

Perceptions & Realities: Communicating Pretrial Justice

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Perception of the Current Pretrial System



- Crime has a price
- Bond seen as payment for crime
- Compliance is financially rewarded
- Bond works pretty well
- Jails are used to protect and punish



Reality of the Current Pretrial System



- Traditional pretrial system incapable of doing the job we expect of it
 - Current system not responsive to risk
 - Release is based solely on access to cash
 - Release does not include monitoring, supervision, or protection of witnesses/victims
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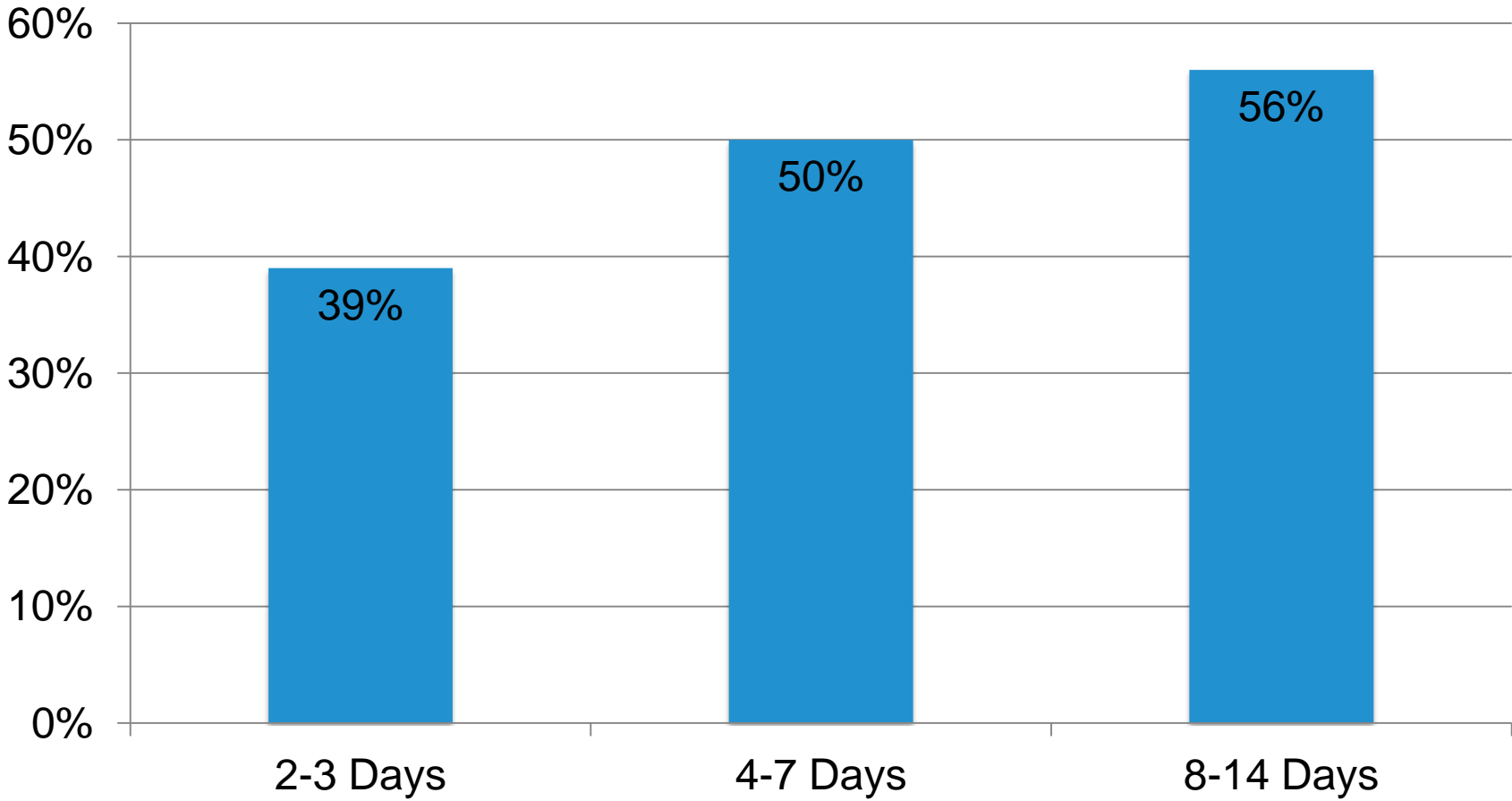
Reality of the Current Pretrial System (cont.)



- 70% of California jails are pretrial
- Enormous fiscal cost
- Majority of the most likely to reoffend/fail are released
- Low-risk defendants become higher risk as a result of pretrial detention

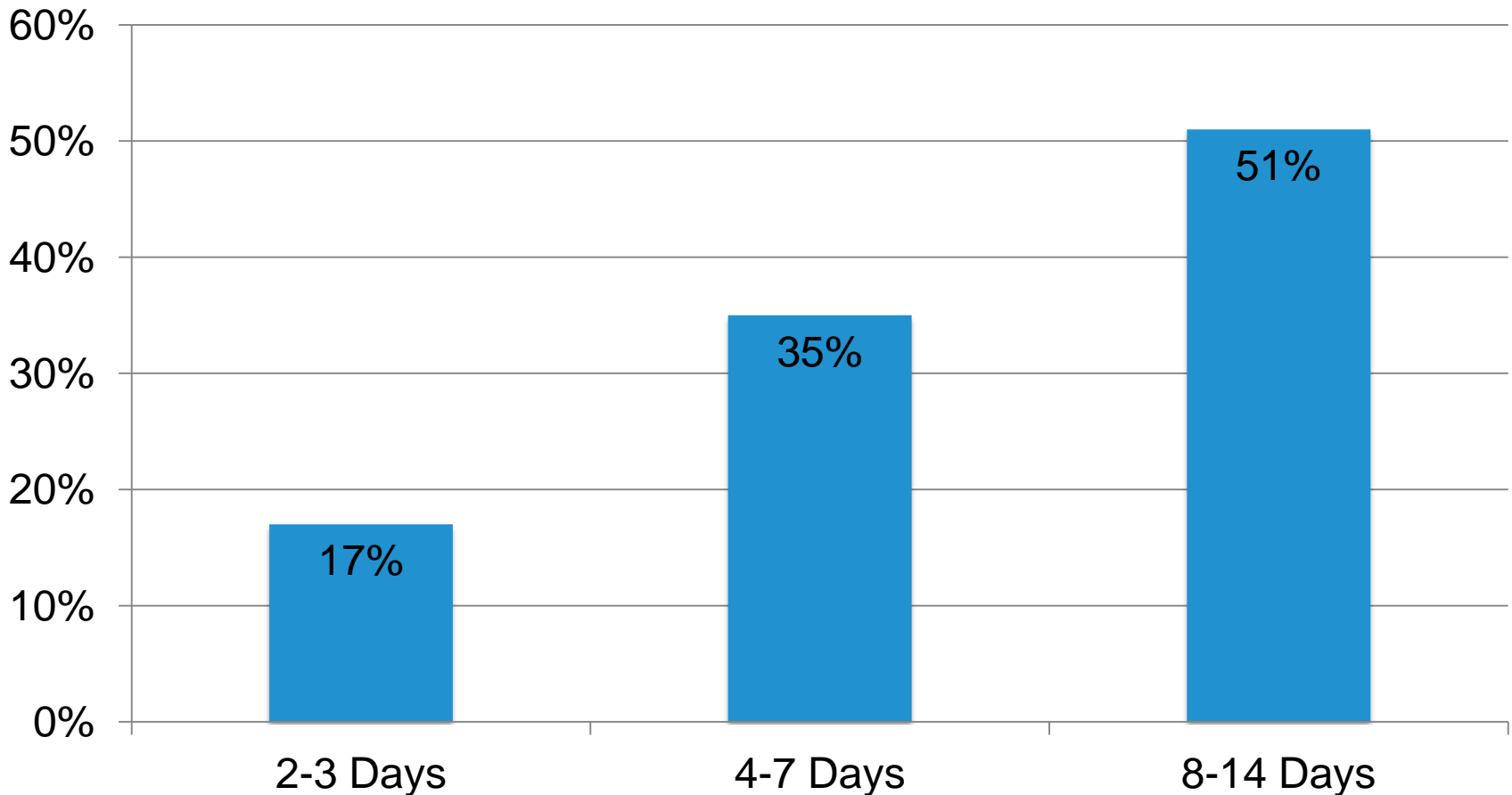


Increase in New Criminal Arrest Low-Risk Defendants*



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

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.

Perception of Reform



- Soft on crime
- Empty the jails
- Endanger the public
- Release at any cost



Reality of Reform



- ID the people with need to be incarcerated.
- ID those who can be safely be released
- ID the conditions of supervision needed to assure appearance and public safety



Risk Assessment Auto Insurance

- **Age**
- Distracted driving
- Peer(s) in vehicle with driver
- Low driving skills
- Low compliance with traffic laws



Risk Mitigation Auto Insurance



- Drivers education
- Restrict nighttime driving
- Prohibit peers as passengers
- Strict enforcement
- Seat belts, texting, etc.

Calls for Pretrial Reform



Who Cares?



National Association of Counties

“states and localities make greater use of such non-financial pretrial release options such as citation release and release on recognizance where there is a reasonable expectation that public safety will not be threatened.”

[Justice and Public Safety Legislation and Policy](#)

Who Cares?



International Association of Chiefs of Police

“...is advocating for the use of a risk assessment for the judiciary to use when considering pretrial release.”

[Pretrial Justice Reform Initiative webpage](#)



Who Cares?



National Sheriffs' Association

“...Nationwide most pretrial inmates are incarcerated not because of their risk to public safety or of not appearing in court, but because of their inability to afford the amount of their bail bond...”

“...recognizes the value of high-functioning pretrial services agencies to enhance public safety; promote a fair and efficient justice system.”

[NSA Supports & Recognizes the Contributions of Pretrial Services Agencies to Enhance Public Safety](#)

Who Cares?

American Probation and Parole Association

“...Supports the role of pretrial supervision services to enhance both short-term and long-term public safety, provide access to treatment services and reduce court caseloads...”

[APPA Resolution on Pretrial Supervision](#)

Who Cares?



Conference of State Court Administrators

“...Economic status (is) a significant factor in determining whether a defendant is released pending trial, instead of such factors as risk of flight and threat to public safety.”

“For the poor, bail means jail.”

[COSCA Policy Paper](#)

Who Cares?



Association of Prosecuting Attorneys

“Pretrial services employing validated risk assessments provide useful data and offer practical information *essential to making informed decisions...*”

[Policy Statement on Pretrial Justice](#)

Who Cares?

National Legal Aid & Defender Association

"The heavy reliance by many upon monetary bond as a pretrial release condition *disproportionately affects the poor and minorities*, undermines the concept of justice in America and wastes limited state and local government revenue."

[Nation's Chief Defenders Call for Improving Pretrial Release](#)

Who Cares?

Conference of Chief Justices

“...urge that court leaders promote collaborate, and accomplish the adoption of evidence-based assessment of risk in setting pretrial release conditions and advocate for the presumptive use of non-financial release conditions to the greatest degree consistent with evidence-based assessment of flight risk and threat to public safety and to victims of crimes.”

[Resolution Endorsing the COSCA Policy Paper on Evidence-Based Pretrial Release](#)

Who Cares?

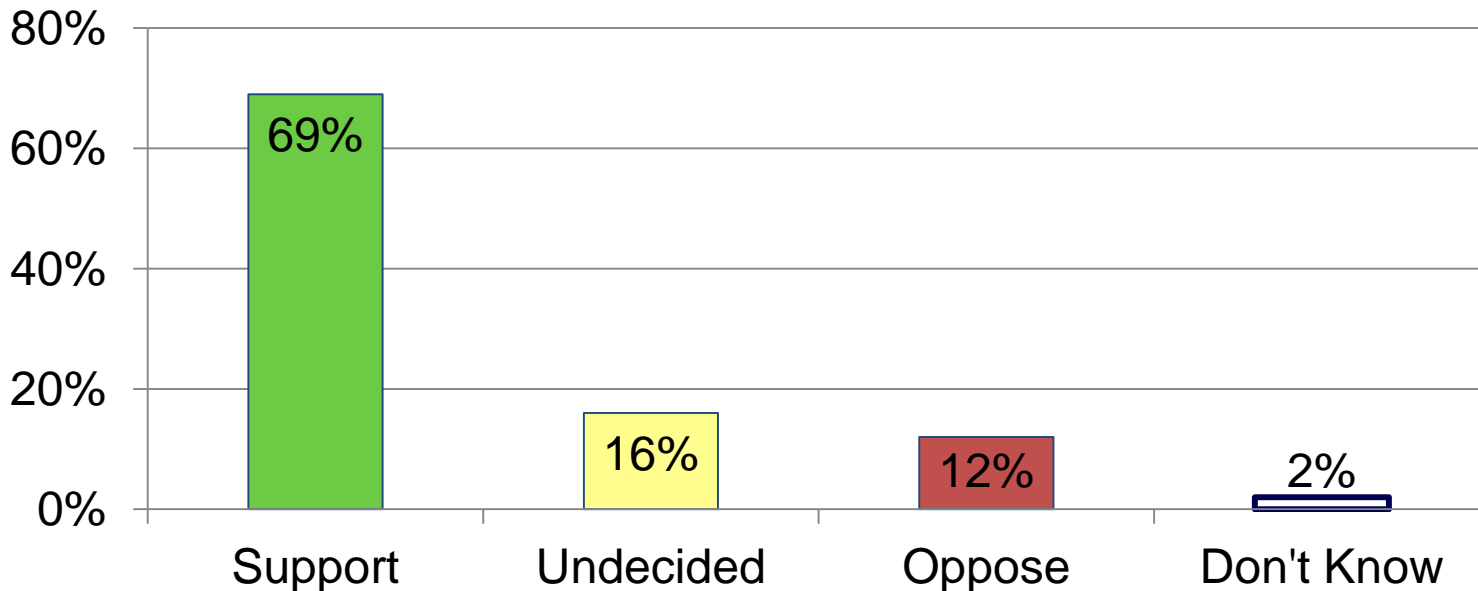
Conference of Chief Justices

“Evidence-based assessment of the risk that a defendant will fail to appear or will endanger others, if released, can increase successful pretrial release without imposing unnecessary financial conditions that many defendants are unable to meet.” –

[Resolution Endorsing the COSCA Policy Paper on Evidence-Based Pretrial Release](#)

Public Opinion

Risk Assessment Instead of Cash Bail Bonds

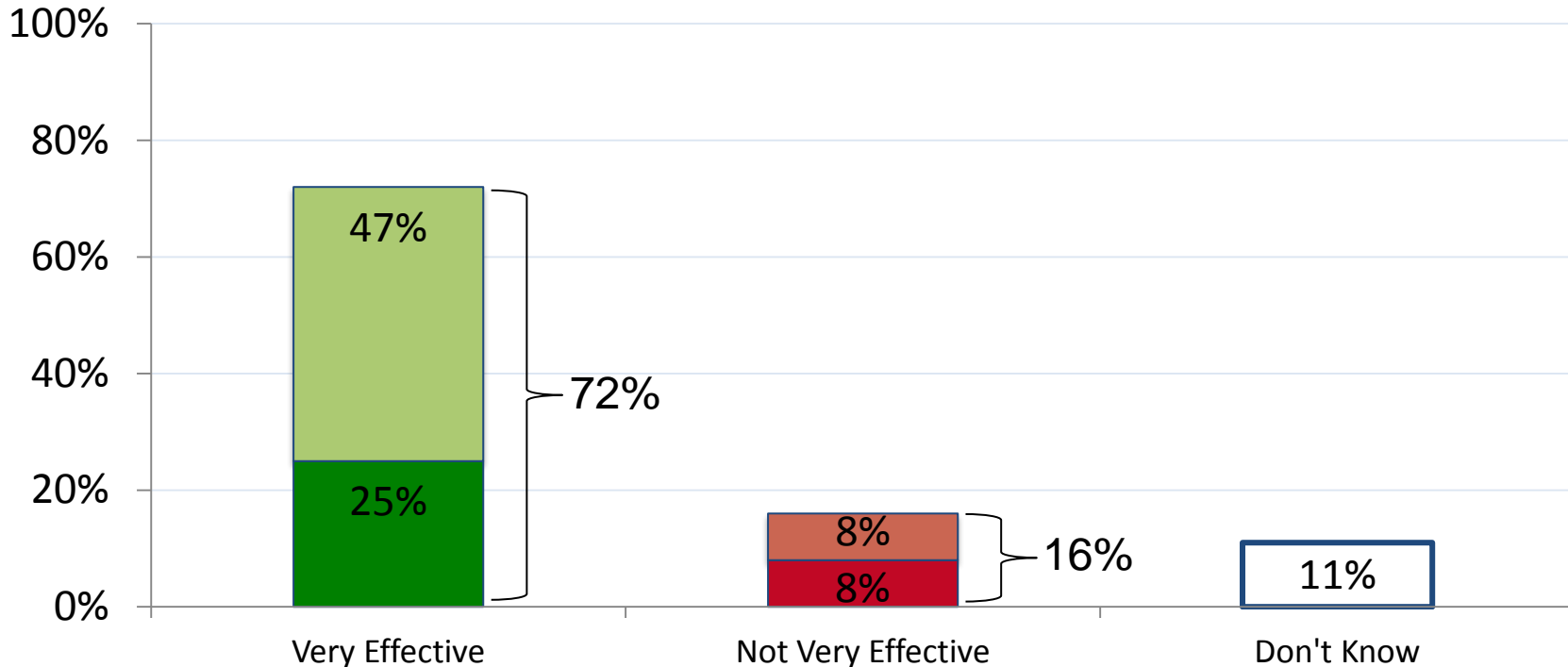


Question:

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/OPOSE]** And do you feel that way strongly, or not-so strongly?

.....

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."





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