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Strengthening judicial integrity and capacity

Regional Community of Practice Workshop – The Arab Region

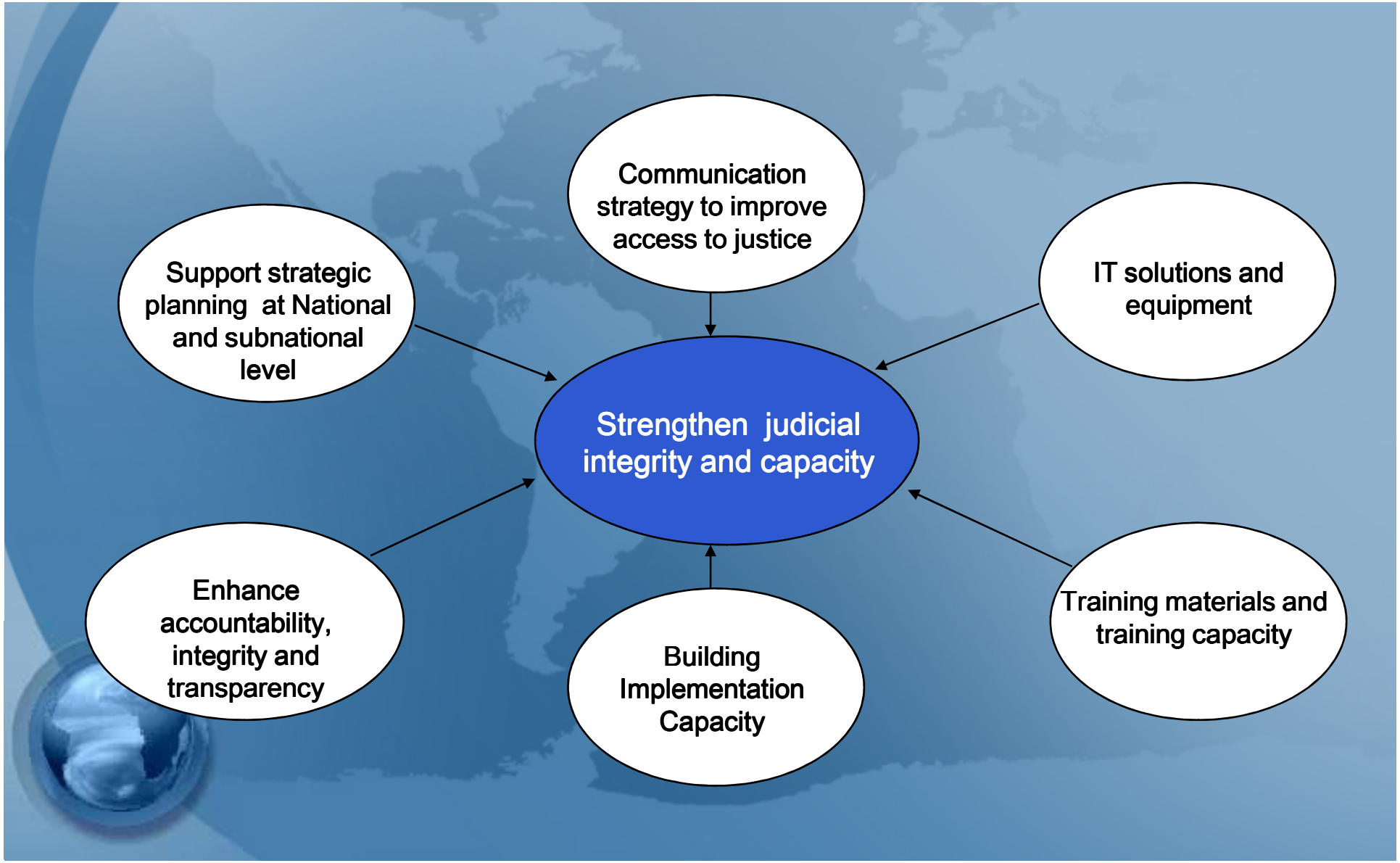
Tunisia

25-26 June 2009

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Strengthening judicial integrity and capacity



Phase I

Programme Phases:

- Establishment of reform objectives
- Assessing justice sector capacity and integrity,
- Facilitating action plan development in pilot jurisdictions
- Supporting action plan implementation
- Building sustainable reform capacity (Judicial Training Schools)
- Monitoring implementation, identifying lessons learned, and
- sharing good practices and determine phase II

Phase II

Programme Phases:

- Baseline and progress assessment
- Updating action plans in original pilot jurisdictions
- Developing action plans in new pilot jurisdictions
- Supporting action plan implementation
- Helping build sustainable training capacities, e.g.:
  - ADR & restorative justice
  - Judicial ethics
  - Corruption and economic crime
  - Supporting local training programmes

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Access to Justice

- ADR & Restorative Justice training for judicial officers
- Advisory services on ADR set-up
- Enhance client orientation of courts
- Information materials on bail, legal aid & complaints mechanism (posters, flyers, stickers)
  - Court user forum to address court users' concerns
  - Promote pro-bono work by lawyers
  - Interactive Radio and TV Programmes



Quality and Timeliness of Justice Delivery

- Simplification of procedural law
- Training of court staff and police prosecutors
- Legal research tools (lexis-nexis)
- Court technology conducive to improved court and case management
  - E-court recording machines and training
  - IT equipment and solutions
  - IT advisory services
- Training of judicial officers on the handling of economic and financial crimes cases

Accountability, Integrity and Transparency

- Support implementation of Codes of Conduct
  - Dissemination
  - Professional ethics training programme
  - Commentary on the Bangalore Principles of Judicial Conduct
- Public Complaints System & Committee (complaints management software)
- Performance evaluation of judicial officers
- Justice Newsletter
- Annual Report

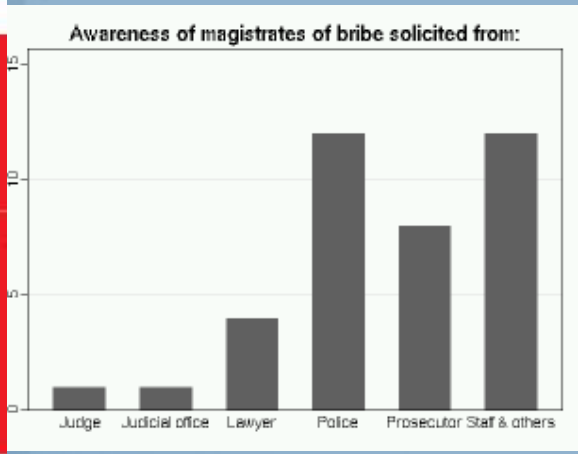
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Assessment of the Justice Sector

- Access to justice
- Timeliness of justice delivery
- Quality of Justice delivery
- Independence, impartiality and fairness of the judiciary
- Public trust in the judiciary
- Corruption in the justice sector









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Assessments Conducted in three Countries

Nigeria Phase I, 2002

5766 Stakeholders interviewed in 3 pilot States (Borno, Delta, Lagos)

Nigeria Phase II, 2007

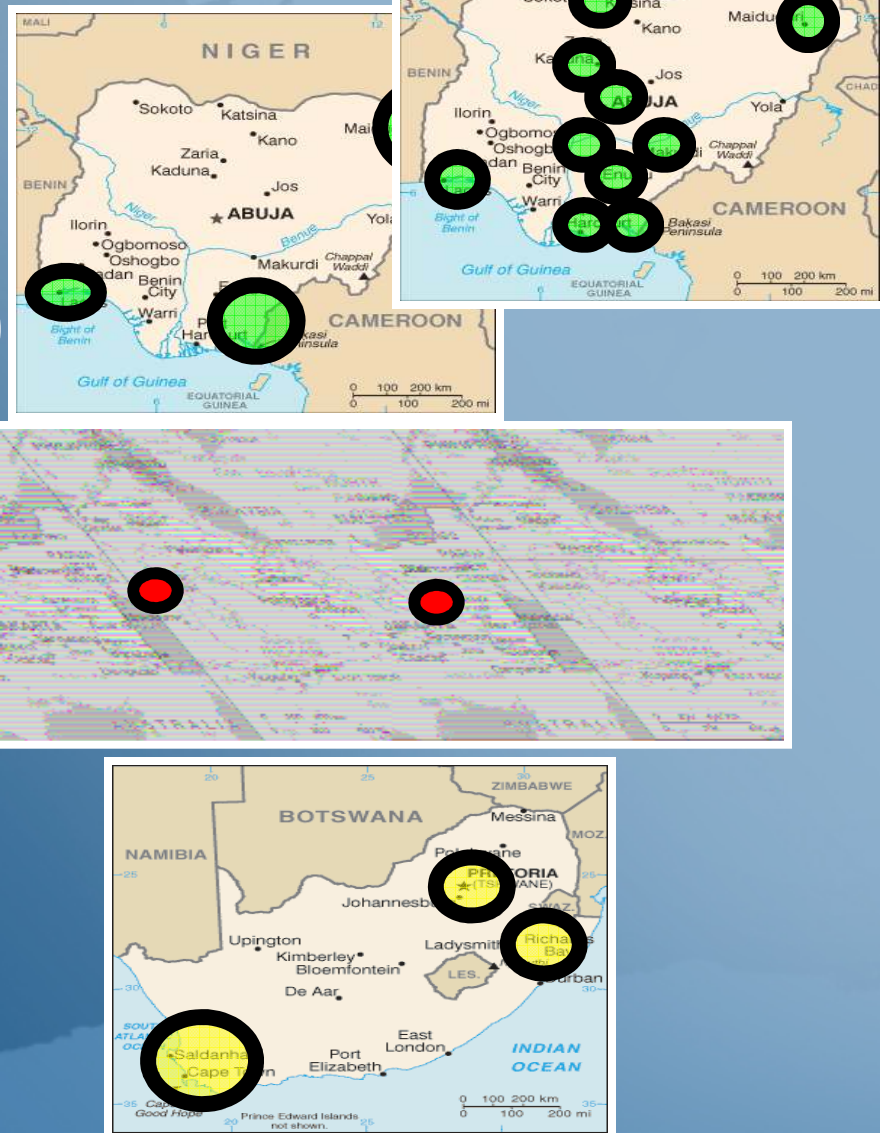
10,000 Stakeholders interviewed in 10 pilot States

Indonesia, 2004

2485 Stakeholders interviewed in 2 pilot Provinces (South East Sulawesi, South Sumatera)

South Africa, 2005

1268 Stakeholders interviewed in 3 pilot Provinces (Gauteng, Mpumalanga, Northern Cape)



Access to Justice

- In Nigeria, less than 25% of business people find the courts affordable and on average, court users face 6 to 10 adjournments in a single case.

- In Indonesia, more than 60% of prisoners awaiting trial are not aware of the possibility to apply for bail, and more than 70% of the prisoners awaiting trial have not retained a lawyer.

- In South Africa, 34% of the court users found it difficult or very difficult to obtain information from the courts.

Timeliness and Quality

- In Nigeria, court users waited 16 - 35 months to have their cases resolved; and prisoners, at the time of the interview, had been in remand between 22 and 46 months without their court case being concluded.

- In Indonesia, 45-60% of business people indicated that laws and their interpretation by the courts were unpredictable and inconsistent.

- In South Africa, 28% of the magistrates claimed that their performance had never been appraised, and the majority of magistrates was dissatisfied with the working conditions.

Independence, Fairness and Impartiality

- In Nigeria, 50% of judges agree that Government controls the Judiciary and more than 50% of lawyers perceive court decisions being influenced by politics.
- In Indonesia, half of the judges and more than 60% of prosecutors had experienced cases of undue influence on judicial decisions.
- In South Africa, only 18% of those prosecutors who knew of incidents of undue influence (social status, gender, race or religion) on judicial decisions, had reported these cases to the appropriate institutions.

Corruption, Accountability and Oversight

- In Nigeria, between 11 and 44% of the business people claimed to have received indications that a bribe was required to receive a more favourable decision. Bribes are mostly paid to court clerks (20-28%).
- In Indonesia, 25% of the judges knew of court users having been asked to pay bribes during the last year in order to expedite the court process.
- In South Africa, while more than 50% of the respondents believe that there is corruption in the courts, in reality the extent of experienced corruption is minimal (< 0.3%).

Public Trust

- In Nigeria, 30 - 50% of court users will not use the courts again based on their experience.
- In Indonesia, 36-68% of the business people did not use the courts during the last two years, even when needed - mainly for fear of corruption.
- In South Africa, 57% believed that the decision taken on the day of the interview was unfair, however, this perception appeared to be closely linked to whether the decision was favourable for them.

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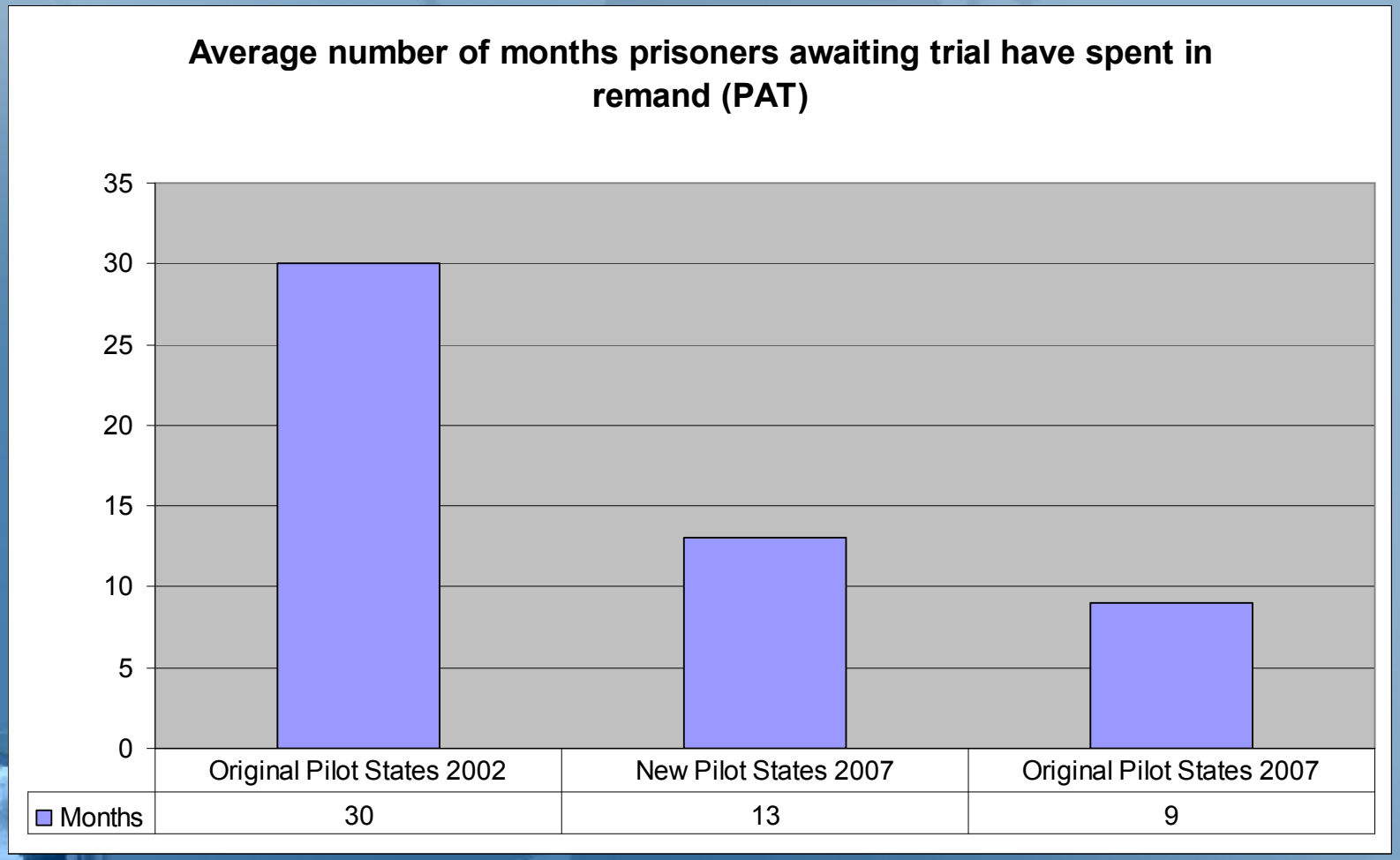
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Six years of strengthening judicial integrity and capacity in Nigeria

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Access to Justice

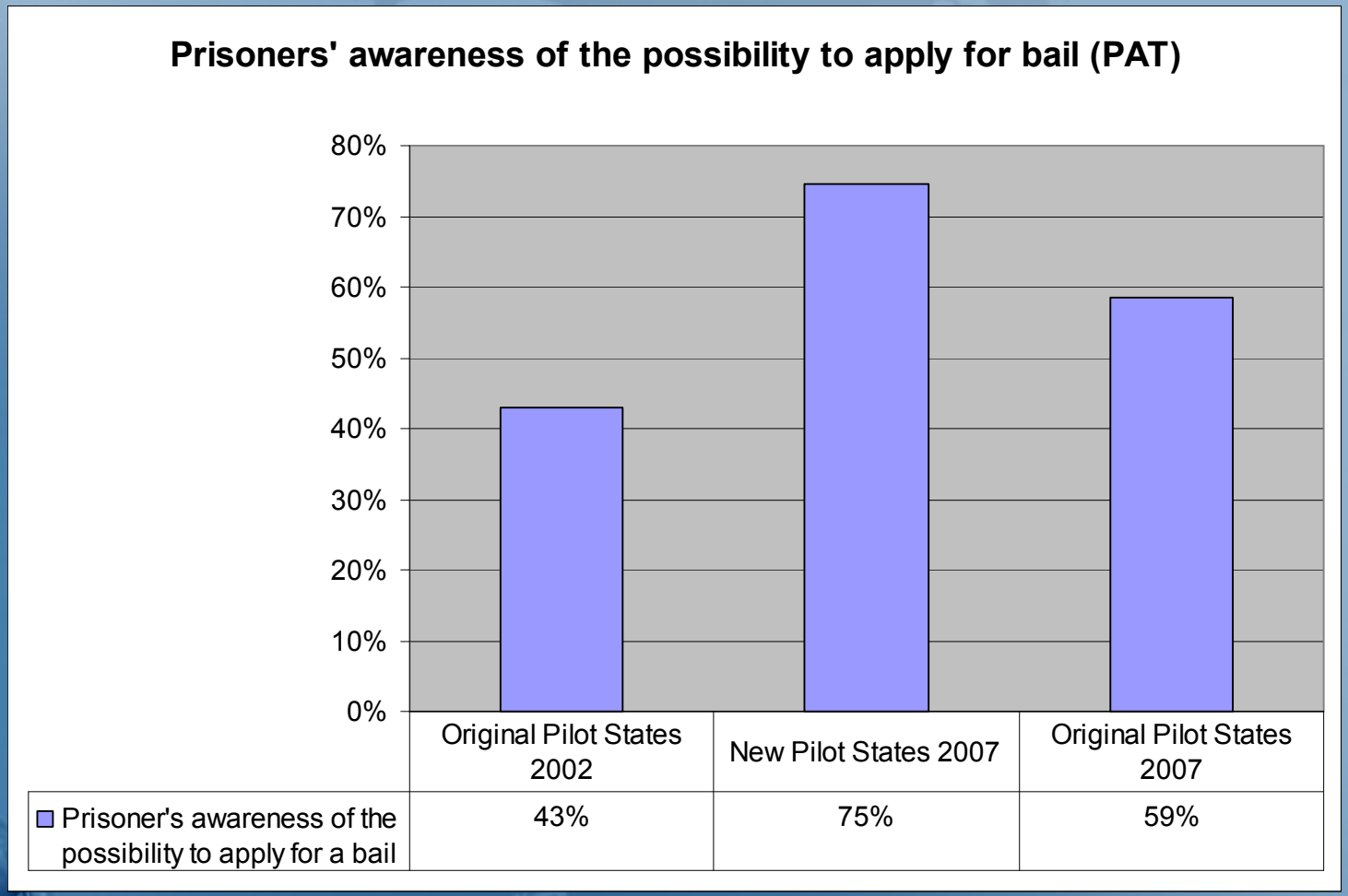


Access to justice by prisoners in remand has improved significantly

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Access to Justice

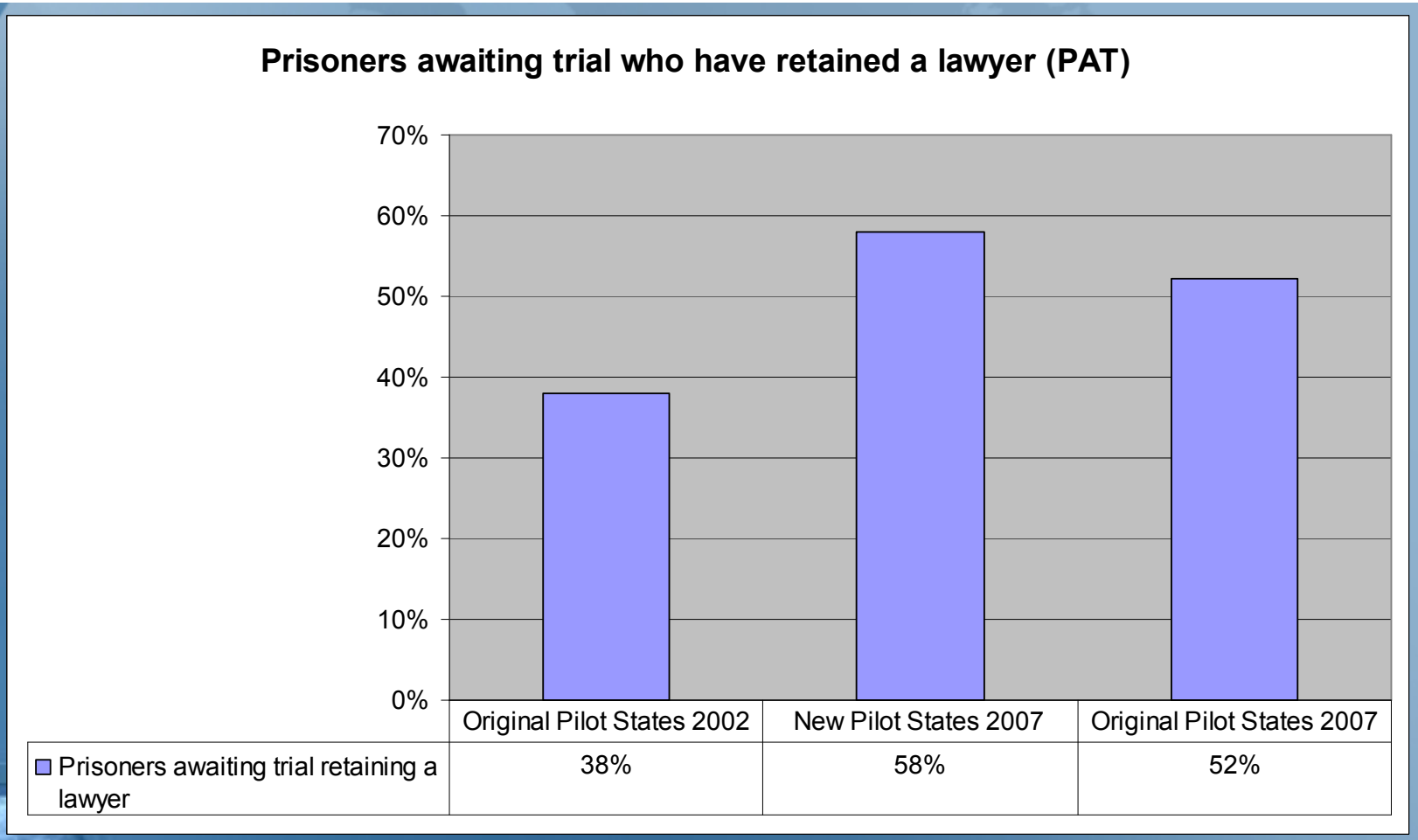


Prisoners' awareness of the conditions of bail increased from 16% to 53%

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Access to Justice

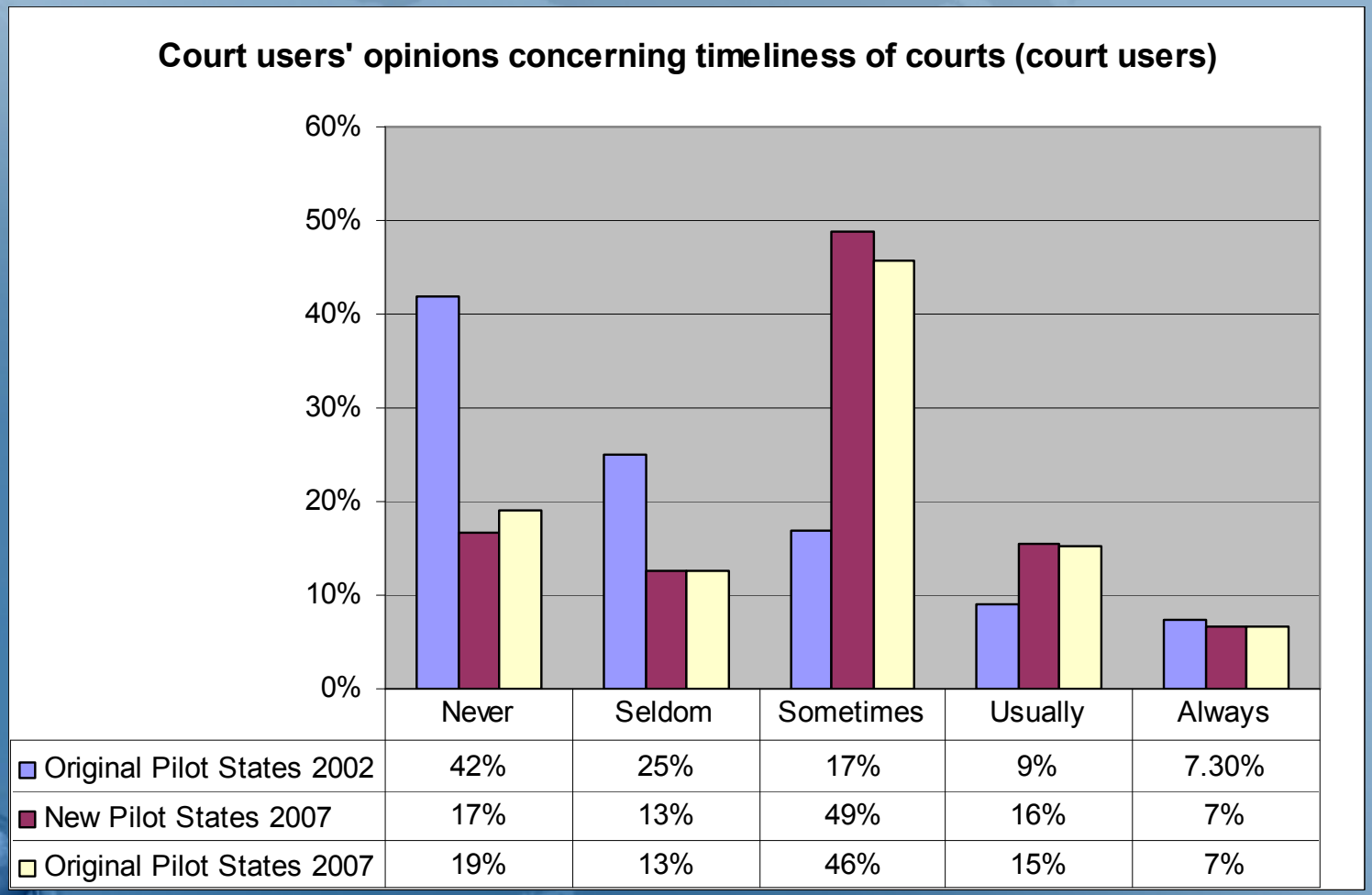


Access to legal assistance has improved, however, percentage of those receiving legal aid or pro-bono services has not increased (9.3% in 2002, 9.6% in 2007)

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Timeliness



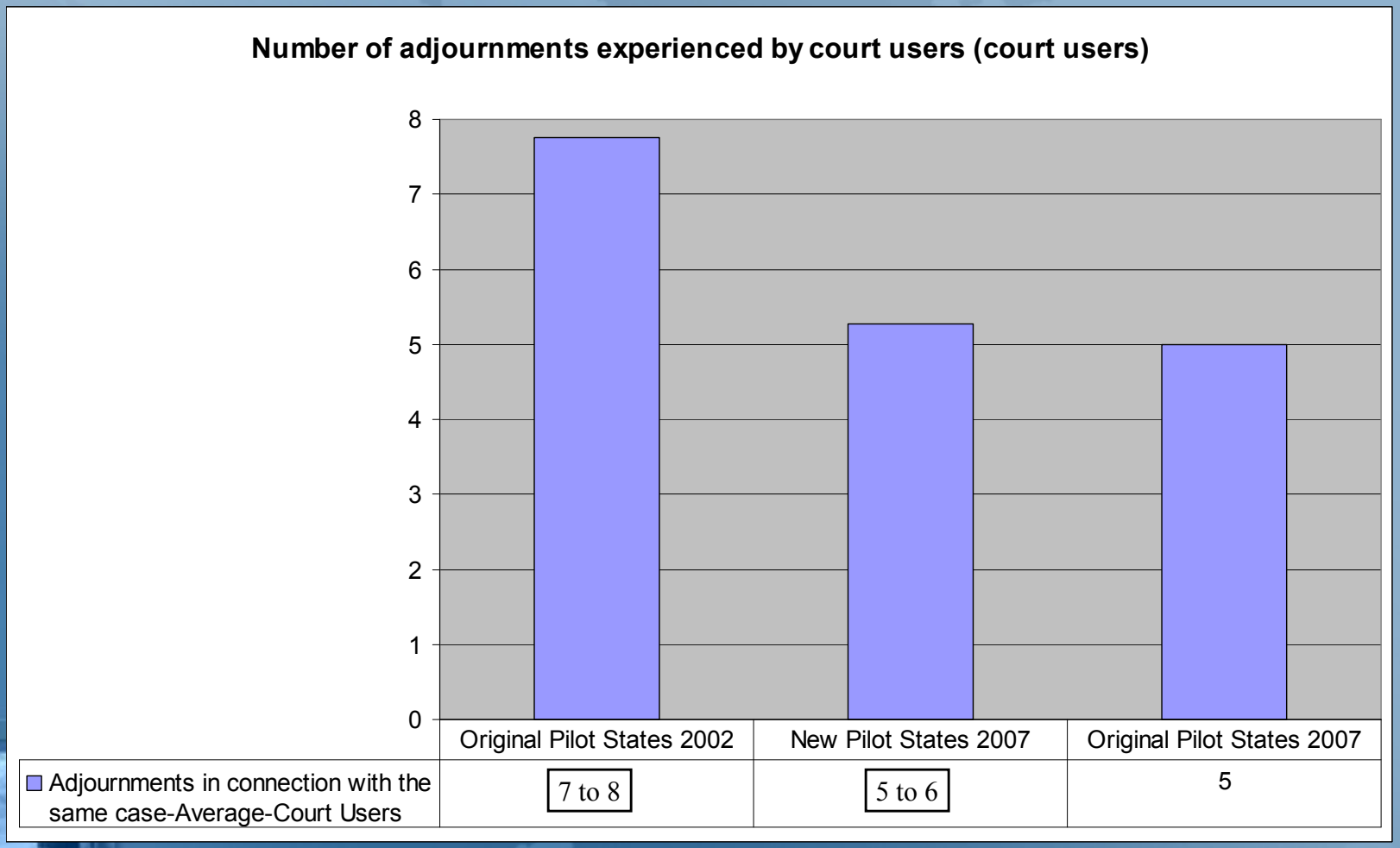
	Never	Seldom	Sometimes	Usually	Always
Original Pilot States 2002	42%	25%	17%	9%	7.30%
New Pilot States 2007	17%	13%	49%	16%	7%
Original Pilot States 2007	19%	13%	46%	15%	7%

In 2002, 67% of the court users perceived the courts to be never or seldom quick, in 2007, only 30% shared that view.

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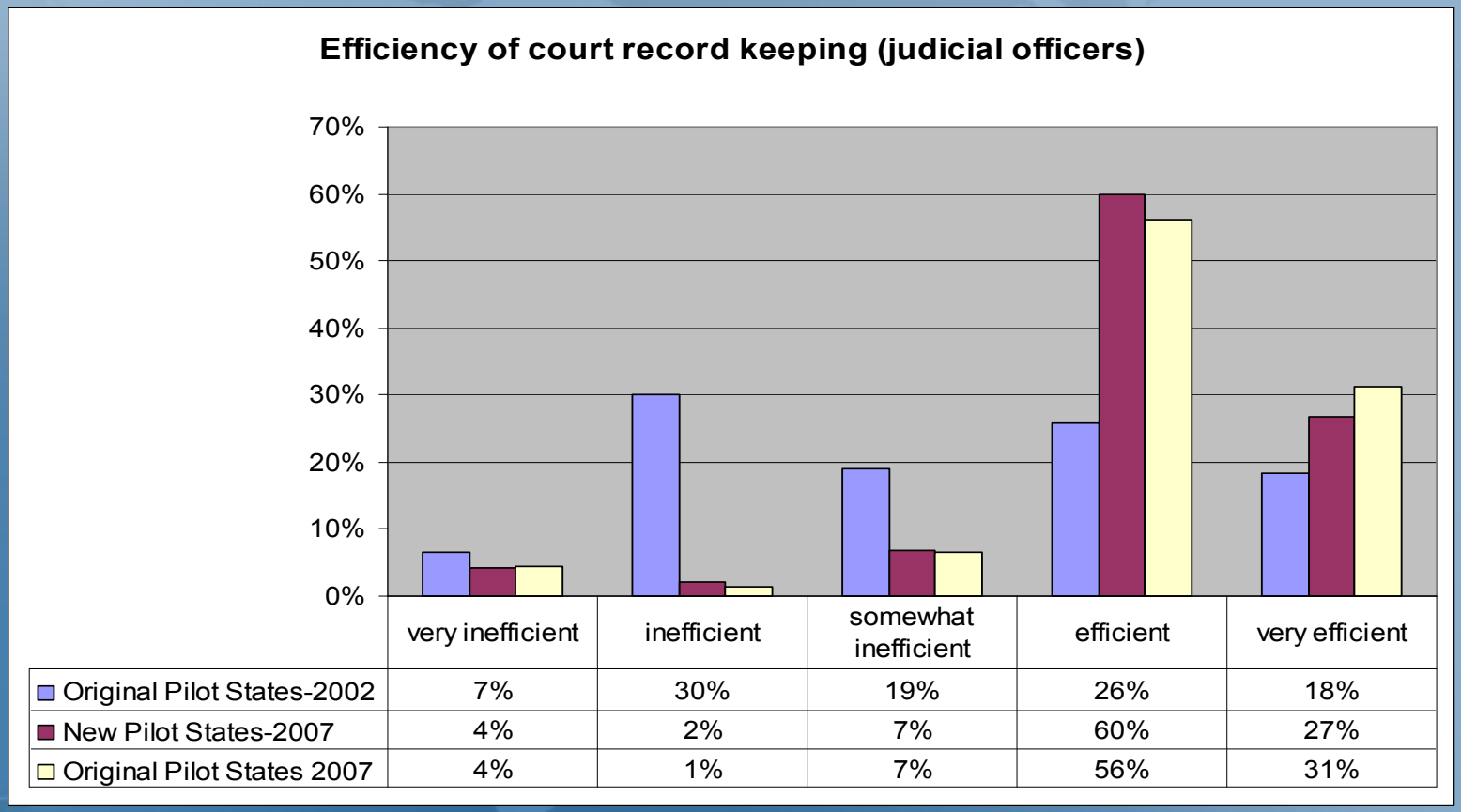
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Timeliness



2007: 55% of the adjournments are caused by the absence of either one of the parties (30%), their lawyers (12%) or the judicial officer (10%)

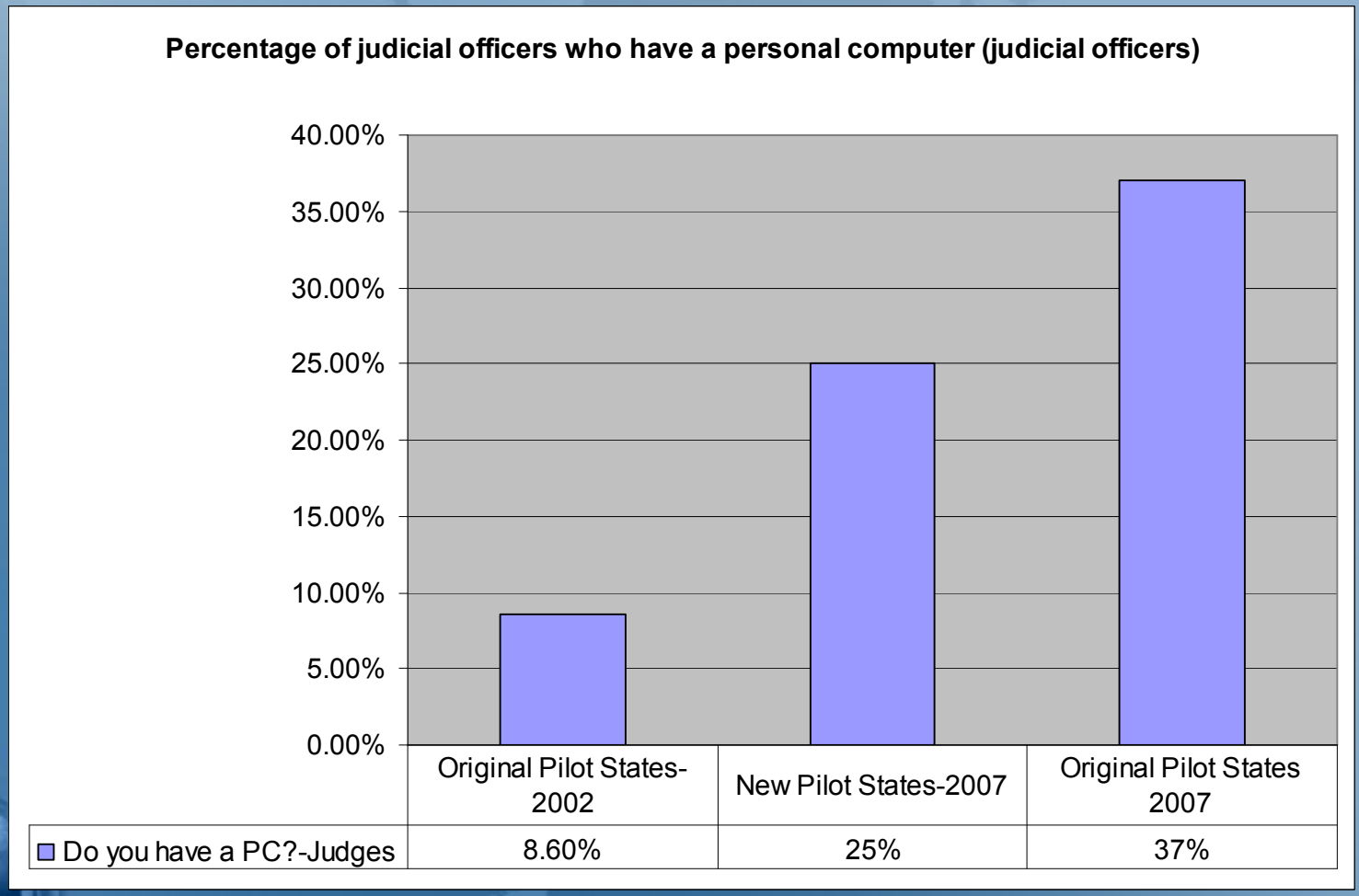
Quality



	very inefficient	inefficient	somewhat inefficient	efficient	very efficient
Original Pilot States-2002	7%	30%	19%	26%	18%
New Pilot States-2007	4%	2%	7%	60%	27%
Original Pilot States 2007	4%	1%	7%	56%	31%

- Percentage of judicial officers considering record-keeping efficient or very efficient has increased from 44% - 87%
- In 2007, only 8.5% of judicial officers had experienced problems of lost or misplaced files in the last 12 months

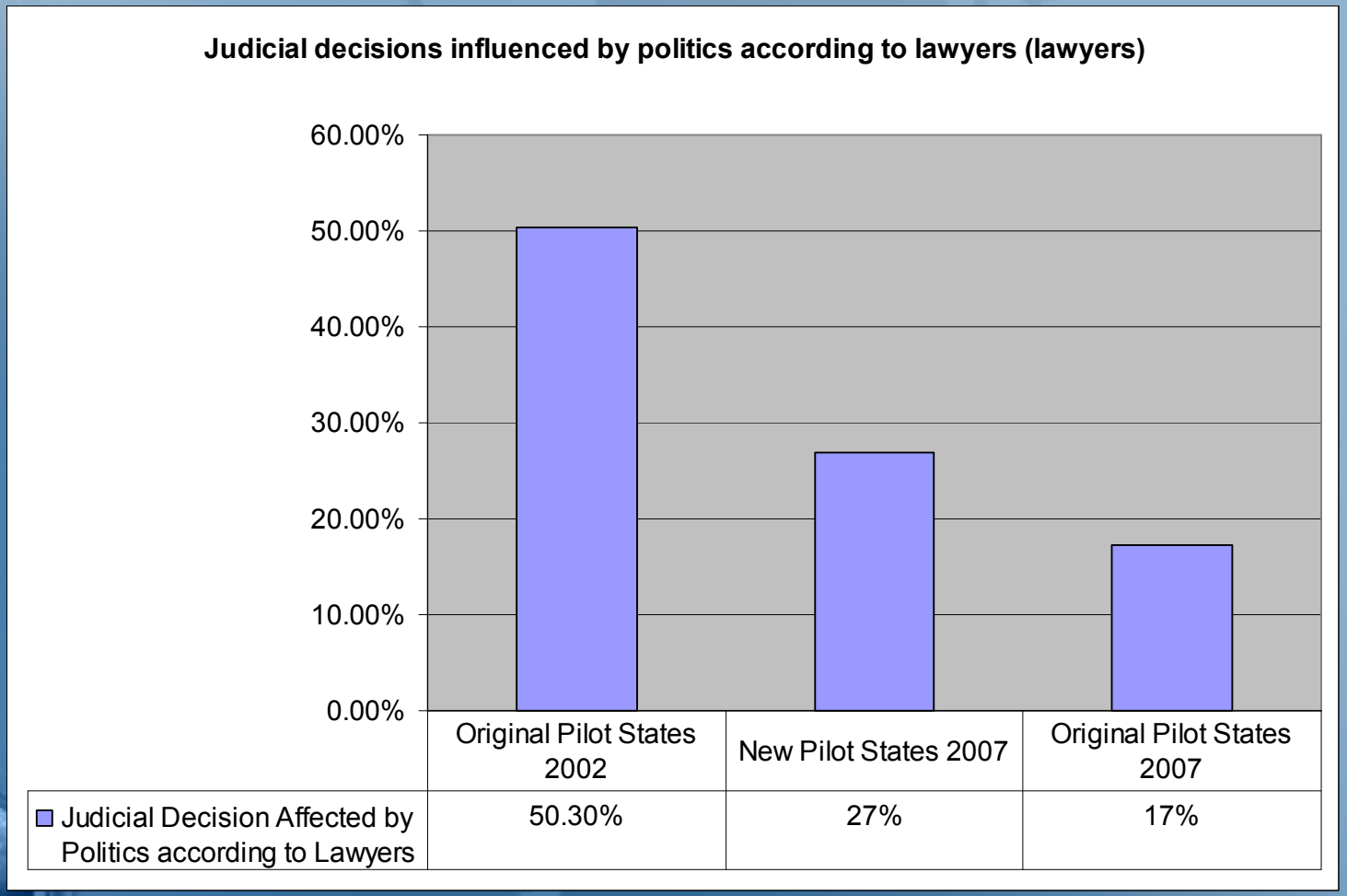
Quality


Percentage of judicial officers who have a personal computer (judicial officers)
40.00%
35.00%
30.00%
25.00%
20.00%
15.00%
10.00%
5.00%
0.00%
Original Pilot States-2002
New Pilot States-2007
Original Pilot States 2007
Do you have a PC?-Judges
8.60%
25%
37%

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Independence, Fairness and Impartiality

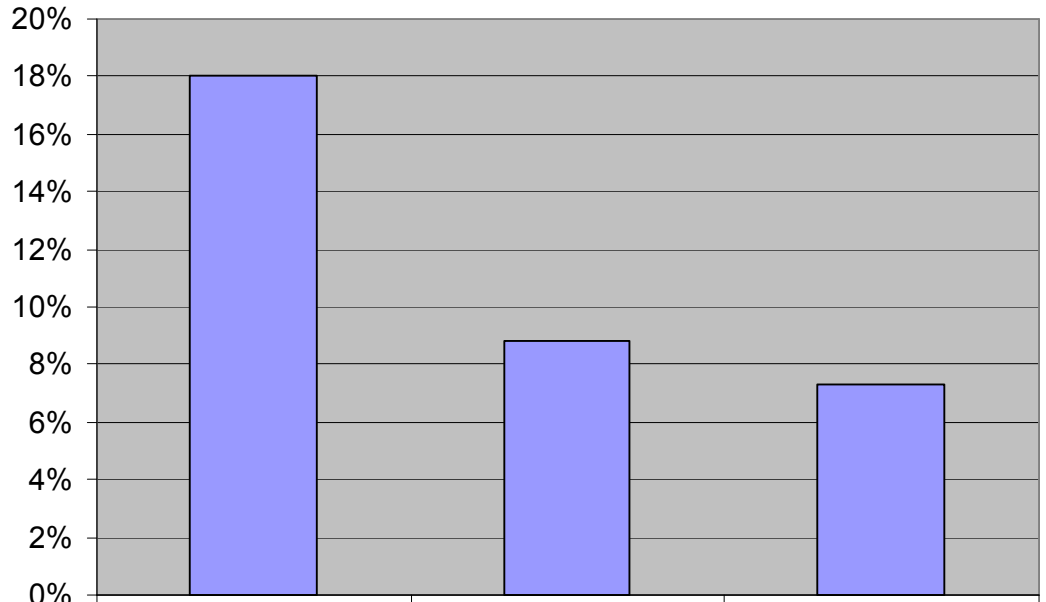


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Independence, Fairness and Impartiality

Judicial appointments influenced by politics (judicial officers)

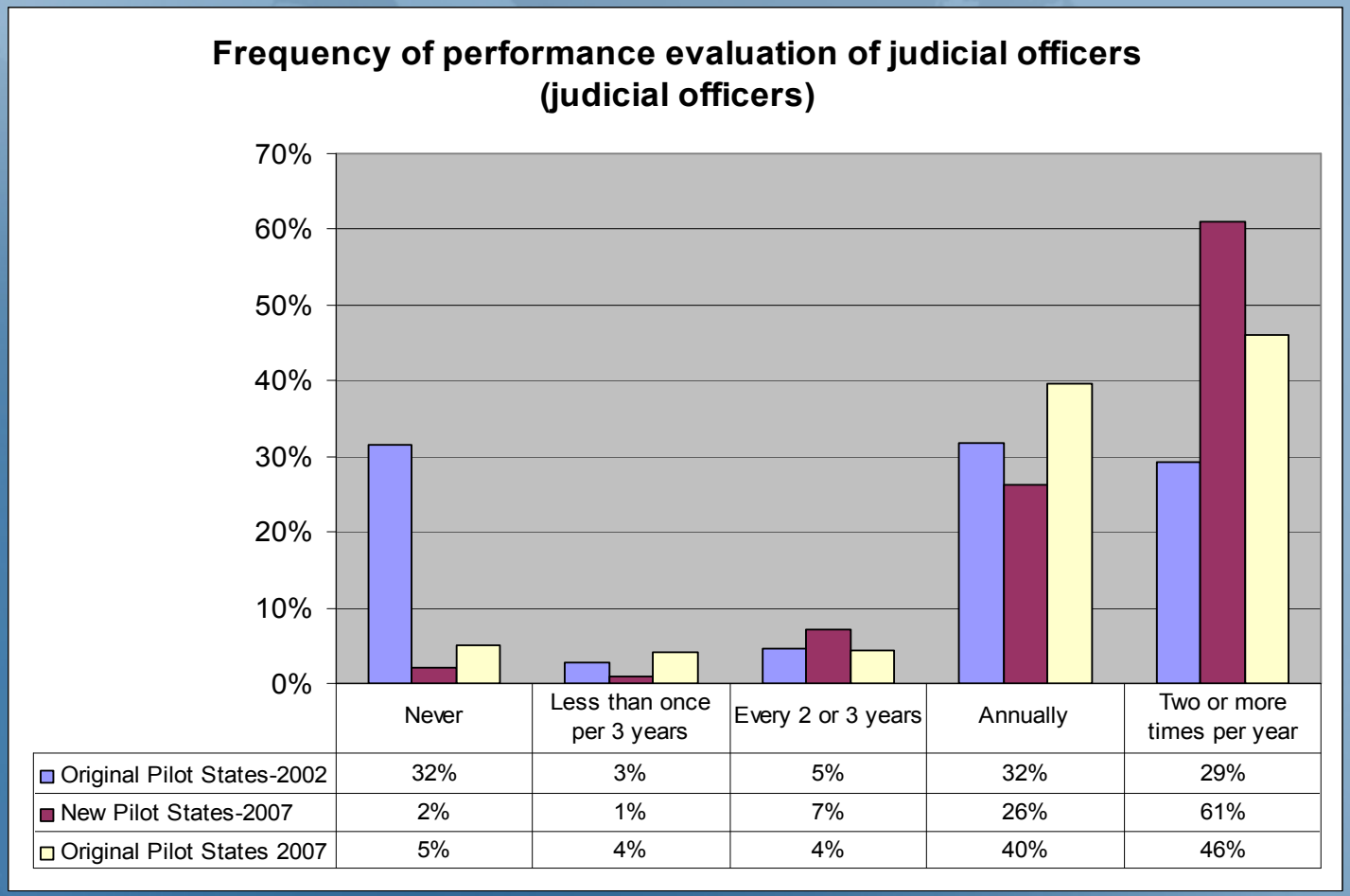


	Original Pilot States 2002	New Pilot States 2007	Original Pilot States 2007
Knowledge of judicial appointment politically inspired-Judges	18%	9%	7%

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Accountability, Integrity and Oversight



	Never	Less than once per 3 years	Every 2 or 3 years	Annually	Two or more times per year
Original Pilot States-2002	32%	3%	5%	32%	29%
New Pilot States-2007	2%	1%	7%	26%	61%
Original Pilot States 2007	5%	4%	4%	40%	46%

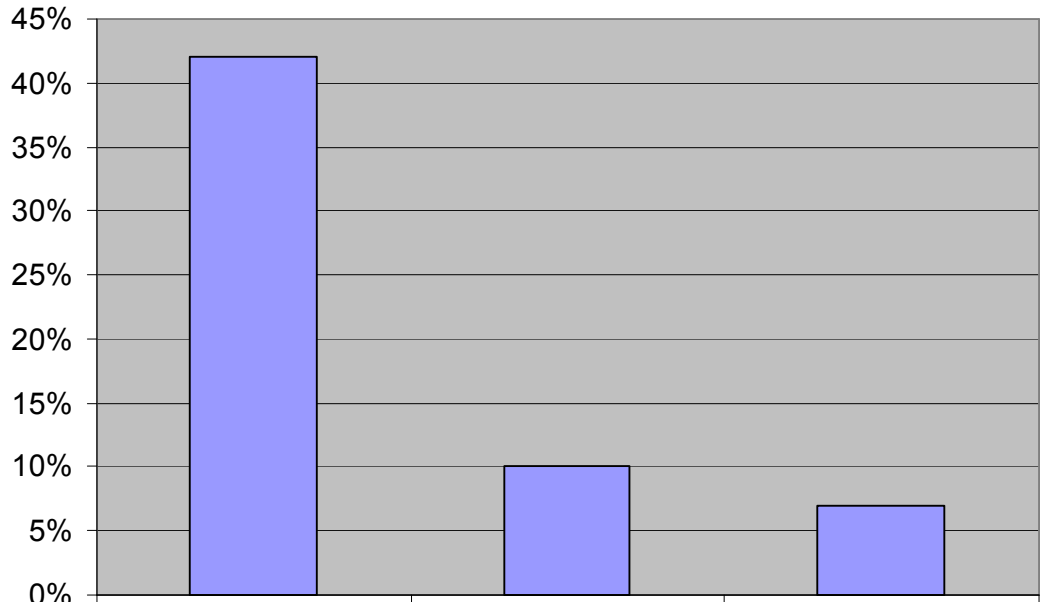
- Today 90% of judicial officers are regularly evaluated
- Percentage of judicial officers being evaluated at least once a year has increased from 61% - 86%

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Accountability, Integrity and Oversight

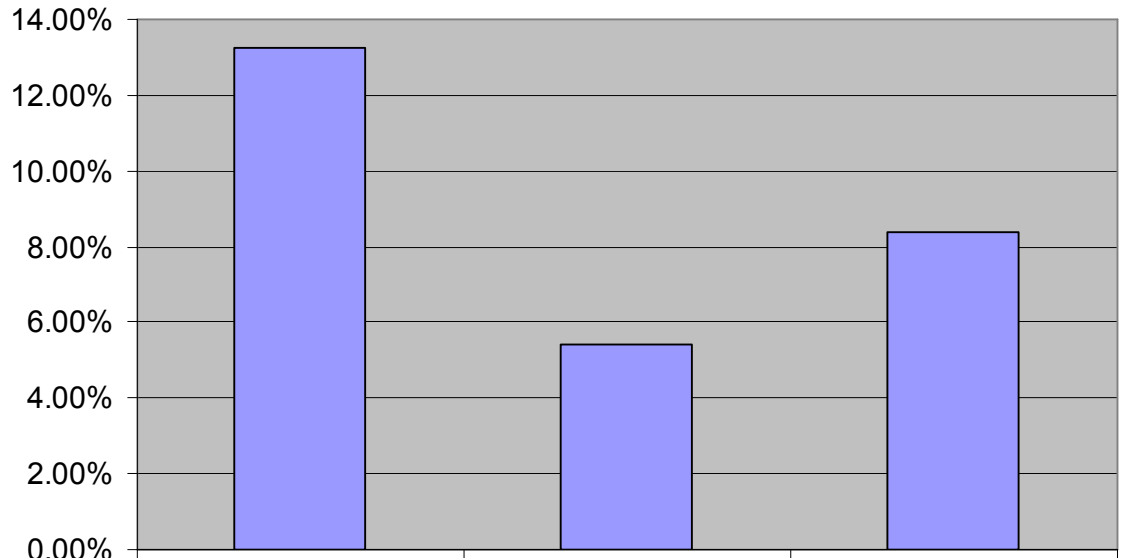
Frequency of bribery to expedite proceedings (court users)



	Original Pilot States 2002	New Pilot States 2007	Original Pilot States 2007
Frequency of bribery to expedite proceedings as experienced by court users	42%	10%	7%

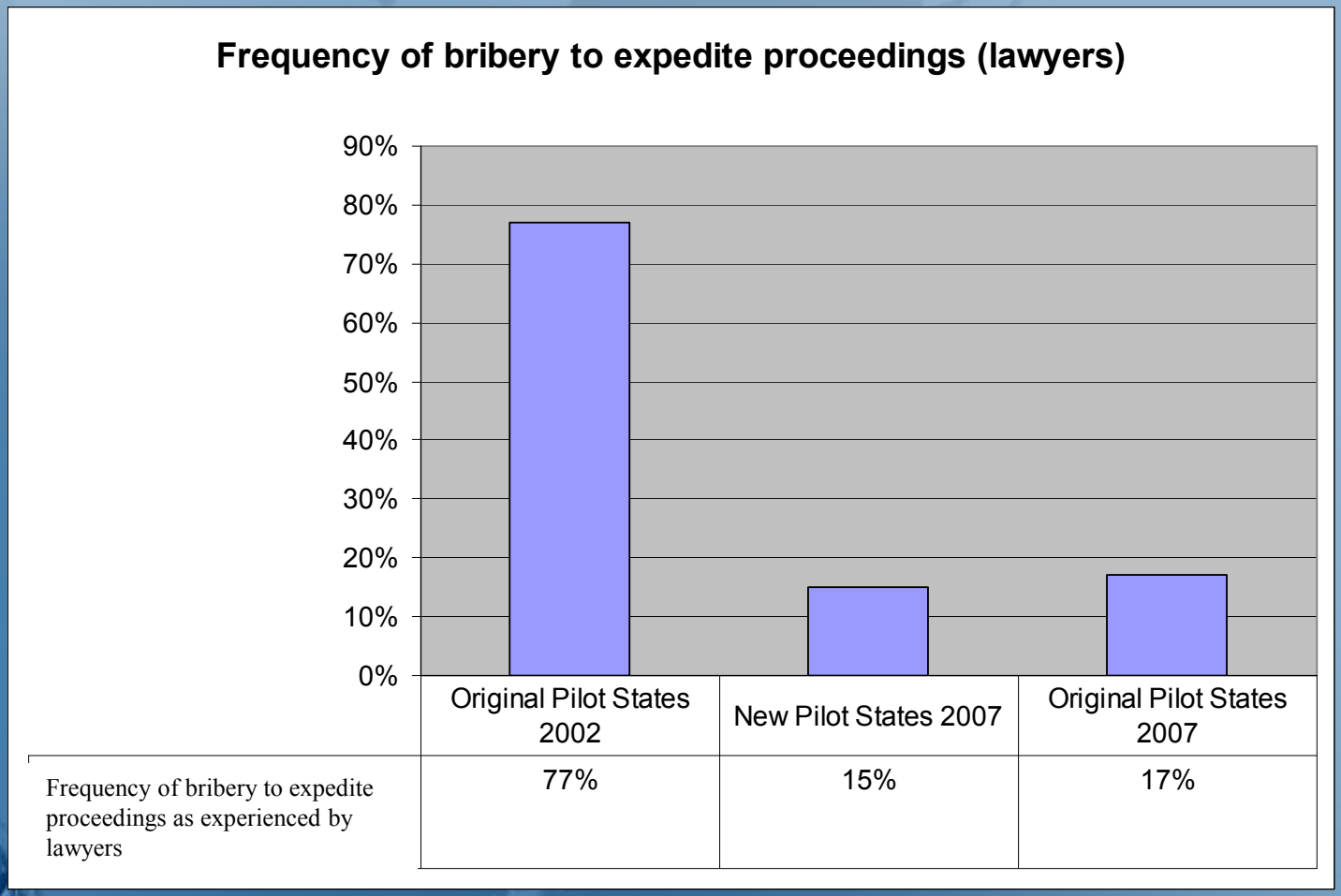
Accountability, Integrity and Oversight

Frequency of bribery to expedite proceedings (judicial officers)



	Original Pilot States 2002	New Pilot States 2007	Original Pilot States 2007
Frequency of bribery to expedite proceedings as perceived by judicial officers	13.23%	5.40%	8.40%

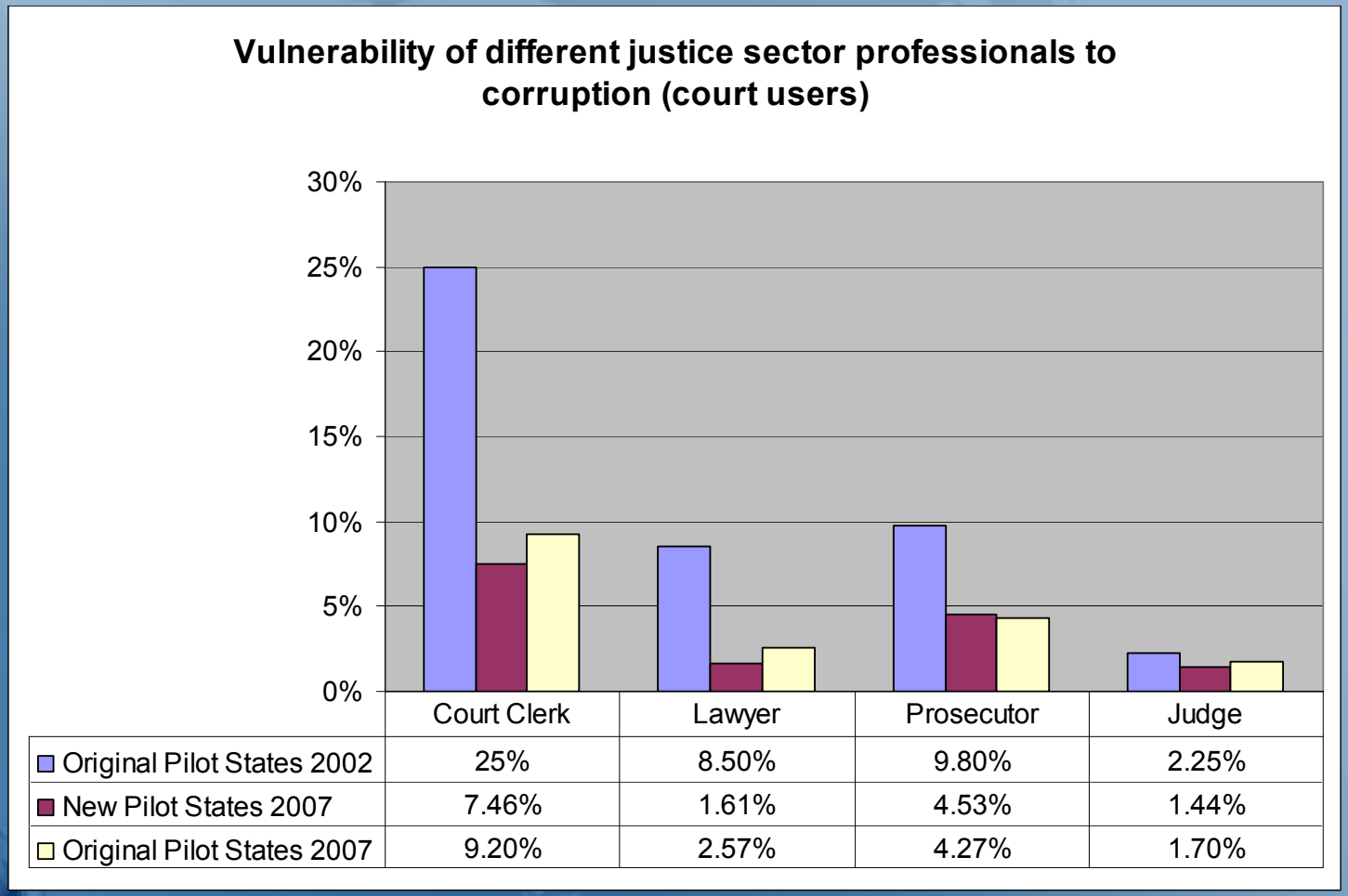
Accountability, Integrity and Oversight



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Accountability, Integrity and Oversight



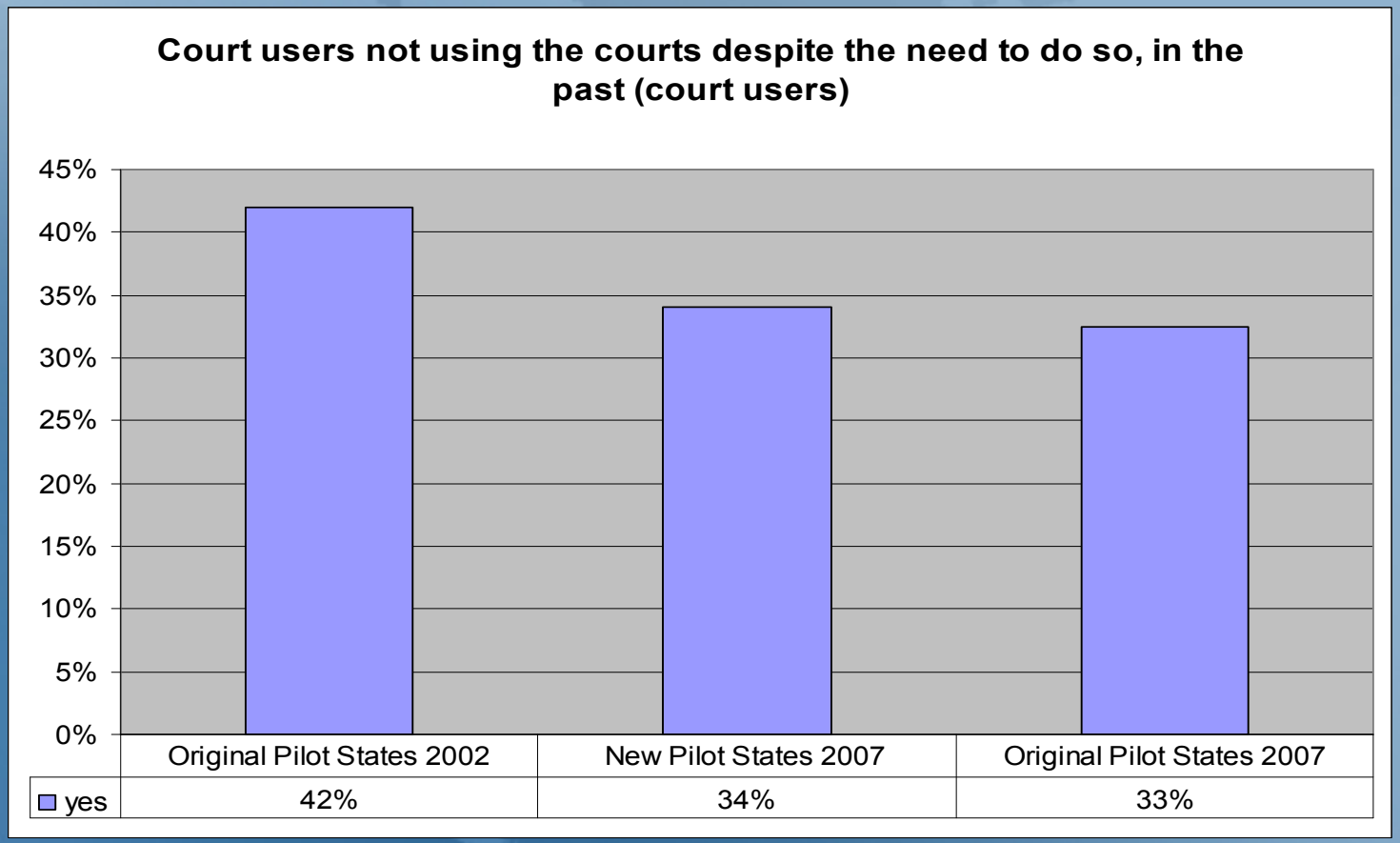
	Court Clerk	Lawyer	Prosecutor	Judge
Original Pilot States 2002	25%	8.50%	9.80%	2.25%
New Pilot States 2007	7.46%	1.61%	4.53%	1.44%
Original Pilot States 2007	9.20%	2.57%	4.27%	1.70%

Vulnerability to corruption has decreased, with the most significant improvement among court staff

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Public trust

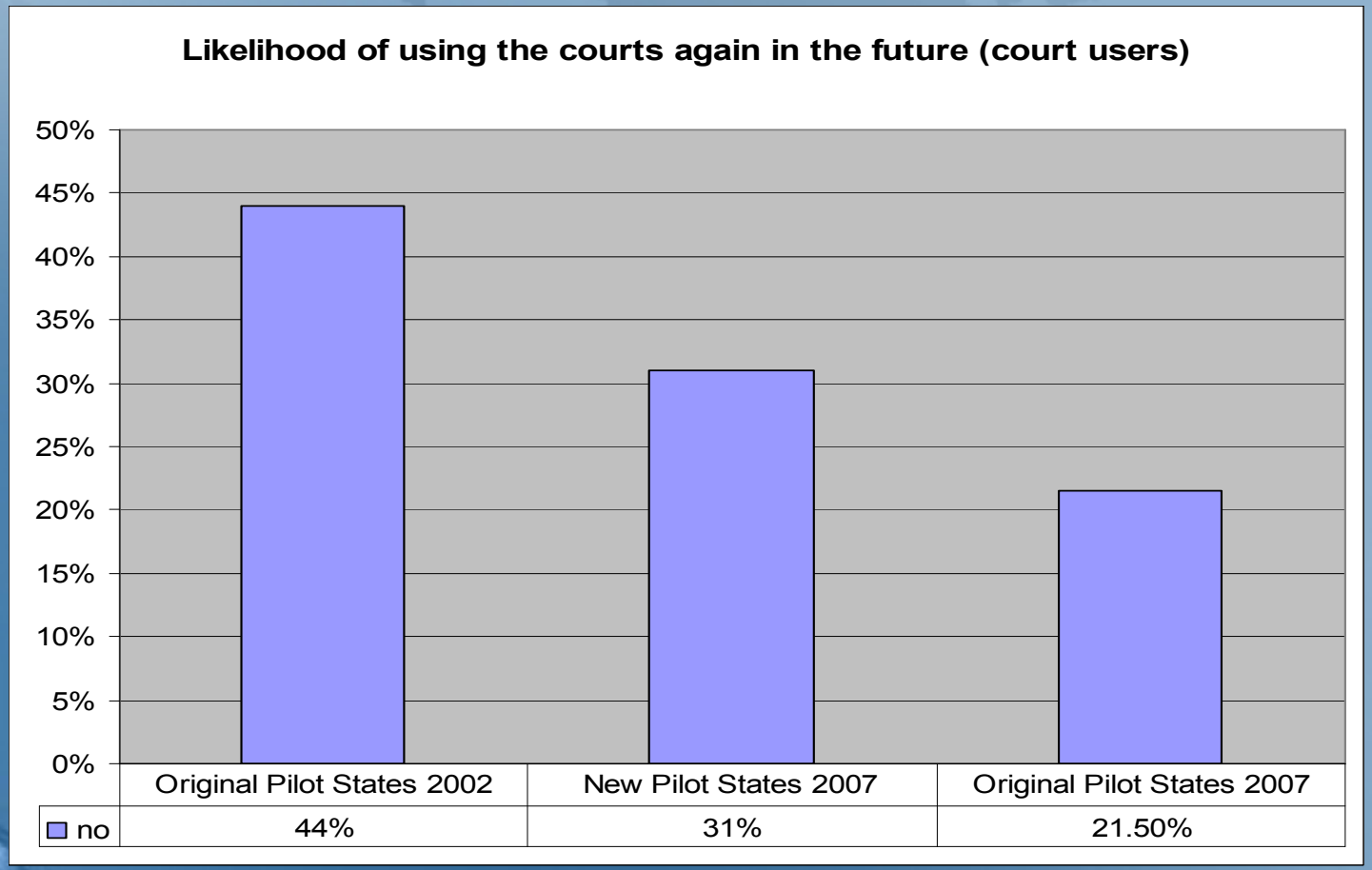


- Today: main reasons for not using the courts are delays (main reason in 2002 and 2007) and cost (second main reason in 2007)
- Relative importance of corruption has reduced significantly (less than 6%)

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Public Trust



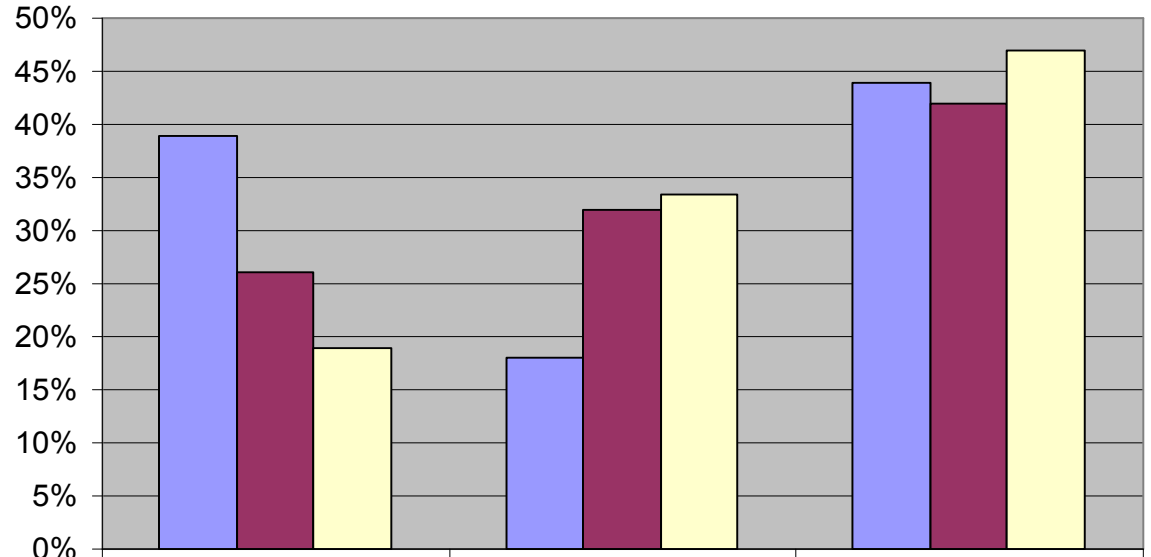
Still 20-30% of court users would not use the courts again based on their experience

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Public Trust

Court users perception of the courts working only for the "rich and powerful" (court users)



	agree	nor agree or disagree	disagree
Original Pilot States 2002	39%	18%	44%
New Pilot States 2007	26%	32%	42%
Original Pilot States 2007	19%	33%	47%

Today only approximately 20% of the court users would agree with this statement

Conclusions

Conclusions

- Holistic approach to judicial reform
- Leadership not only at the top
- Ownership by all stakeholder
- Implementation capacity
  - Implementation committees
  - Judicial commissions, judicial training schools
- Support by the executive and legislator
- Resources and working conditions remain a limitation
- Enhancing accountability is possible without negative impact on independence
- Massive overall improvements – how much could have been achieved?

The way forward – a roadmap to reform

- Expand to the entire country
- Expand efforts to all justice sector stakeholders and strengthen coordination (Prosecution, Law enforcement, Prisons, Bar)
- Improve coordination of formal and the informal/traditional justice delivery
- Integrate legal and judicial reform
- Strengthen implementation capacity at central and local levels
- Strengthen training capacities
- IT solutions rather than IT equipment
- National and international exchange

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Thank you very much

For further information:

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