

What Americans Think about Bail

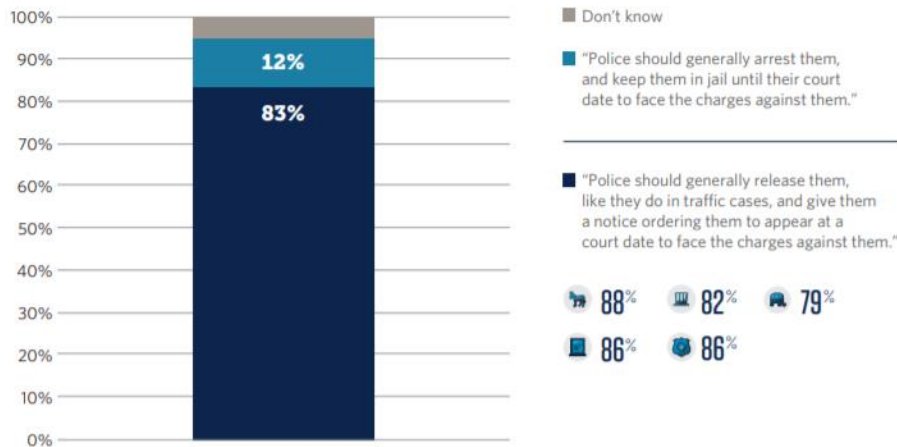
Jessica Smith, UNC School of Government, August 2019

In 2018, a national survey asked Americans what they thought of our pretrial justice systems. Their responses? Strong support for expanded pretrial release. The survey was done by a bipartisan team of pollsters on behalf of Pew Charitable Trusts. See THE PEW CHARITABLE TRUSTS, [AMERICANS FAVOR EXPANDED PRETRIAL RELEASE, LIMITED USE OF JAIL](#) (2018). Here are my top six take-aways from the survey, along with related survey data, explanatory text and graphs, which come directly from the Pew report (all attribution to Pew):

1. A large majority of Americans supported using citations in lieu of arrest for nonviolent crimes.

8 in 10 Americans Believe Police Should Cite Rather Than Arrest People Accused of Nonviolent Crimes

'Which of the following comes closer to your view about what should happen to people accused of nonviolent crimes?'



When police respond to violations of the law, they often make a choice: either arrest and take the person to jail or release the individual and issue a citation, also known as a summons, that orders the person to appear in court.⁴ A person who is booked into jail may be incarcerated for several days before seeing a judge.

For nonviolent crimes, Americans strongly favored citation rather than jail. Respondents from households with crime victims or members of law enforcement agreed that police should generally release people accused of nonviolent crimes and give them a notice to appear in court to face the charges against them.

Source: Telephone survey of 1,215 U.S. adults conducted from May 2 to 14, 2018, by Benenson Strategy Group and GS Strategy Group on behalf of The Pew Charitable Trusts

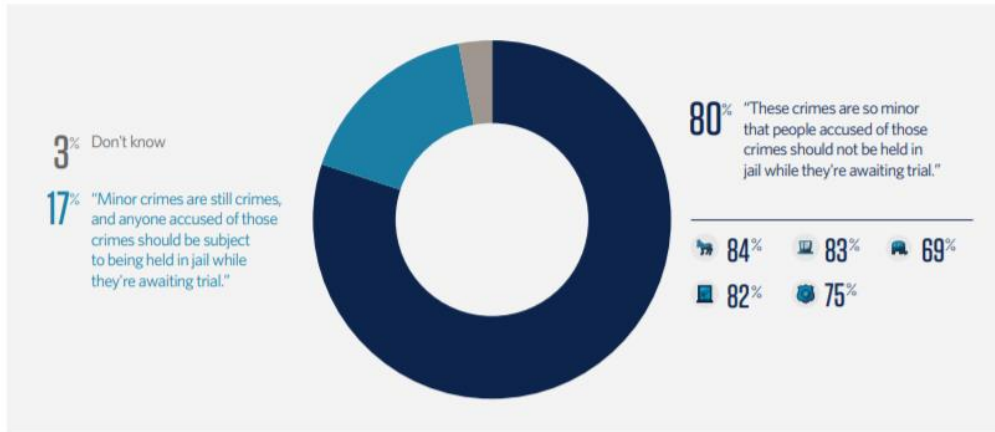
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- A large majority of Americans said that pretrial detention shouldn't be allowed for minor crimes like trespassing and public drunkenness.

80% of Americans Agree That Certain Crimes Do Not Warrant Pretrial Detention

'Which of the following do you agree with more when it comes to people accused of minor crimes, such as trespassing and public drunkenness?'

A large majority agreed that some offenses, such as trespassing and public drunkenness, are too minor to justify pretrial detention.



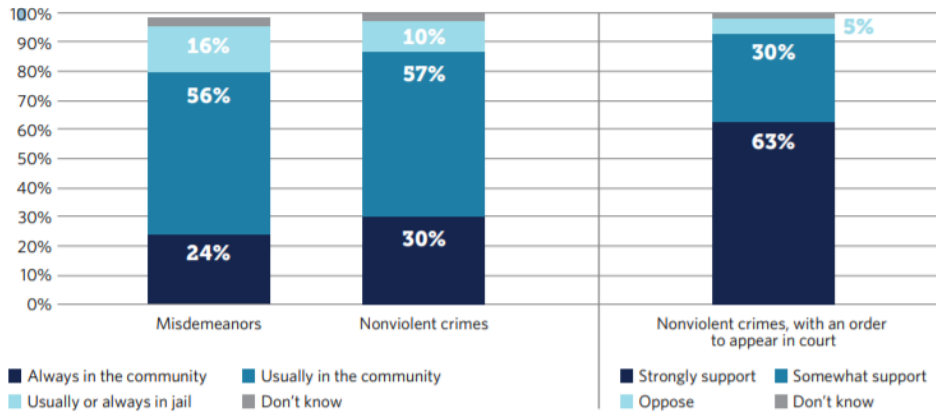
Source: Telephone survey of 1,215 U.S. adults conducted from May 2 to 14, 2018, by Benenson Strategy Group and GS Strategy Group on behalf of The Pew Charitable Trusts
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- A large majority of Americans supported pretrial release for people charged with misdemeanors and nonviolent crimes.

Large Majorities Favor Releasing Defendants Accused of Misdemeanors and Nonviolent Crimes Before Trial

Should people accused of these types of crimes generally remain in the community or be locked up in jail until their trials end? Would you support or oppose their release under the condition shown?

Most Americans say that people facing nonviolent or misdemeanor charges should generally be allowed to remain at home during the pretrial period. Between a quarter and a third of respondents said such individuals should always be released, while majorities said they should usually be released. Overall, 93 percent supported pretrial release with an order to appear in court for nonviolent charges.



Note: Interviewers informed survey participants that misdemeanors are generally punishable by less than a year in jail.

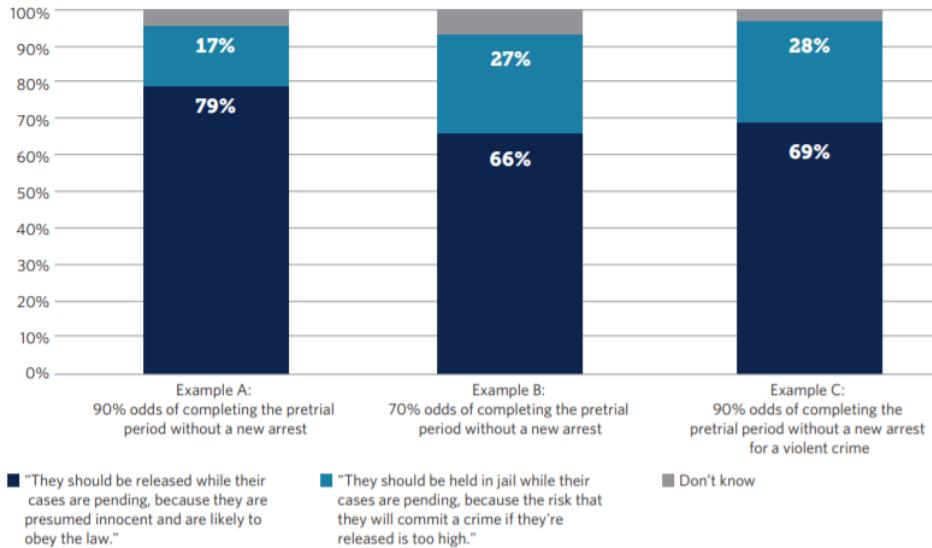
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4. Most Americans supported pretrial release for people whose likelihood of completing the pretrial period without a new arrest is as low as 70%.

Most Americans Support Releasing Defendants Often Labeled as Moderate or High Risk

'Based on what you know, if a risk assessment tool shows that a certain category of people has [the given odds of success], which of the following comes closer to your view about what should happen to them?'



Judges in some jurisdictions use pretrial risk assessment tools to guide their release decisions. These instruments categorize defendants based on the pretrial success rates of others with similar characteristics, such as age and criminal history. In the examples offered in the survey, the measure of success was avoiding arrest during the pretrial period. People who fall into the Example A category are often classified by these tools as being at low risk for rearrest, while those in Examples B and C are frequently moderate to high risk.⁵ Most Americans supported releasing people in all three example groups based on their likelihood of pretrial success.

Source: Telephone survey of 1,215 U.S. adults conducted from May 2 to 14, 2018, by Benenson Strategy Group and GS Strategy Group on behalf of The Pew Charitable Trusts
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5. Most Americans said that money bail does not keep communities safe.

Most Americans Say Money Bail Does Not Keep Communities Safe

'Which of the following do you agree with more?'



In many jurisdictions, judges set a monetary condition, commonly known as bail, which must be paid in full or part—often with the assistance of a commercial bail bond company—before the defendant can be released from jail. These conditions can result in different release or detention outcomes depending on a person's wealth or access to resources. When asked whether the requirement to put up money helps keep communities safe, a majority of Americans said no; support for this concept was much stronger among Democrats, independents, and law enforcement and crime victim households than among Republicans.

Source: Telephone survey of 1,215 U.S. adults conducted from May 2 to 14, 2018, by Benenson Strategy Group and GS Strategy Group on behalf of The Pew Charitable Trusts
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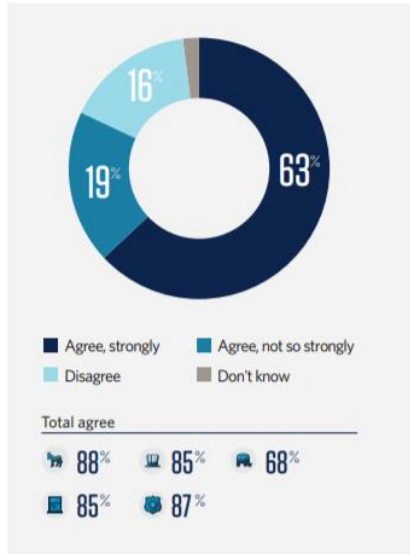
- 6. A majority of Americans supported spending more taxpayer money on treatment programs and victim services and less on jail for people who pose little public safety risk.

Americans Support Less Spending on Jails and More on Treatment and Victim Services

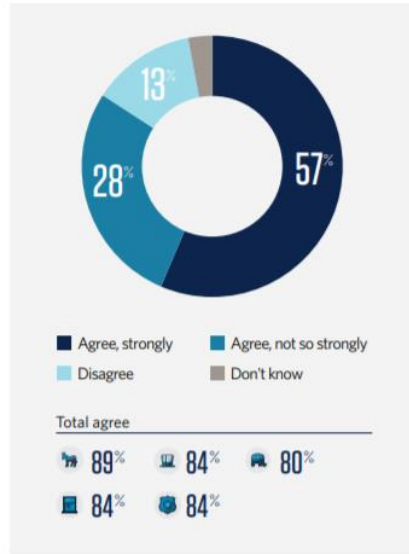
'We have limited resources to spend on public safety. We should spend less money on jailing people who are accused of crimes and pose little threat to public safety, and use some of that money instead to fund...'

State and local governments rely on tax dollars to fund local criminal justice systems, including the costs of detaining people in jail during the pretrial period. When presented with different options for apportioning public safety dollars, large majorities favored shifting some of the money currently spent on pretrial detention into treatment for those with substance misuse and mental health needs and into counseling and other services for crime victims.

Substance misuse or mental health services



Crime victim services



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