

Pretrial Pilot Program

2023 Report to the Legislature

Presenters:

Hon. Marsha G. Slough

Former Chair, Pretrial Reform and Operations Workgroup

Ms. Francine Byrne

Director, Criminal Justice Services

July 21, 2023



Overview

- Background
- Goals of Pretrial Pilot Program
- Outcomes and Findings
- Next Steps

Pretrial Reform in California

Former Chief Justice Tani G. Cantil-Sakauye's 2016 State of the Judiciary

- Highlighted the pretrial detention/release system as area of concern for the judicial branch.

“We must not penalize the poor for being poor”

Pretrial Detention Reform (PDR) Workgroup

Appointed by the former Chief to provide recommendations on how courts may better identify ways to make release decisions that:

- Promote fairness
- Protect the public
- Ensure court appearances

PDR Workgroup

Guiding Principles:

- Work within current legal requirements and parameters.
- Pretrial custody should not occur solely because a defendant cannot afford bail.
- Public safety is a fundamental consideration in pretrial detention decisions.
- Defendants should be released from pretrial custody as early as possible based on an assessment of the risk to public safety and the risk for failing to appear in court.

PDR Conclusion:

California's current bail system unnecessarily compromises victim and public safety because it bases a person's liberty on financial resources rather than likelihood of future criminal behavior and exacerbates socioeconomic disparities and racial bias.

Pretrial Reform and Operations Workgroup (PROW)

Established in 2019 to provide recommendations on how courts may better identify ways to make release decisions that:

- treat people fairly
- protect the public
- maximize court appearances

Pilot Program Goals — Budget Act of 2019 (AB74)

Increase the safe and efficient prearrestment and pretrial release of individuals booked into jail.

Implement "least restrictive" monitoring practices.

Expand the use and validation of pretrial risk assessment tools.

Assess any disparate impact or bias that may result from the implementation of these programs.

Pretrial Pilot Financial Overview

\$75 million allocated for Pretrial Pilot Program

- \$169.64 million in requests from 31 courts

\$67.90 million allocated to 16 pilot projects

- 10% of funding to the Judicial Council for administrative support, training, and technical infrastructure

\$59.59 million expended to date

- 74% by probation departments
- 26% by courts

Increase Safe and Efficient Pretrial Release

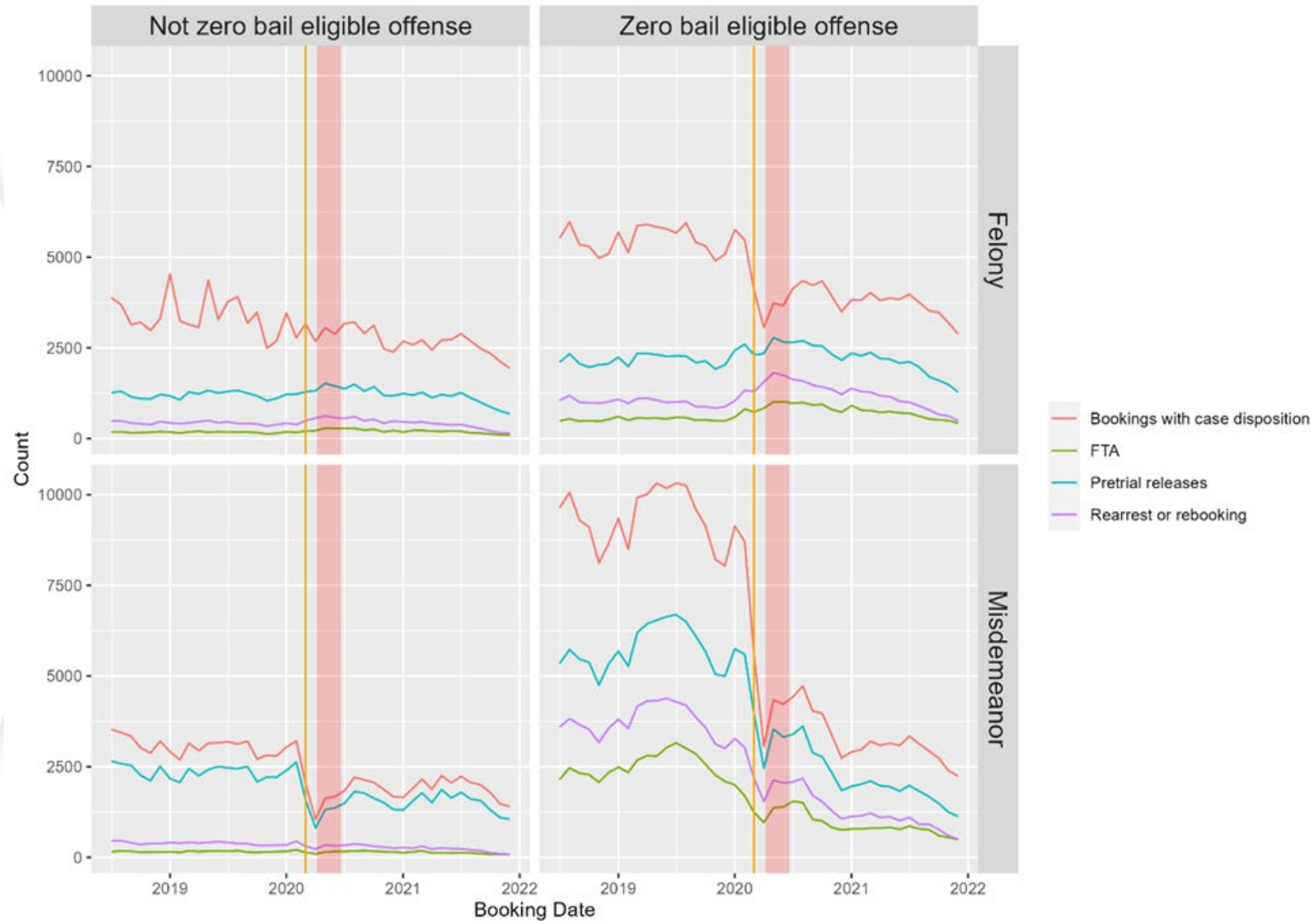
- Implementation of risk assessment tools
- Enhancement/expansion of services
- Technology upgrades
- Education and Training

Measuring Program Impact

- Individuals released on "own recognizance"(OR) or "pretrial monitor"(PM).
- Released on or after January 2019 and before July 2021 and case disposed before May 2022.
- Included individuals with cases disposed before January 2020 or released on or after July 2020.

It's Complicated

- **Figure 3.** Pattern of Misdemeanor and Felony Bookings With Dispositions, Pretrial Releases, and Rearrests During the Pretrial Period Over Time With Key Dates (Pg. 19)



Data Collection & Analysis

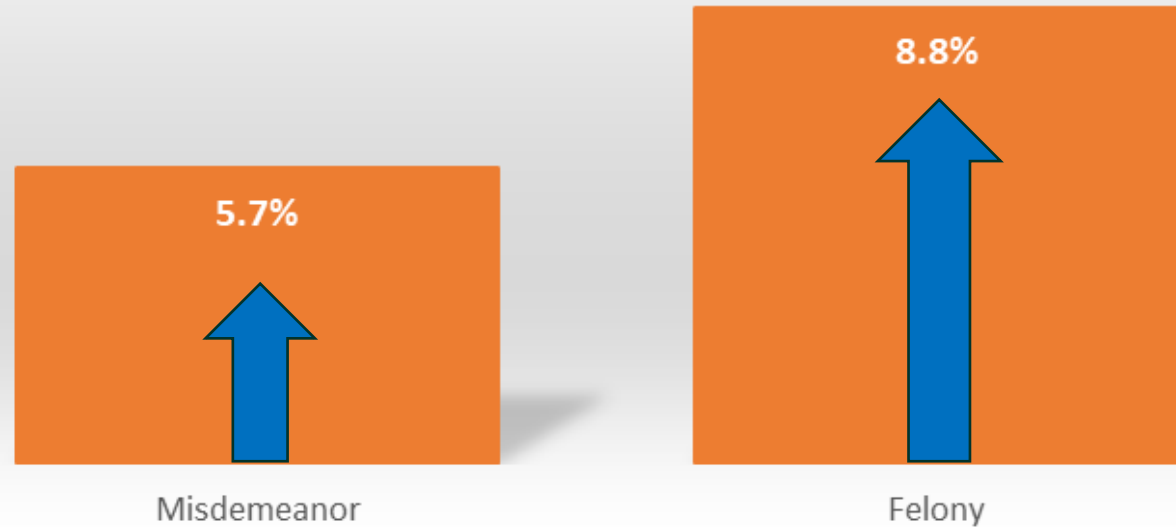
Integrated Statewide Data with Pretrial Rearrest Outcomes

Some factors controlled for:

- Mobility
- Offense type and severity
- \$0 bail eligible offenses
- State and County emergency bail policies

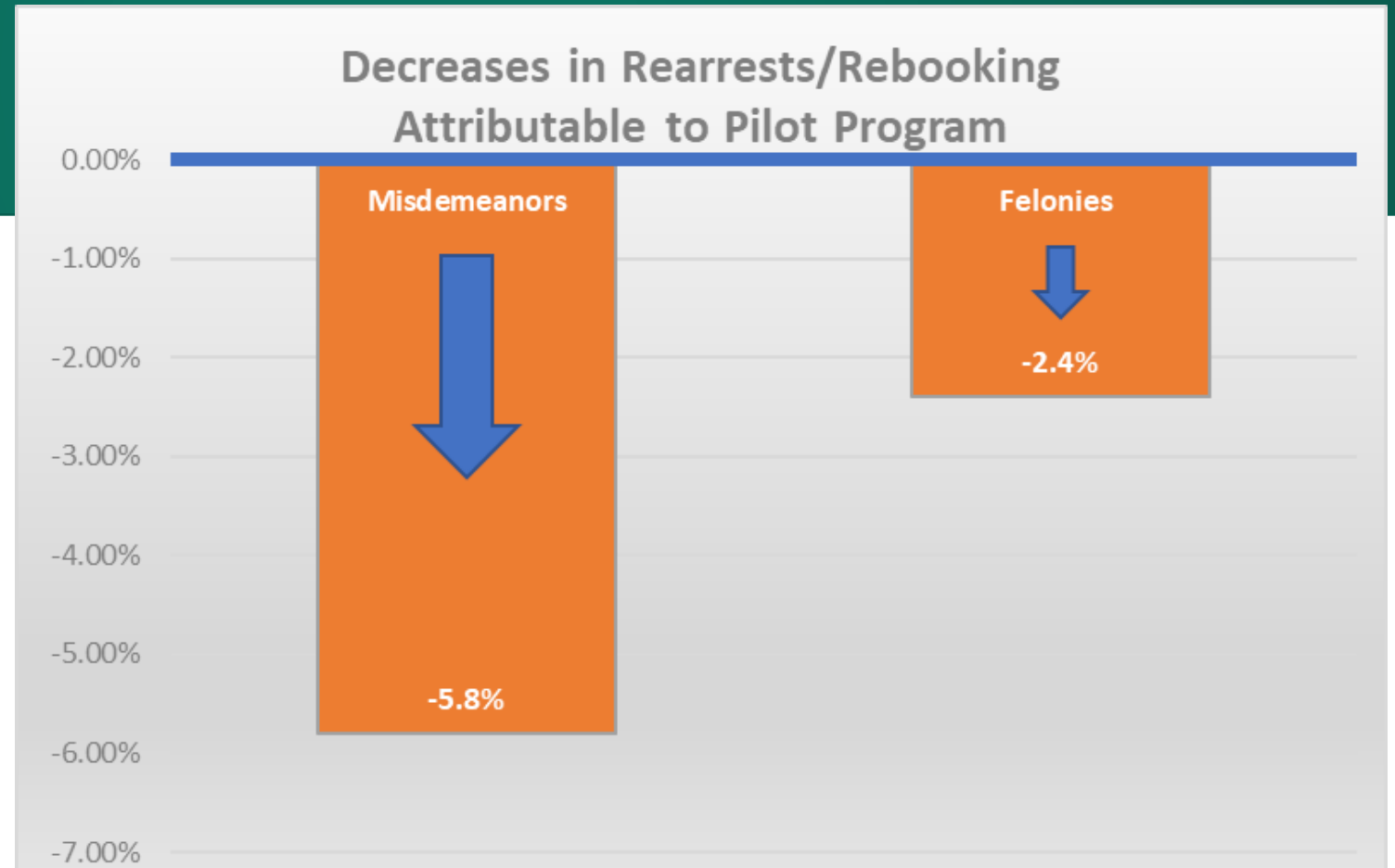
Increase Safe and Efficient Pretrial Release

Pretrial Release Increases Attributable to Pilot Program



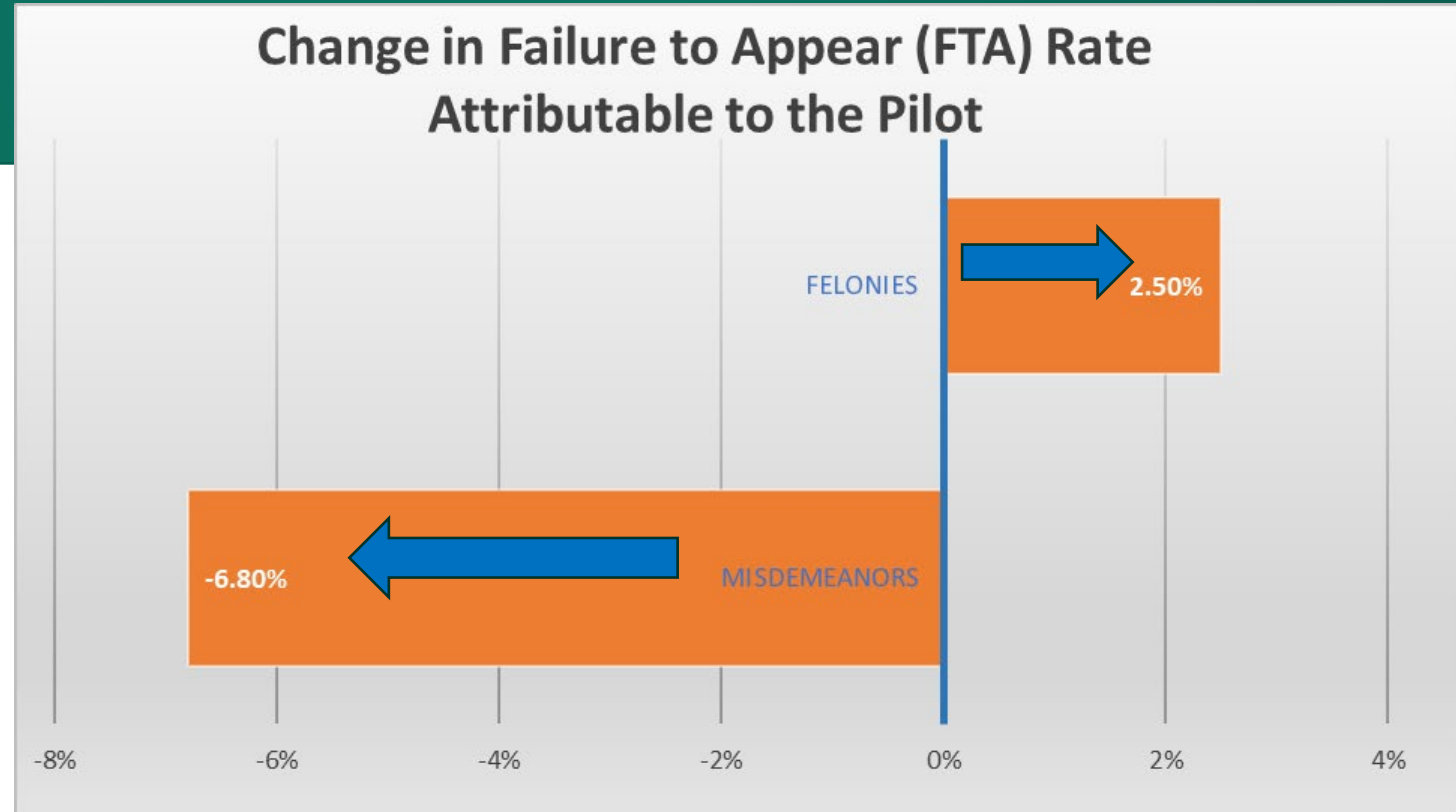
Note: Results of Linear Regression of Pilot Program implementation on Pretrial Release Rate controlling for multiple factors (see *Program Impact Analyses* section beginning at pg. 21 of the report for detailed information).

Increase Safe and Efficient Pretrial Release



Note: Results of Linear Regression of Pilot Program implementation on Pretrial Release Rate controlling for multiple factors (see *Program Impact Analyses* section beginning at pg. 21 of the report for detailed information).

Increase Safe and Efficient Pretrial Release



Strategies for Improvement:

- Implementation of court date reminder systems
- Improvement of post COVID-19 case disposition delays

Implement Least Restrictive Monitoring Practices

Court Date Reminder Systems

- 14 of 17 pilot counties implemented

Supportive Services

- Transportation vouchers
- Lodging
- Mental health services

Expand the Use and Validation of Risk Assessment Tools

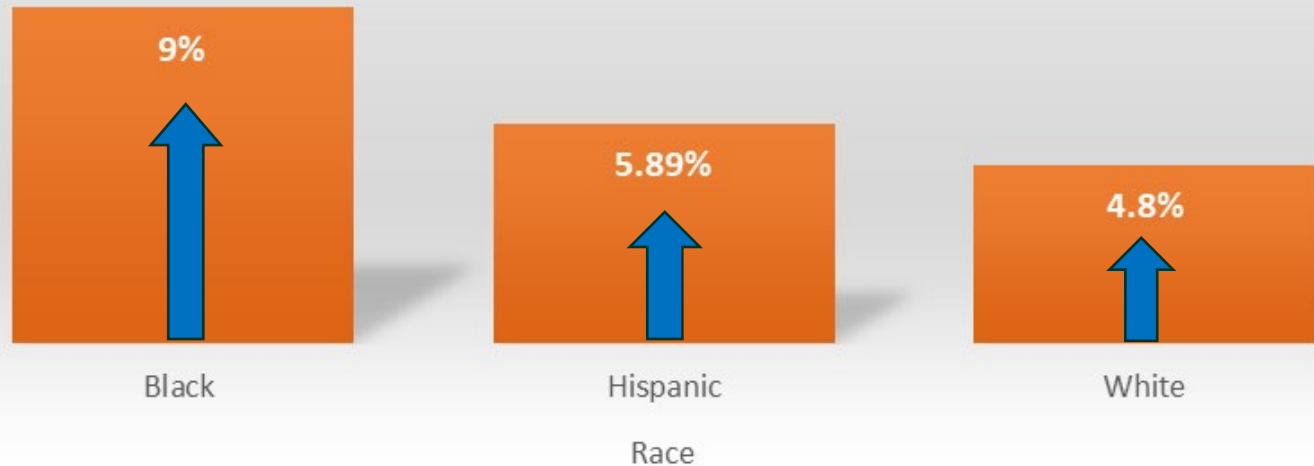
All pilot counties implemented a risk assessment tool.

- 4 courts for the first time.
- 1 court selected a new tool.
- 11 courts enhanced existing programs.

Four tools validated by the Judicial Council.

Assess Any Disparate Impact or Bias

Pretrial Release Increases Attributable to Pilot Program for Misdemeanor Charges by Race



No Significant Increases for Felony Charges

Note: Results of Linear Regression of Pilot Program implementation on Pretrial Release Rate controlling for multiple factors (see *Program Impact Analyses* section beginning at pg. 21 of the report for detailed information).

Assess Any Disparate Impact or Bias

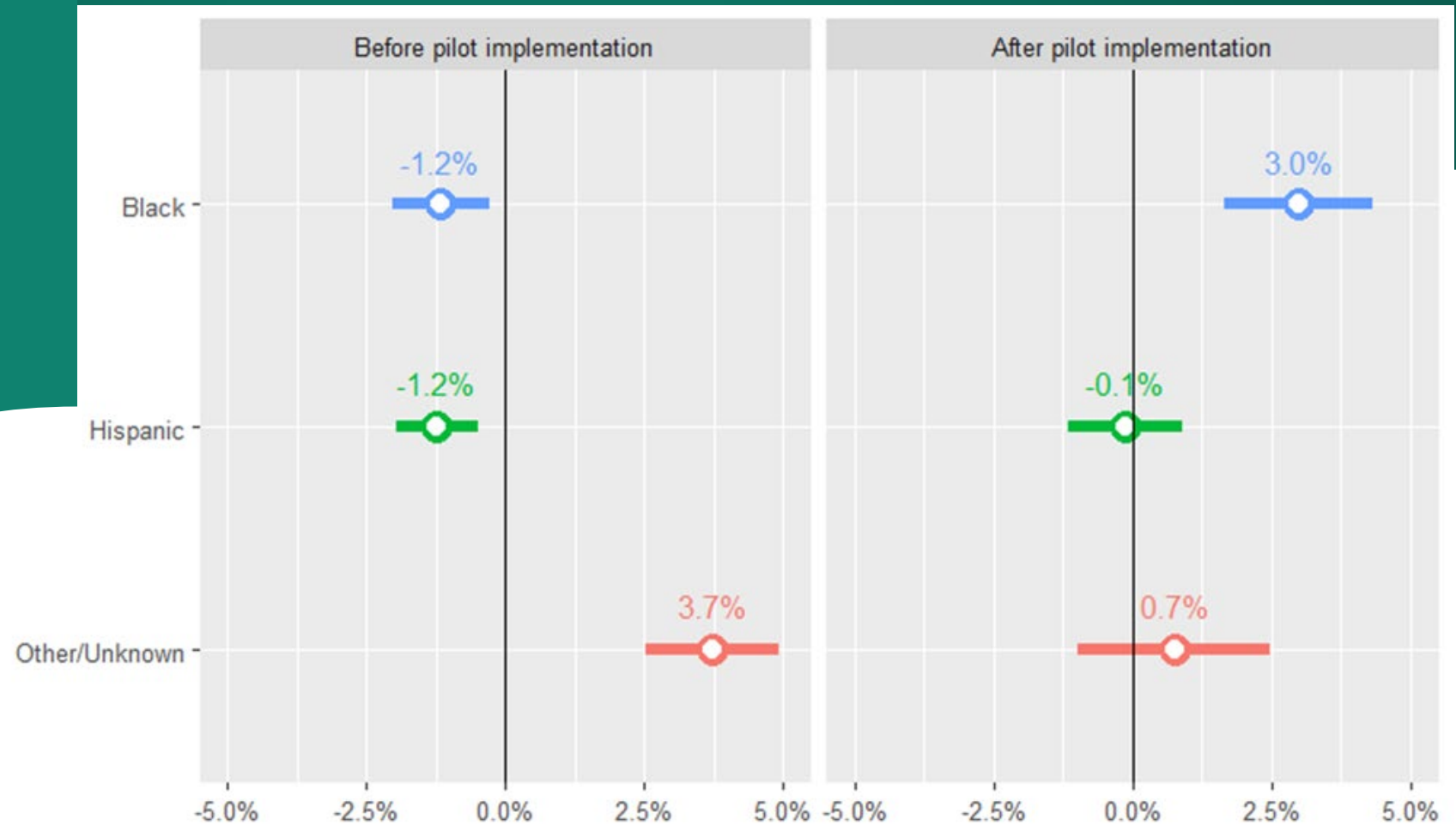


Figure 7. Estimated Probability of Pretrial OR/PM Release Compared to White Individuals Before and After Pilot Implementation With 95 Percent Confidence Intervals

Conclusion & Next Steps

- Statewide Expansion to Pretrial Release Program
- Statewide Data Technology System
- Local collaboration and training

QUESTIONS?

THANK YOU!

For more information, please contact:

Deirdre Benedict, Supervising Analyst
Criminal Justice Services, Operations and Programs Division
415-865-7543, deirdre.benedict@jud.ca.gov
www.courts.ca.gov/pretrial.htm