

Pretrial Release Policies and Jail Population Management in California

Sonya Tafoya
California Pretrial Summit
February 17, 2015



Outline

- Motivation
- Factors that impact the presentenced jail population
- How these factors have been operating to create a grouping of defendants into low, medium, and high risk categories
- Using this information to improve pretrial decision making



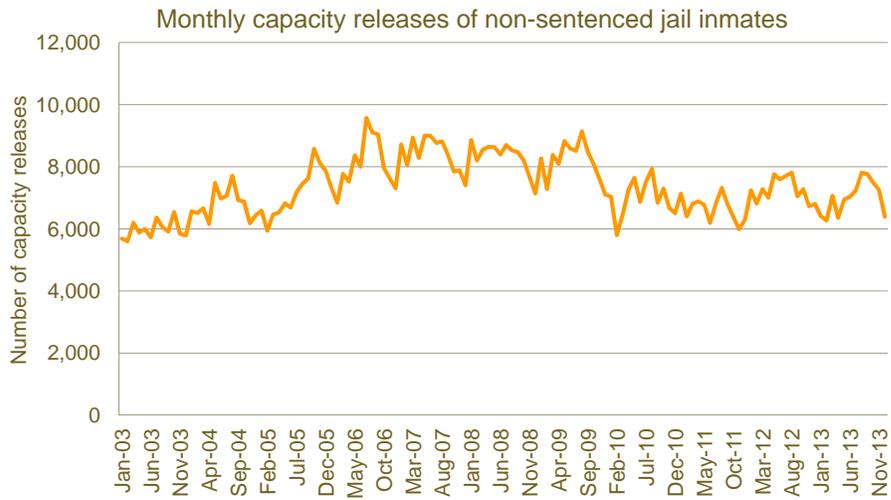
Motivation

- Jails
 - jail space is a limited resource
 - jails are expensive
 - the majority of the jail population is non-sentenced
- Using jail space efficiently
 - to maximize safety
 - to minimize failures to appear in court
 - to maximize perception of fairness

Practices that impact the presentenced jail population in California

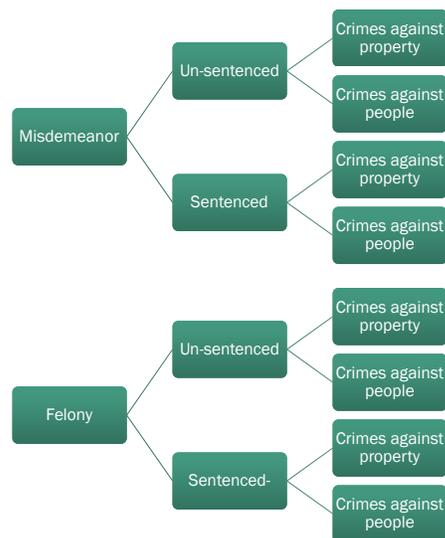
- Emergency/capacity release (court ordered)
- Bail/surety bond (financial)
- Own recognizance/cite and release (non-financial)
 - Clinical (professional) assessment
 - Actuarial (statistical) assessment
- Proposition 47 (voter driven)
- Diversion

Capacity releases of non-sentenced inmates are persistent



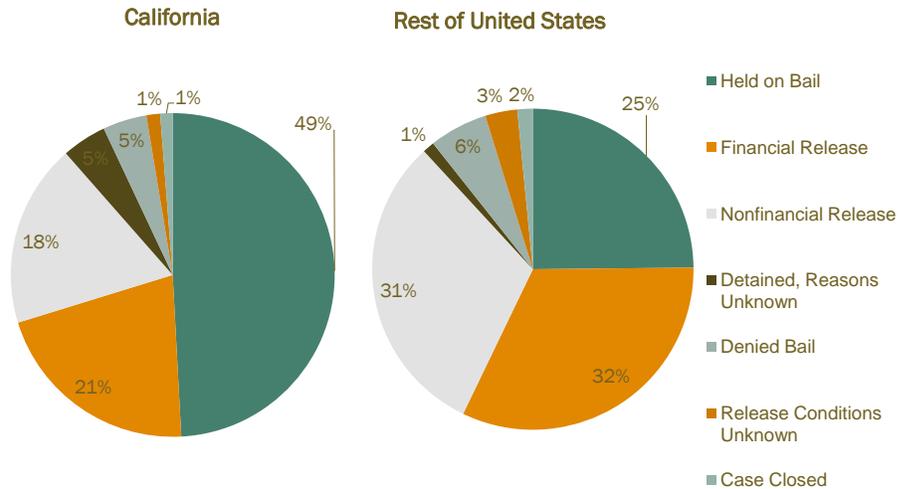
Source: Jail Profile Survey, Board of State and Community Corrections, Monthly 2003-2013

Common schema for capacity releases



- **Regardless of bail amount**
- **In descending order of length of stay**
- **May release versus shall release**
- **Some ineligible inmates**
- **Sheriff discretion**

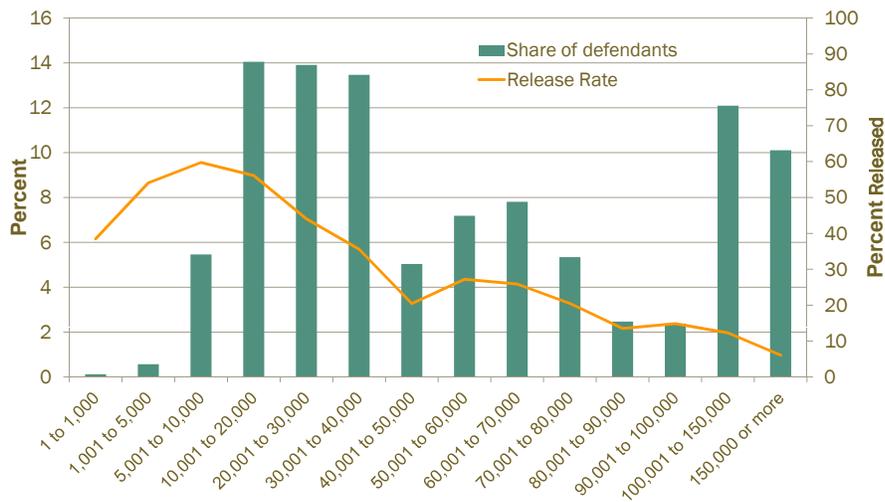
California has relied on bail to a greater extent than the rest of the U.S.



Source: State Court Processing Statistics 2000-2009

7

The median bail in California is \$50,000, corresponding with a release rate of 20%



Source: State Court Processing Statistics: California counties 2000-2009

8

Most defendants released on recognizance or bail are not rearrested and appear in court

Pretrial misconduct, by release type

| Release Type | Multiple FTAs | Re-arrest | Pretrial Felony Re-arrest | Pretrial Felony Drug Re-arrest | Pretrial Property Felony Re-arrest | Pretrial Violent Felony Re-arrest |
|----------------------|---------------|-----------|---------------------------|--------------------------------|------------------------------------|-----------------------------------|
| Bail | 5.1% | 16.9% | 11.6% | 5.3% | 3.9% | 1.4% |
| ROR/Cite and Release | 8.3% | 17.7% | 10.6% | 5.1% | 3.7% | 1.1% |

PPIC



Source: State Court Processing Statistics: California counties 2000-2009

9

Pretrial misconduct varies by arrest charge

Pretrial misconduct, by arrest charge

| Most Serious Arrest Charge | Share Released | Released Defendants | | | | |
|----------------------------|----------------|---------------------|----------------------|-----------------------|---------------------------|--------------------------|
| | | Multiple FTAs | Any Felony Re-arrest | Felony Drug Re-arrest | Felony Property Re-arrest | Violent Felony Re-arrest |
| Violent | 30% | 2.2 | 6.7 | 0.8 | 0.9 | 3.7 |
| Property | 40% | 4.4 | 12.6 | 2.2 | 8.4 | 0.8 |
| Drug | 48% | 9.9 | 14.7 | 10.1 | 2.3 | 1.1 |
| Public-Order | 40% | 3.4 | 8.8 | 1.3 | 1.6 | 1.1 |
| Total | 41% | 6.6 | 12.4 | 5.7 | 3.8 | 1.4 |

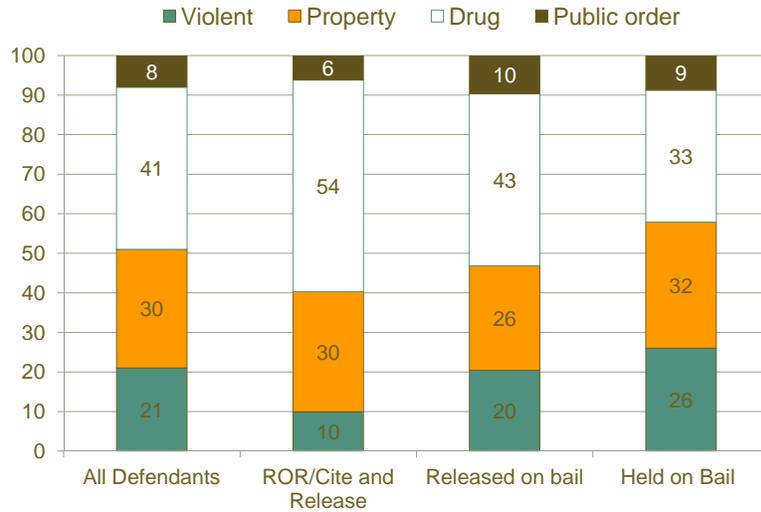
PPIC



Source: State Court Processing Statistics: California counties 2000-2009

10

Of those cited and released or released OR, over half charged with a drug felony



Source: State Court Processing Statistics: California counties 2000-2009

11

Factors governing ROR and bail setting result in a loose risk-based classification

Selected factors considered in California pretrial decision-making

| | All Defendants | Released | ROR/CR | Released on bail | Held on Bail | Capacity release |
|------------------------------|----------------|----------|--------|------------------|--------------|------------------|
| charged with violent offense | 21.0 | 15.4 | 10.0 | 20.5 | 26.1 | -- |
| 3 or more prior arrests | 66.0 | 53.7 | 51.9 | 54.3 | 75.2 | -- |
| Prior FTAs | 34.2 | 27.1 | 28.9 | 24.9 | 40.0 | -- |

Source: State Court Processing Statistics: California counties 2000-2009

12

Considerations for improving pretrial decision-making in California

| | Maximize safety | Minimize FTA | Maximize perceived fairness |
|-------------------------------|--|--|--|
| Capacity releases | Untested, may work at cross purposes with bail | untested | no |
| Bail | somewhat | yes | no |
| ROR/Cite and release—clinical | somewhat | no, unless paired with additional services | maybe, if basis of decision transparent, and system actors perceived as fair |
| ROR/Cite | yes, provided | possibly, especially | yes, transparent |

13

Notes on the use of these slides

These slides were created to accompany a presentation. They do not include full documentation of sources, data samples, methods, and interpretations. To avoid misinterpretations, please contact:

Sonya Tafoya (tafoya@ppic.org; 415-291-4470)

Thank you for your interest in this work.

14

California Counties Sampled in SCPS 2000-2009

| | 2000 | 2002 | 2004 | 2006 | 2009 |
|----------------|------|------|------|------|------|
| Alameda | x | x | x | | |
| Contra Costa | x | x | x | | |
| Los Angeles | x | x | x | x | x |
| Orange | x | x | x | x | x |
| Riverside | x | x | x | | |
| San Bernardino | x | x | x | x | x |
| San Diego | x | x | x | | |
| San Mateo | x | x | x | | |
| Santa Clara | x | x | x | | |
| Ventura | | | | x | x |

Source: State Court Processing Statistics: California counties 2000-2009

PPIC

