

Pretrial Justice National Perspective

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**PRETRIAL JUSTICE
INSTITUTE**



Commonsense Pretrial



THE ANNIE E. CASEY
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Pretrial Injustice

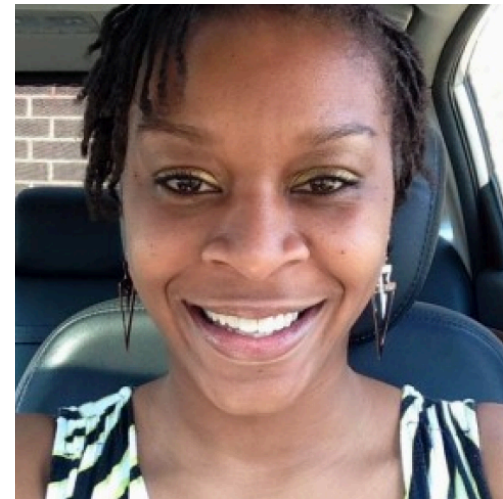


The Washington Post

Wonkblog

**\$500,000 bail for a Baltimore protester?
Just one thing wrong with how we punish
people before they're convicted.**

Six out of ten inmates haven't even been convicted yet. Here's how to fix the problem.



The Dallas Morning News

Crime Blog

**Bail set at \$1 million for Waco biker gang
shooting suspects**



Not All Bad News



So, what is the current state of
pretrial in America?



Unconvicted Inmates: Driving Jail Increases Since 1990

Since 1990, The number of **unconvicted** individuals in U.S. jails has increased by 126%, accounting for 77% of the total increase in jail populations.

Let's do the math!

Since 1990, total jail populations have increased by 84%.

$$\begin{array}{r} 2014 \quad 745,000 \\ 1990 \quad - 405,000 \\ \hline 340,000 \div 405,000 \\ = \uparrow 84\% \end{array}$$

During this time, the number of **unconvicted** people in jail increased by 126%.

$$\begin{array}{r} 2014 \quad 468,000 \\ 1990 \quad - 207,000 \\ \hline 261,000 \div 207,000 \\ = \uparrow 126\% \end{array}$$

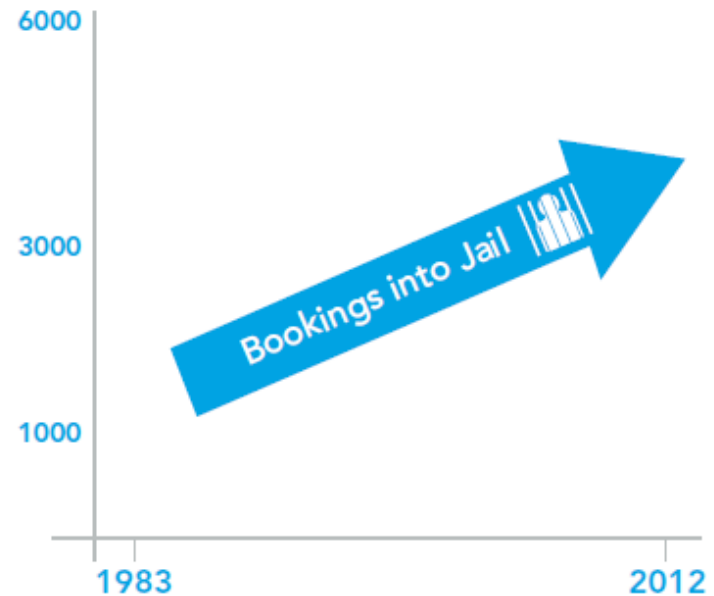
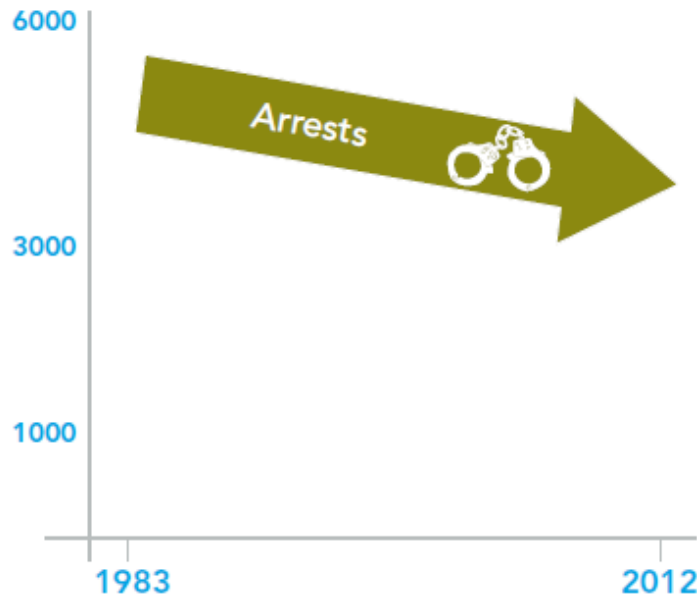
So, unconvicted individuals accounted for **77% of the increase** in total jail populations since 1990.

$$\begin{array}{r} 1990 \quad 261,000 \\ 2014 \quad \div 340,000 \\ \hline 77\% \end{array}$$



source: Bureau of Justice Statistics.
Jail Inmates At Midyear 2014.

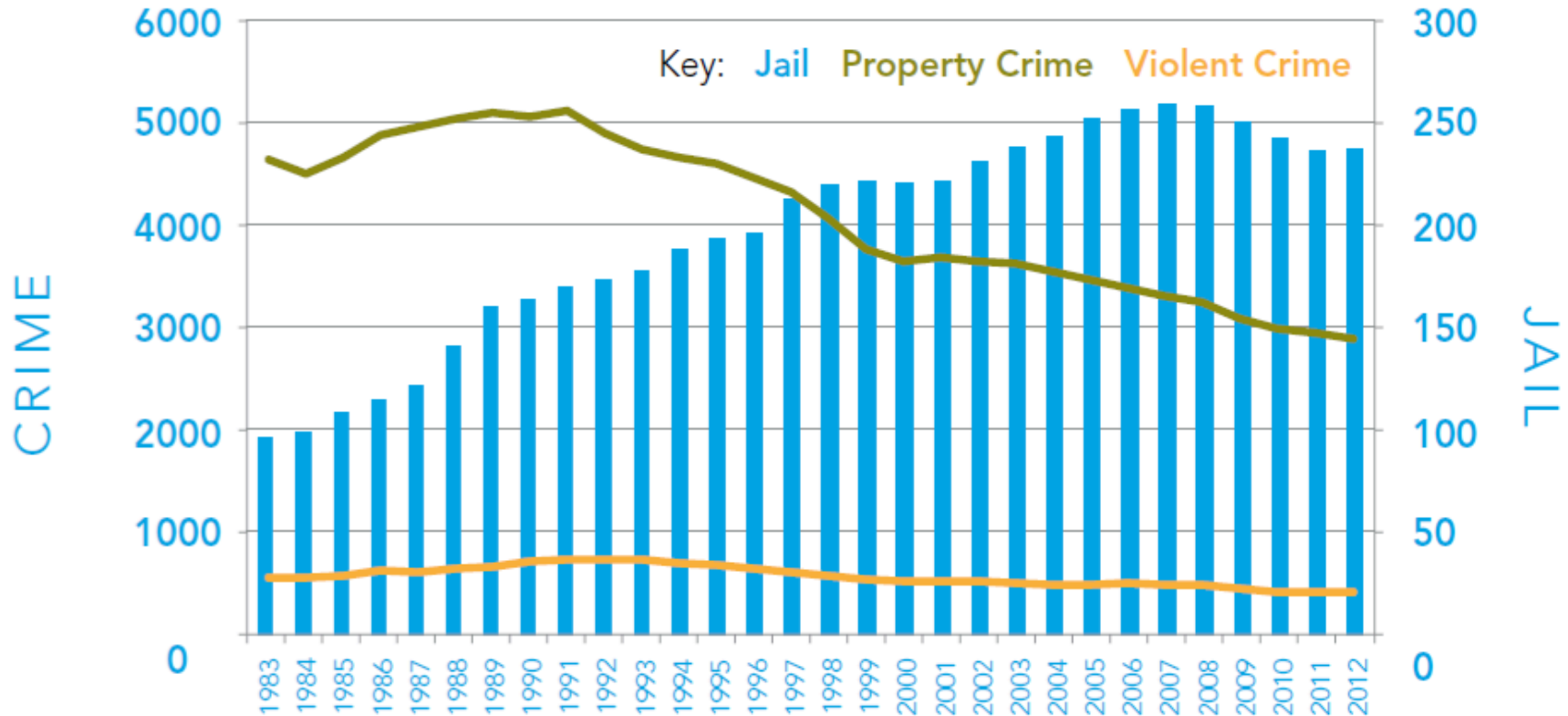
Arrest and Booking Rates Per 100,000



Subramanian, Ram et al. (2015) Incarceration's Front Door: The Misuse of Jails in America. New York, NY: The Vera Institute of Justice.

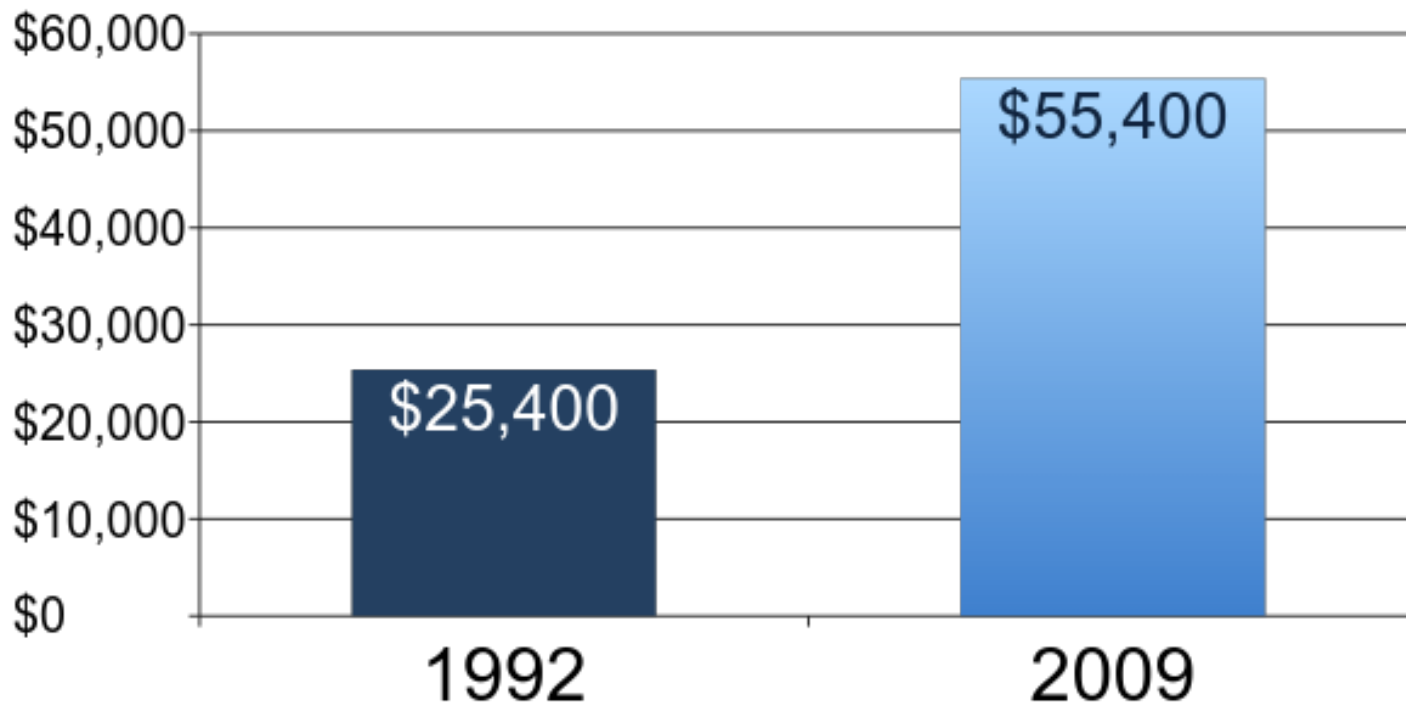


Crime and Jail Rates per 100,000



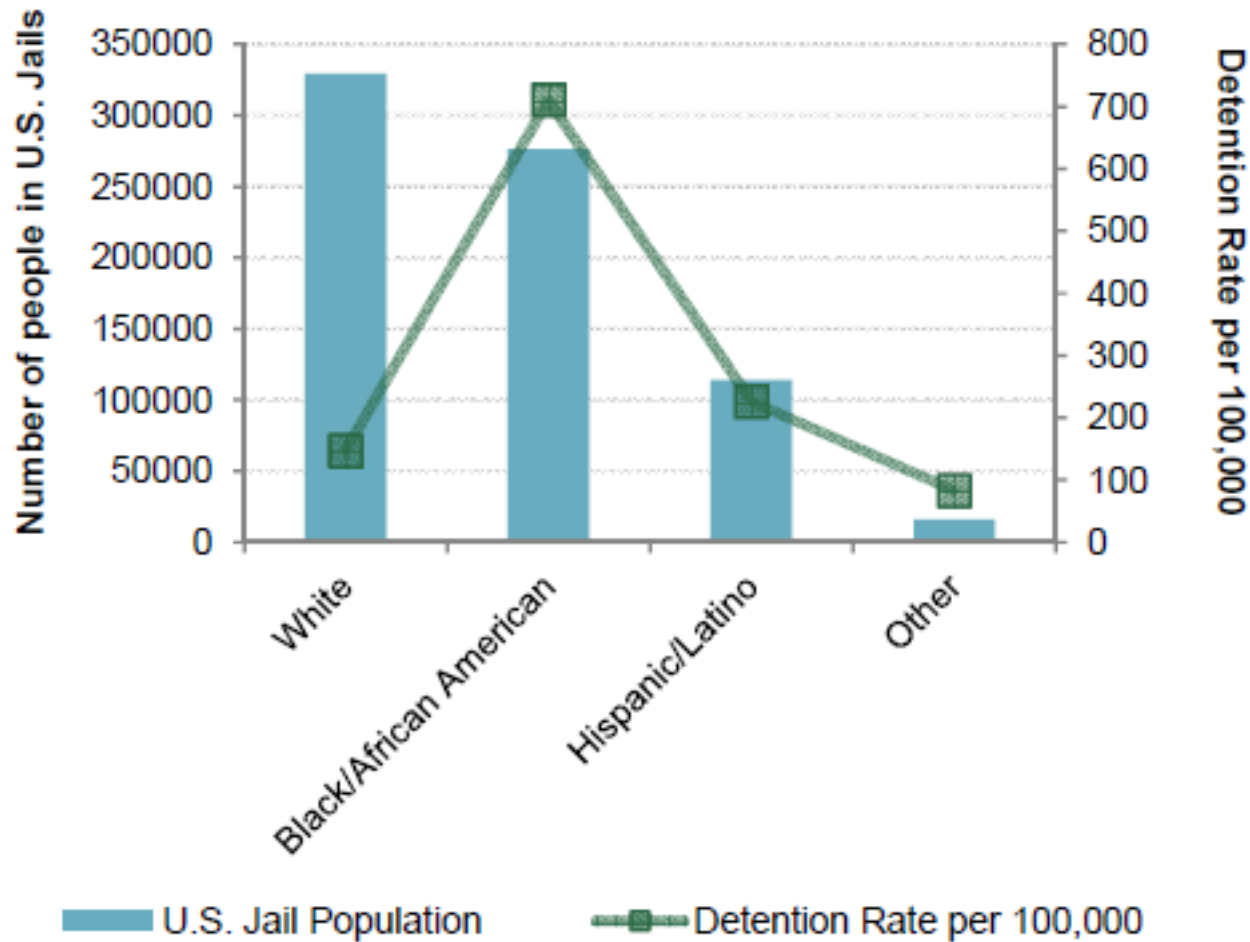
Subramanian, Ram et al. (2015) Incarceration's Front Door: The Misuse of Jails in America. New York, NY: The Vera Institute of Justice.

Average Money Bail For Felony Defendants



After adjusting for inflation, this represents a
43% increase over 17 years

Rates of Detention by Race



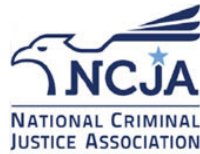
Why are jail populations high?



- Arrests remain high
 - 12 million, where about 10 million are misdemeanors
- Bookings remain high
 - Less cite and release, mostly custodial
- What happens after you drop them off?
 - Bond schedule



At the Table



Game Changers



Equaljusticeunderlaw.org



Legal Challenge to Money Bond



Criminal defendants, presumed innocent, must not be confined in jail merely because they are poor. Justice that is blind to poverty and indiscriminately forces defendants to pay for their physical liberty is no justice at all.”

—Jones v. Clanton (2015)



Statement from the Justice Department

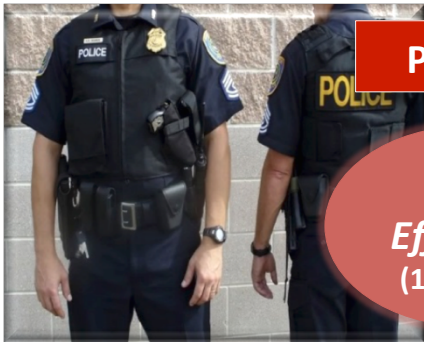


“It is the position of the United States that, as courts have long recognized, any bail or bond scheme that mandates payment of pre-fixed amounts for different offenses in order to gain pre-trial release, without any regard for indigence, not only violates the Fourteenth Amendment’s Equal Protection Clause, but also constitutes bad public policy.”

—Statement of Interest, *Varden v. City of Clanton*, 2015

Public Opinion 2015

Effectiveness at Fighting Crime and Keeping Us Safe



Police

**84%
Effective**
(15% Not)



**Risk Based Preventive
Detention***

**65%
Effective**
(19% Not)



Jails

**68%
Effective**
(30% Not)



**The Criminal
Justice System**

**70%
Effective**
(28% Not)



**Pretrial Risk
Assessment**

**52%
Effective**
(17% Not)

31% Don't know

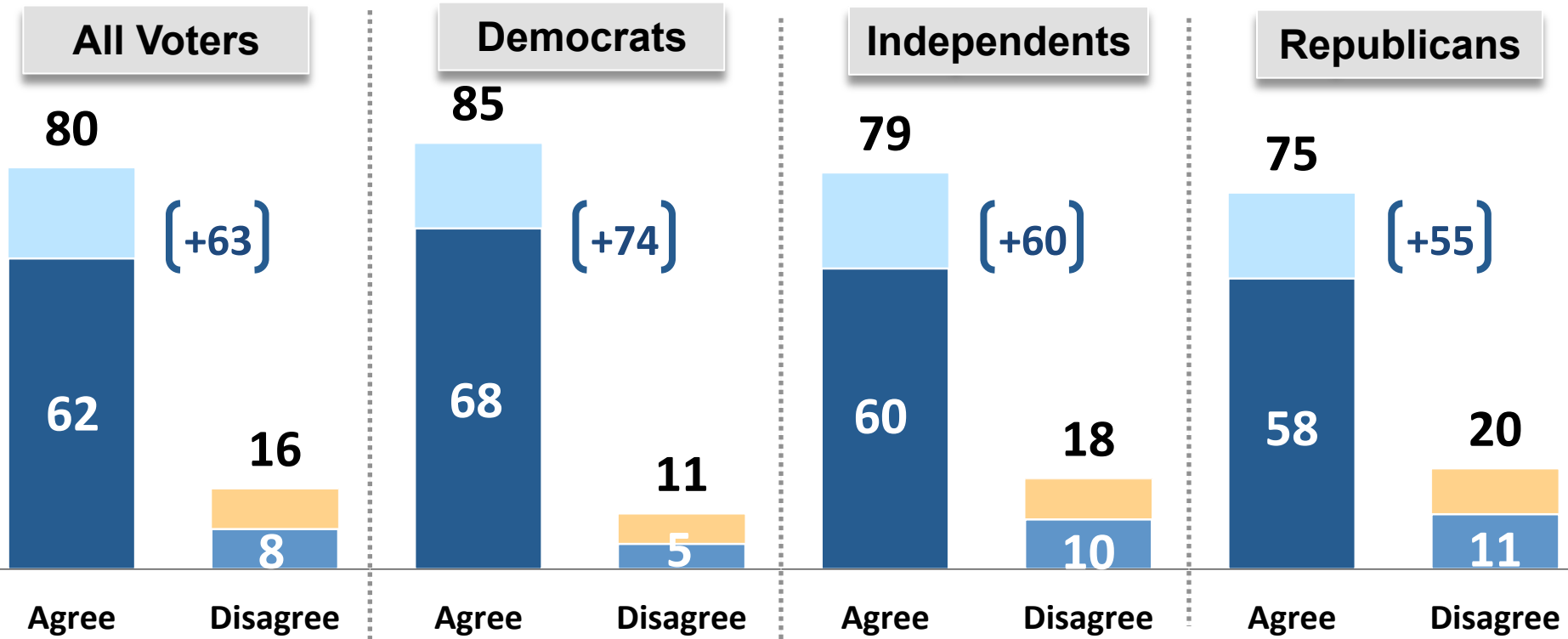


Cash Bail

**51%
Effective**
(35% Not)

Focus on Violent Criminals

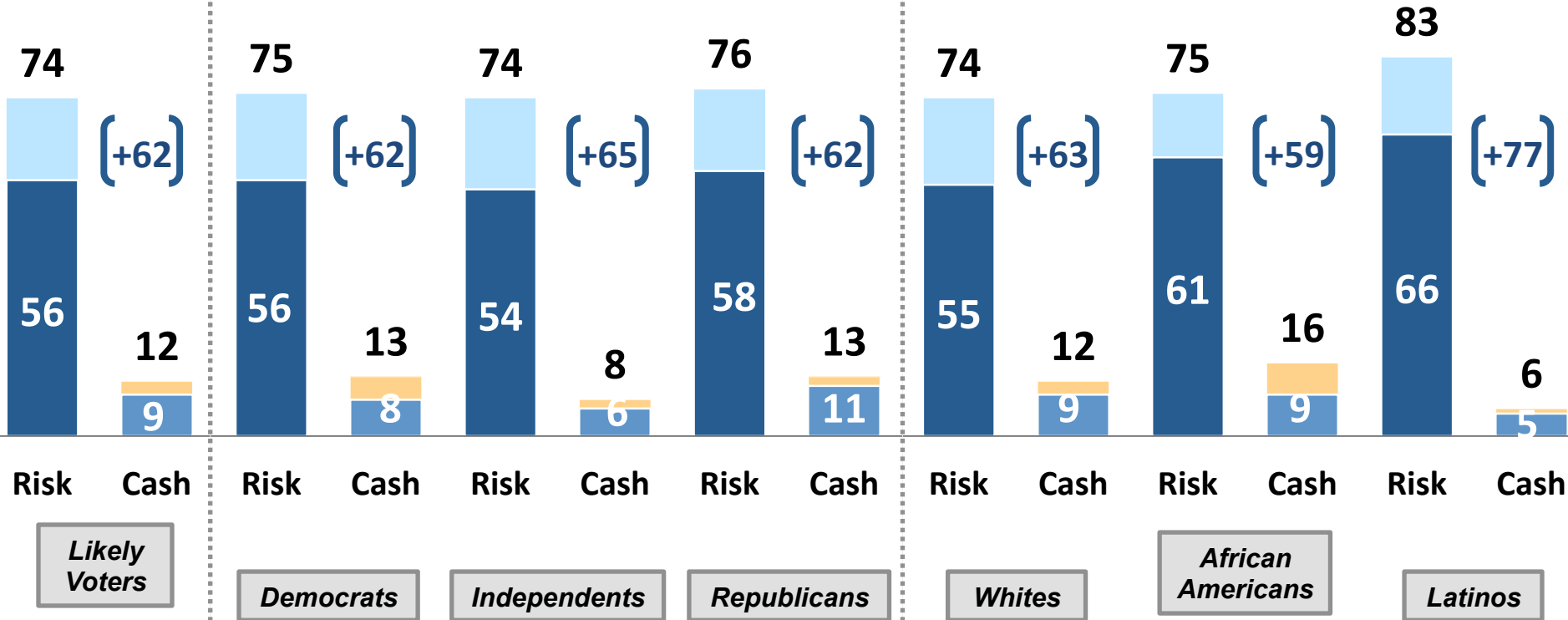
Focus on Arresting Violent Criminals Instead of Low-Level Suspects



Risk Assessment vs. Cash Bail



Determining Factor for Keeping Someone In Jail Before Trial:
Risk Assessment vs. Cash Bail



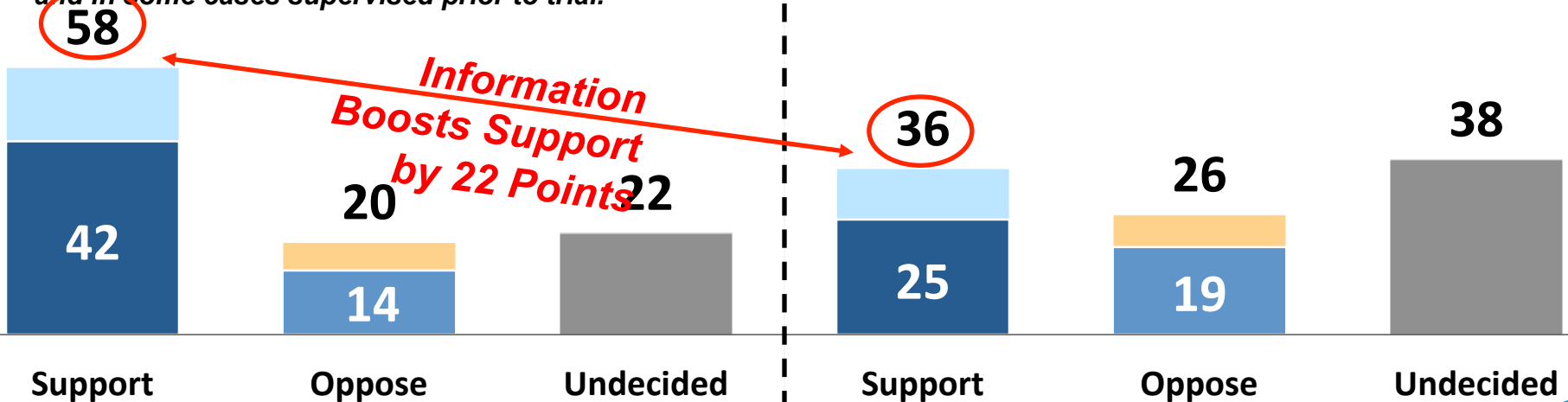
Public Education Matters

Initial Ballot: Eliminate Cash Bail and Replace with Risk Assessment

With

Risk assessment would take into account such factors as the nature of the offense in question and the suspect's criminal history. Under this system, those deemed high-risk would be held in jail until trial and those who are low-risk would be released and in some cases supervised prior to trial.

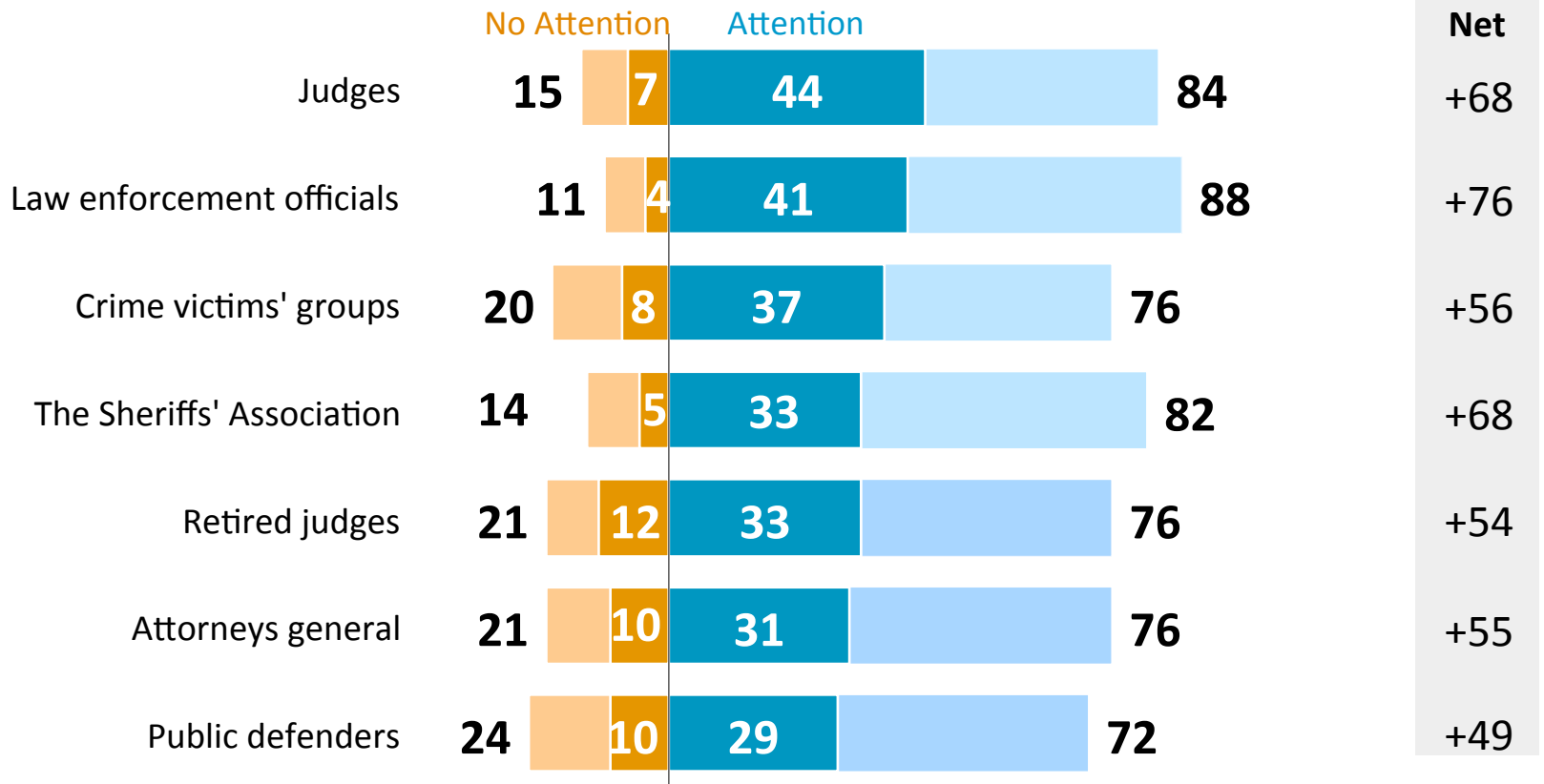
Without
Information



Who Impacts Voter Opinion?



Impact of Public Figures and Institutions

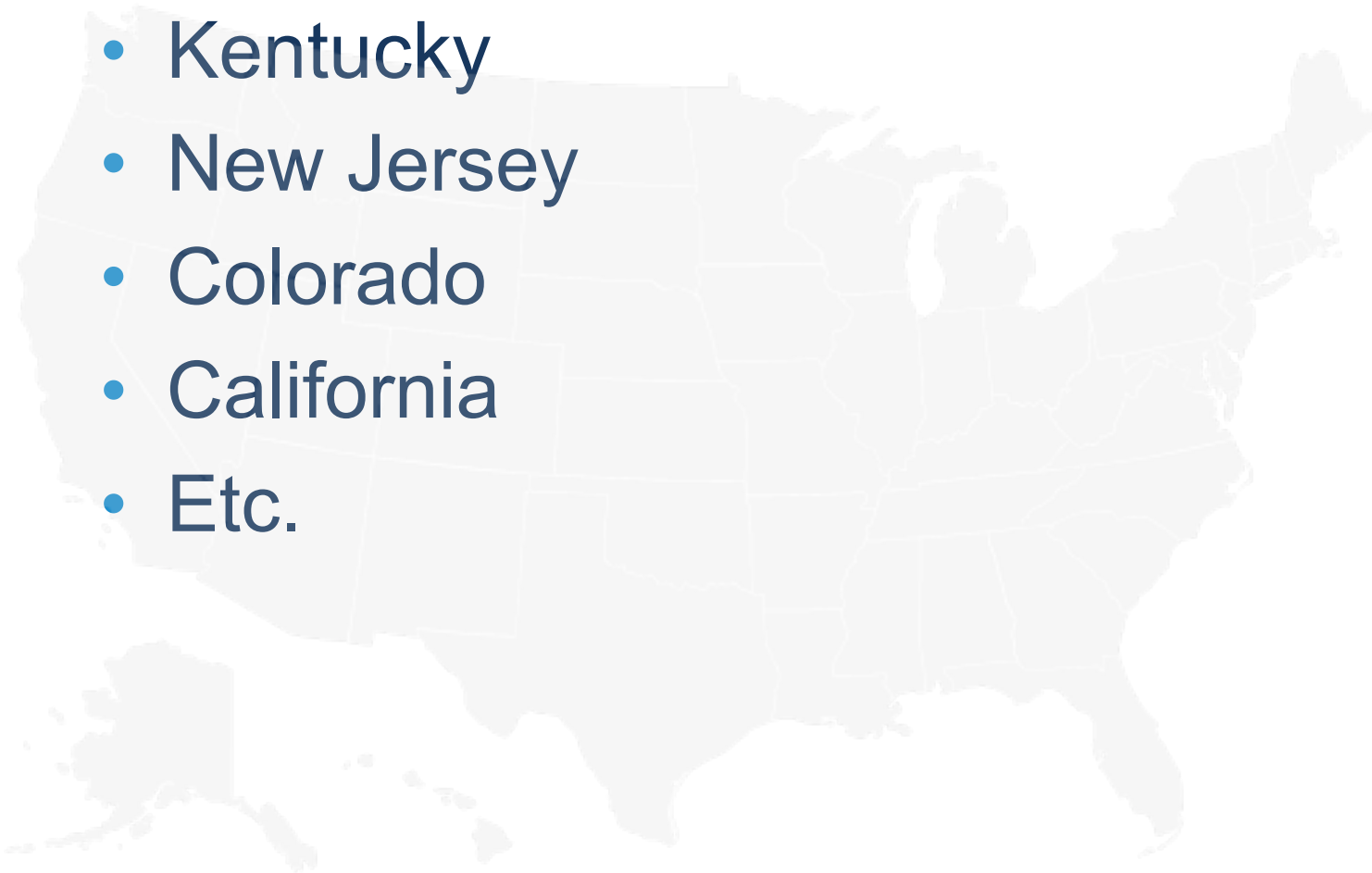


How this translates
into reform?



State and local initiatives

- Kentucky
- New Jersey
- Colorado
- California
- Etc.



Federal initiatives

- “End Money Bail Act of 2016” – uses federal program funding as lever for reform
- Interest in using Insurance oversight as a mechanism for reform.



Smart Pretrial Initiative



- Three-year project ending in the fall of 2017
- 3 sites are demonstrating that changes are possible
 - Yakima County, WA
 - City and County of Denver
 - Delaware
- Have completed a thorough pretrial system analysis
- Are currently implementing new practices consistent with both the research and the law



Case Study: New Jersey

- **2013** - Independent study of New Jersey county jails
- **August 2014** - Governor Chris Christie signed comprehensive bail reform legislation
- **November 2014** - New Jersey voters passed ballot initiative enacting reform
- **January 2017** - legislation will take effect



3 DAYS COUNT™

Commonsense Pretrial

What is 3DaysCount™?

A nationwide initiative to support states to



Reduce unnecessary arrests that destabilize families and communities,



Replace discriminatory cash bail with practical, risk-based decision-making, and



Enable transparent detention for the small number of defendants who pose a genuine threat to public safety.



Campaign Strategies



Public Education
Campaign



Targeted Support





Commonsense Pretrial

Campaign Strategies



Improve State
Statutes &
Court Rules

Implement Statewide
Evidence-Based Tools

Change State
Constitutions

Litigate



On-Demand Learning Community



- Community
- Online content
- Self-paced
- Live webcasts
- Town halls
- Office hours





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