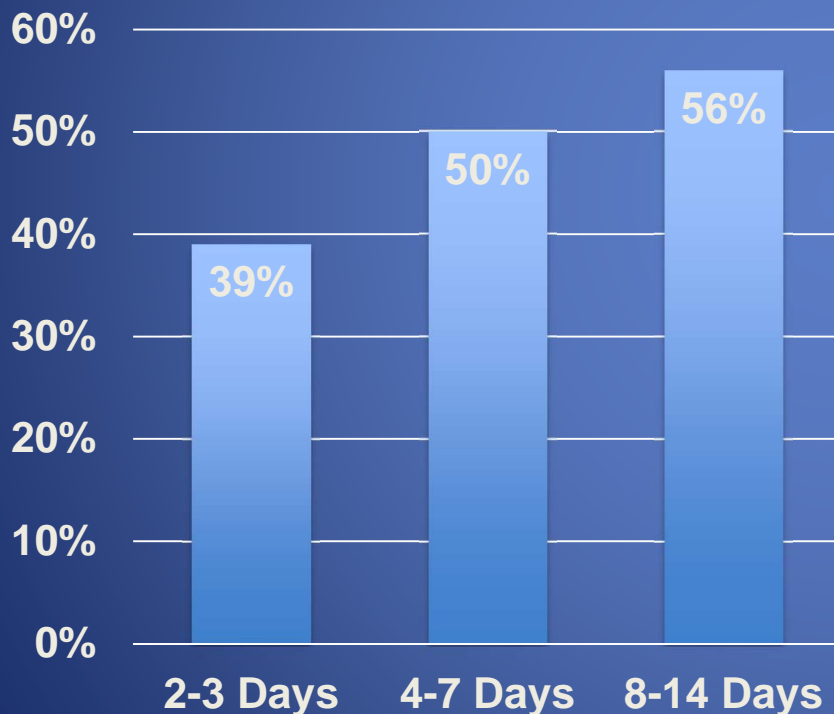


- The decision involves risks
- The tools used to assess and mitigate risks are outdated and unworkable
- New tools are now available to base decisions on evidence

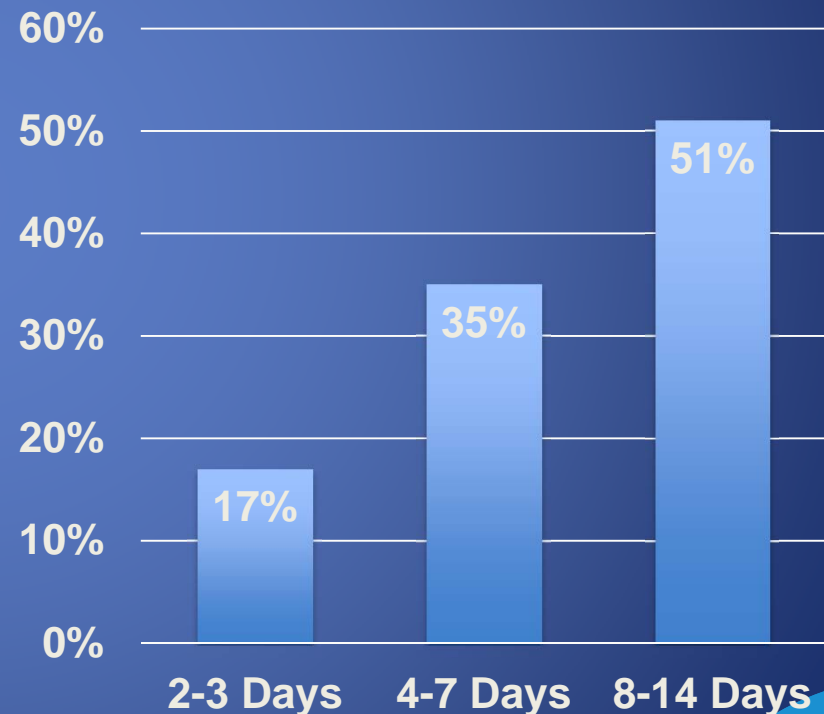
Pretrial Incarceration Effects on Low Risk Defendants



Increase in New Criminal Arrest Low-Risk Defendants*



Increase in 2-Year Recidivism Low-Risk Defendants*



*Lowenkamp, C.T., VanNostrand, M., & Holsinger, A. (2013). The Hidden Costs of Pretrial Detention. Laura and John Arnold Foundation. New York City, NY.

Public Welfare
Foundation

MacArthur
Foundation

ljaf
Laura and John Arnold Foundation®

BJA
Bureau of Justice Assistance
U.S. Department of Justice

NATIONAL ASSOCIATION OF PRETRIAL SERVICES AGENCIES
NAPSA
NAPSA

National Association of
Criminal Defense Lawyers
NACDL
19 58

CONFERENCE
1949
OF CHIEF JUSTICES

COSCA
Conference of State Court Administrators



NIC
National Institute of Corrections

AP
COMMUNITY JUSTICE
& SAFETY FOR ALL
PA



NATIONAL LEGAL AID & DEFENDER ASSOCIATION



ABA
AMERICAN BAR ASSOCIATION

ACLU
AMERICAN CIVIL LIBERTIES UNION

NCJA
NATIONAL CRIMINAL JUSTICE ASSOCIATION

CRJ
CRIME AND JUSTICE INSTITUTE



INNOCENCE PROJECT

NACO National Association of Counties

NCSC
National Center for State Courts

ATA Association of Prosecuting Attorneys

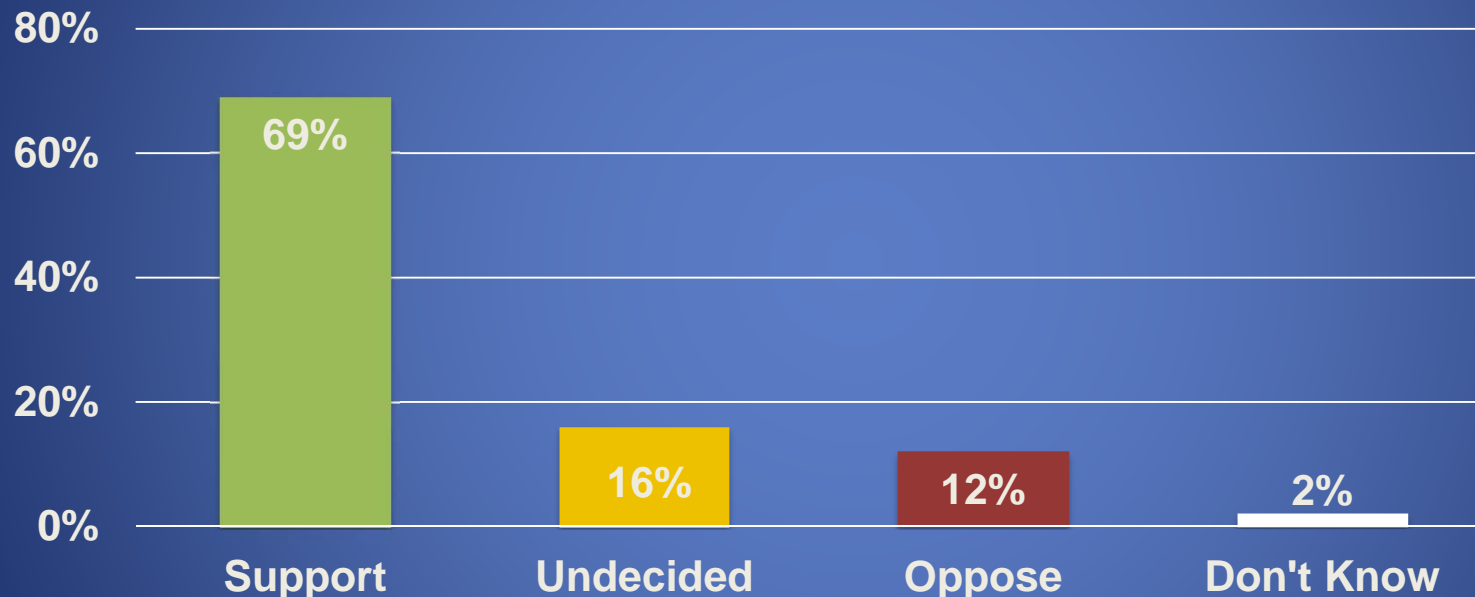
NJC
THE NATIONAL JUDICIAL COLLEGE
Est. 1963

NAPD
NATIONAL ASSOCIATION FOR PUBLIC DEFENSE

2012 Public Opinion



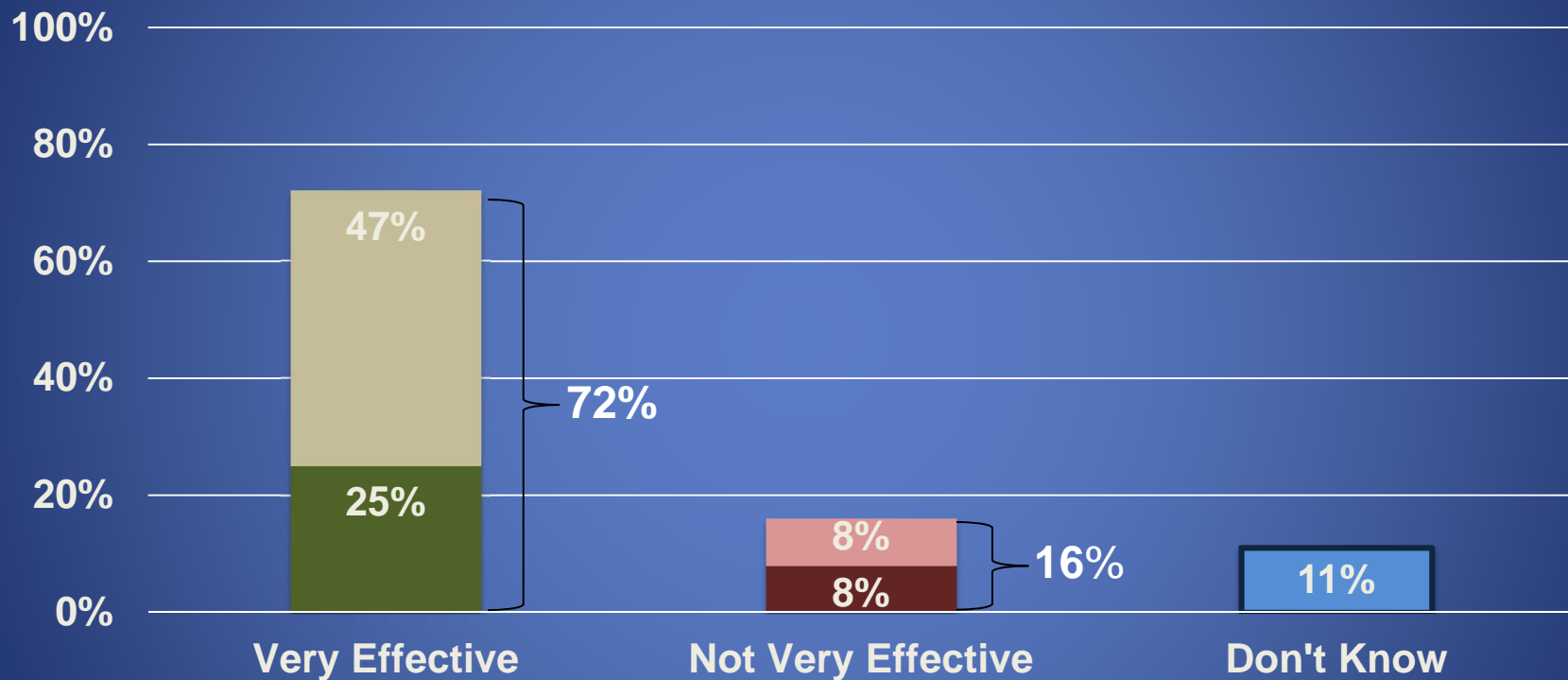
Risk Assessment Instead of Cash Bail Bonds



Question:

Some have proposed using risk-based screening tools instead of cash bail bonds to determine whether defendants should be released from jail before trial. This risk assessment would take into account such factors as [drug use history, mental health, employment status, residency, and community ties] or [the charge in question, criminal history, any warrants or previous failures to appear for court]. Under this system, high-risk defendants would be held in jail until trial and low-risk defendants would be released with conditions and be monitored and supervised. Would you support or oppose this proposal to use risk assessment instead of cash bail bonds to determine whether defendants should be released from jail before trial, or are you undecided? **[IF SUPPORT/OPPOSE]** And do you feel that way strongly, or not-so strongly? *(Lake Research Partners, 2012)*

Perceived Effectiveness of “Pretrial Risk Assessment”

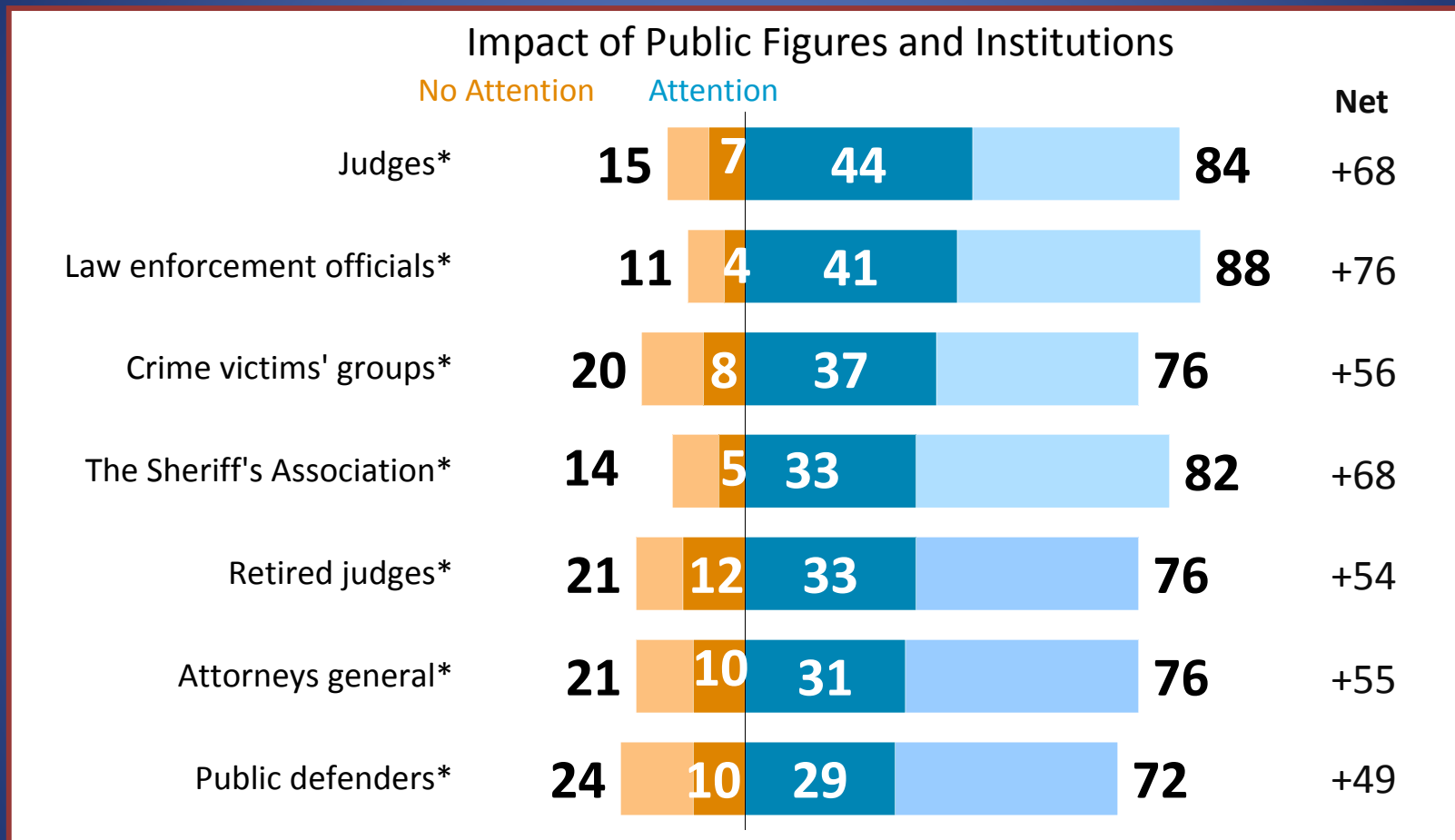


Question:

I'm going to read you a list of terms used to describe the proposal of using risk-based screening tools to determine whether defendants should be released from jail before trial. For each term, tell me how effective you think it sounds when it comes to protecting public safety and ensuring appearance for trial: VERY effective, SOMEWHAT effective, NOT VERY effective, NOT effective AT ALL. If you don't know just say so and we'll move on.

“Pretrial risk assessment.” (Lake Research Partners, 2012)

Voters say they would pay the most attention to judges and law enforcement officials, followed by crime victims' groups and the Sheriffs' Association. Retired judges, attorneys general, and public defenders also hold some sway.



Last, I am going to read you some names of people and groups who might take a position on bail reform. For each one, I want you to tell me how much attention you would pay to them on this issue: a lot of attention, some attention, not much attention, or no attention at all? If you are not familiar with this person or group, please say so, and we will move on.

*Split-sample question. Darker colors indicate intensity

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Pretrial Justice Center
for Courts

a project of
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National Center for State Courts

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Top judge says bail in New York isn't safe or fair

New York Chief Judge Jonathan Lippman called for an overhaul of the bail system that would bring the state closer in line with the rest of the country.

[read more](#)



Photo Courtesy of New York Law Journal

Key Resources

- CCJ/COSCA Resolution on Evidence-Based Pretrial Release
- COSCA Policy Paper on Evidence-Based Pretrial Release
- NCSL Pretrial Policy Law Database
- NACo Front-End Justice Reform Resource Page
- National Symposium on Pretrial Justice

Supporting Efforts to Advance Evidence-based Pretrial Practices

The Pretrial Justice Center for Courts (PJCC) works closely with the Conference of Chief Justices and the Conference of State Court Administrators to implement their resolution recommending evidence-based assessment of risk in setting pretrial release conditions and the presumptive use of non-financial release conditions consistent with assessments of risk. With support from the Public Welfare Foundation, PJCC

Our Advisors

- Hon. Jonathan Lippman, CCJ

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