The 2015 State of Pretrial Justice

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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• The tools used to assess and mitigate risks are outdated and unworkable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
Reforming the Pretrial Decision Making Process
Pretrial Incarceration Effects on Low Risk Defendants

Increase in New Criminal Arrest Low-Risk Defendants*

- 2-3 Days: 39%
- 4-7 Days: 50%
- 8-14 Days: 56%

Increase in 2-Year Recidivism Low-Risk Defendants*

- 2-3 Days: 17%
- 4-7 Days: 35%
- 8-14 Days: 51%

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”

<table>
<thead>
<tr>
<th>Effectiveness</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Very Effective</td>
<td>47%</td>
</tr>
<tr>
<td>Not Very Effective</td>
<td>16%</td>
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<tr>
<td>Don't Know</td>
<td>11%</td>
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</tbody>
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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.

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<thead>
<tr>
<th>Impact of Public Figures and Institutions</th>
<th>No Attention</th>
<th>Attention</th>
<th>Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judges*</td>
<td>15</td>
<td>7</td>
<td>44</td>
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<tr>
<td>Law enforcement officials*</td>
<td>11</td>
<td>4</td>
<td>41</td>
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<td>Crime victims’ groups*</td>
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<td>8</td>
<td>37</td>
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<tr>
<td>The Sheriff’s Association*</td>
<td>14</td>
<td>5</td>
<td>33</td>
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<tr>
<td>Public defenders*</td>
<td>24</td>
<td>10</td>
<td>29</td>
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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
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.

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