

Potential Impact of COVID-19 on Juror Decision Making

June 11, 2020



Continuing Education

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Please note credit is not guaranteed until approval is received, we will notify you if credit is not approved in any of the above listed states.

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- Watch at least **75** minutes of the webinar
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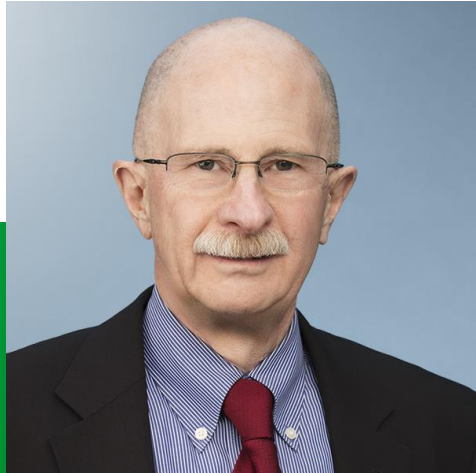
For any questions regarding CLE credit, please contact **Dionne Brooks** at Dionne.Brooks@faegredrinker.com.

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Meet Your Presenters



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Senior Counsel

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What Can We Learn from the Past?

What Have We Learned from the Past?

- “Collective trauma” : the natural or human-caused adversities that impact large segments of a population.
- Wars, 9/11, school shootings, Boston Marathon bombing, etc. and now COVID-19
- People can experience collective trauma solely through the media and still report symptoms that resemble those typically associated with direct trauma exposure.

What Have We Learned from the Past?

- Spanish Flu (1918)
 - Few specifics about long term psychological impact
 - Economic effect debated due to closeness of first World War
- Depression (1933)
 - Average unemployment rate rose from 3.2% to 25.2%
 - Analysts are predicting unemployment related to the coronavirus to ultimately be 20-30%, up from 3.6%
- SARS
 - End of SARS in Hong Kong brought a “curious combination of hope and fatigue.”

What Have We Learned from the Past?

- **Vietnam War**
 - 10 million Baby Boomers served – 40% of all males in this category
 - Baby Boomers are still coming to grips with the war and their role in it
- **9/11**
 - Travel industry hit the hardest
 - Road to recovery from the coronavirus for the travel sector may be the longest of any industry (including hotels, airlines, restaurants)
 - A defining event in particular for the Millennial generation

How Will Jurors See Things Differently?

How Will Jurors See Things Differently?

- Traditionalists aka The Silent Generation
 - Born between 1928 and 1945 (turning 18 from 1946 to 1963). Currently 75-92 years old.
 - This age group is rarely reported on, with much more focus placed on the younger generations.
 - 81% of Americans 65 or older have conservative views on government/society for most of their lives.
 - 90% of the Silent Generation Republicans think Donald Trump is doing a good job.
 - Makes up about 13% of registered voters.
 - Had the lowest increase in voter turnout in 2018, but still had an increase, which is notable because of mortality rate.
 - Has largely been fortunate with life events: came of age post WWII in time of prosperity. Had to contend with Korean War, but missed Vietnam. Retirement savings built in a bull market. Joke that you had to work hard not to be successful.
- COVID-19 Relevant Information
 - The health impact greatest on older generations (and those with pre-existing conditions).
 - The average Fox viewer is 68 (which would logically include older individuals to reach this average). Some accuse the right-wing media of down-playing the public health threat, such that this age group most likely to be affected would be the least prepared to take the crisis seriously.



How Will Jurors See Things Differently?

- Baby Boomers
 - Born between 1946 and 1964 (turning 18 from 1964-1982). Currently 56-74 years old.
 - 36% of registered voters, largest of any share of generation, even with the growing number of Millennials and Gen Xers showing up to the polls.
 - Growing frustration with government, particularly concerning their financial futures.
 - 85% of Baby Boomer Republicans think Trump is doing a good job.
 - Came of age during the Vietnam war, learned to question/distrust the government.
- COVID-19 Relevant Information
 - The average Fox viewer is 68. As noted above: some accuse the right-wing media of down-playing the public health threat, such that the older segment of this age group would be the most likely to be affected but the least prepared to take the crisis seriously.
 - On TikTok, Twitter and other social media, there are memes and Tweets calling the virus a “boomer remover.”
 - Initially reported that they felt they’d earned the right to make their own decisions about where they go and what they do. Have been through real and rumored catastrophes. A New York Times Opinion piece disagrees with this based on more recent polling data.
 - However, at the beginning of the outbreak, 77% of adults over 65 said they’re “unlikely” to catch the virus.



How Will Jurors See Things Differently?

- Generation X - Name given for lack of identifying moment X as in “fill in the blank”
 - Born between 1965 and 1980 (turning 18 from 1983 to 1998). Currently 40-55 years old.
 - More educated than older generations, but not as educated as younger generations (10% with a graduate degree/43% college degree).
 - More similar to Generation Y on social issues.
 - Grown more critical of government over the last 10 years.
 - High voter turnout in 2018 midterms.
 - X, as in fill in the blank – there was no war to define them. Came of age at the fall of the Iron Curtain. Latchkey kids who fend for themselves.
- COVID-19 Relevant Information
 - On social media recently, the hashtag “Gen X” trended, with the “latchkey generation” saying that Gen X was the most prepared to live in isolation. From a psychological perspective, there might be some truth to this argument.
 - This is a generation experiencing the brunt of the struggle when it comes to the current coronavirus pandemic – with aging parents AND their own kids to worry about.
 - Have a lot of experience working through tumultuous times: 9/11, 2008 stock market crash.



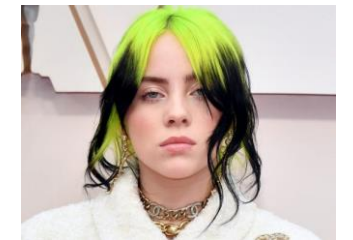
How Will Jurors See Things Differently?

- Millennials/Generation Y
 - Born between 1981 and 1996 (turning 18 from 1999-2011). Currently 24-39 years old.
 - Were between ages of 5-20 when 9/11 happened and many were able to comprehend the significance of the event. No strangers to dealing with crises (came of age during the Great Recession).
 - Consistently liberal views on social and government issues.
 - Came of age in a recession, which may explain their tendency to be more fiscally conservative.
 - Very educated - Between 2001 and 2016, the number of people aged 25 to 29 with at least a four year degree grew by 25 percent.
 - Tend to prefer urban areas instead of suburban – coincidentally urban areas are being the hardest hit by the coronavirus.
- COVID-19 Relevant Information
 - There are plenty of Millennials who view Boomers as at least somewhat complicit in facilitating the spread of pandemics via their support for unfettered capitalism or deserved comeuppance for damage done to the environment and/or social fabric.
 - On the other hand, there are also young people who think Boomers are the ones who are too cavalier about COVID-19.
 - Those under 30 years old are most concerned about the virus — 43% of those polled are "very worried."
 - 67% of Millennials said they're "unlikely" to catch the virus



How Will Jurors See Things Differently?

- Generation Z or Zoomers
 - Born between 1997-2012. Currently between 8-23 years old.
 - Gen X is raising Gen Z to look like them: autonomous, cynical, with looser reins. Shares the pessimism their parents had at the same age.
 - More fiscally responsible than Gen Y. More financially and career advancement motivated than Gen Y. Gen Z thinks salary is important.
 - On track to be more educated than Millennials (due to their Gen X parents' belief in higher education).
 - Most have yet to reach voting age and their outlook could be altered considerably by changing national conditions, world events or technological innovations.
 - 70% of Gen Z and 64% of Gen Y believe the government should do more to solve problems. How this generation views the government's response to COVID-19 will shape this generation.
- COVID-19 Relevant Information
 - Individualistic attitude – hence the Gen Zers on the beach in Florida.
 - This generation has grown up during the peak of “fake news.”
 - The thing most likely to get their attention? Their own peers.
 - This event is going to shape their careers in a way it will not impact older generations.



How Will Jurors See Things Differently?

- What's next?
 - Generation Alpha.
 - Born 2013 and beyond.
 - Alphas haven't just grown up with technology, they've been completely immersed in it since birth. Early in their formative years, these children are comfortable speaking to voice assistants and swiping on smartphones. They don't consider technologies to be tools used to help achieve tasks, but rather as deeply integrated parts of everyday life.
- COVID-19 Relevant Information
 - This is going to be one of the most significant things we point to when we point to the generation coming after Generation Z.

Case Studies: What Have We Learned from the Past?

- Maunder et al (2005, *Emerg. Infect. Dis.*) HCWs in Toronto at a hospital with SARS patients during the 2003 outbreak:
 - Hospitals with more cases led to HCW with higher levels of burnout, psychological distress, and PTSD.
 - Emotional distress attributed to: quarantine, fear of contagion, concern for family, job stress, interpersonal isolation, perceived stigma, conscription of nonspecialists into infectious disease work, attachment insecurity.
- Manderscheid (2007) provides general guidance on psychological ramifications that will likely attend such a crisis:
 - One-third of the population unaffected, one-third hyper vigilant (heavy anxiety); one- third immobilized (depression).

Case Studies: What Have We Learned from the Past?

- Bish and Michie (2010, *British Journal of Health Psychology*)
 - Precautionary behaviors are more likely to be adopted by women, the elderly, and the high SES population.
 - Avoidant behavior has been high among the elderly in past pandemic events (H1N1 and SARs).
- Cowling et al (2010, *Journal of Infectious Disease*)
 - Found that greater levels of social distancing was related to greater levels of anxiety during H1N1.
- Ni et al (2020, *ANZJP*): Affect of riots on populations' mental health:
 - PTSD and increased depression (regardless of personal involvement).
 - Higher risk for women, lower socioeconomic statuses, exposure to violence, interpersonal conflicts, frequent social media use, and lower social support.

Case Studies: What Have We Learned from the Past?

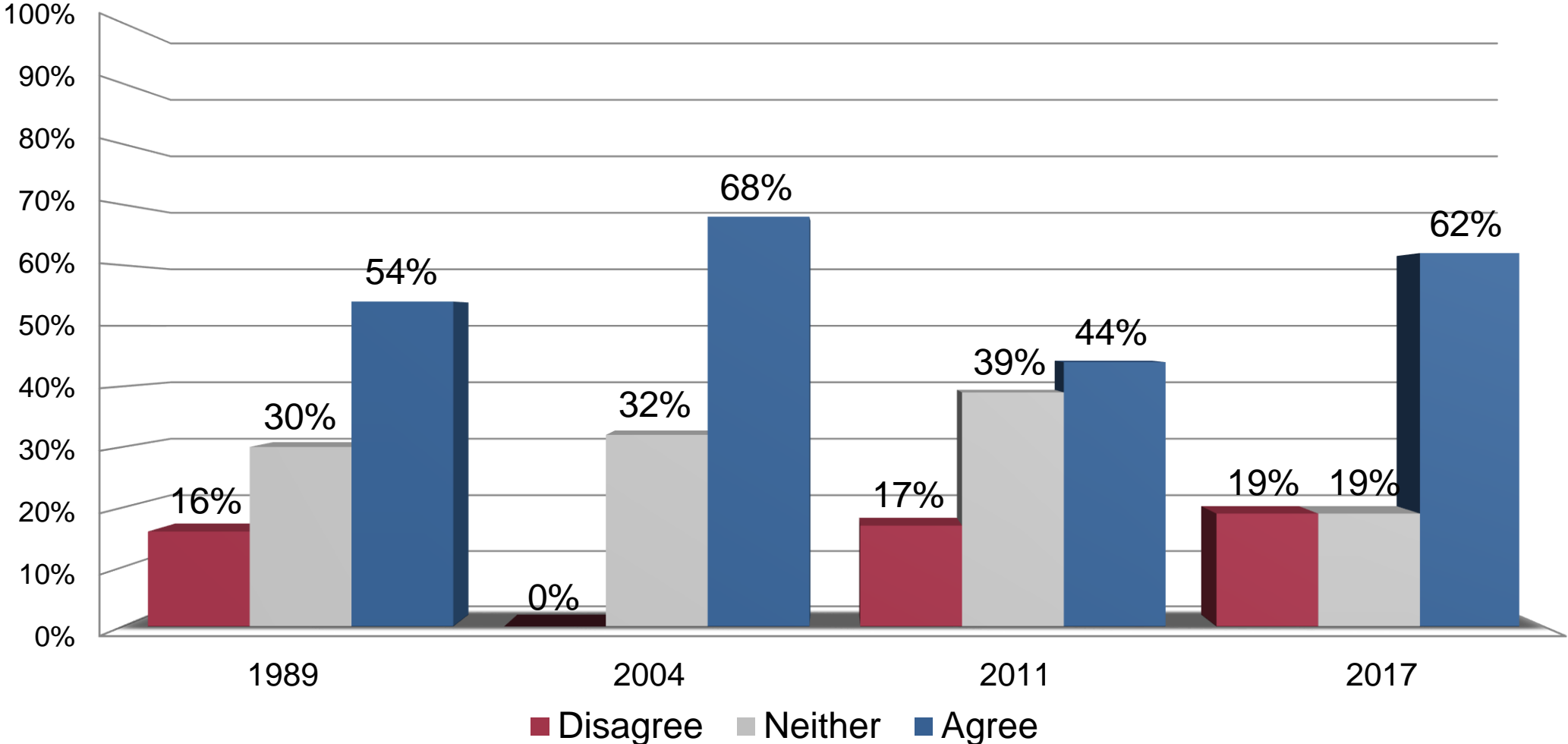
- Response to COVID-19 *Could* Have Silver Lining:
 - “Not all the psychological effects of infectious outbreaks are negative. For instance, following the Ebola outbreak, survivors generally reported that one of the positive psychological effects was an increased faith in God. Likewise, a study of the general population in Hong Kong demonstrated that even in the presence of some of the definite adverse psychological responses due to SARS, there also was an increase in aspects of social cohesion among certain groups. The study noted that >60% of the respondents stated that they cared more about their family members’ feelings and, in return, about one-third felt their family members and/or friends were more supportive. Furthermore, about two-thirds of the respondents paid more attention to their mental health, such as by taking time to rest or engaging in exercise.”

Perrin et al 2009

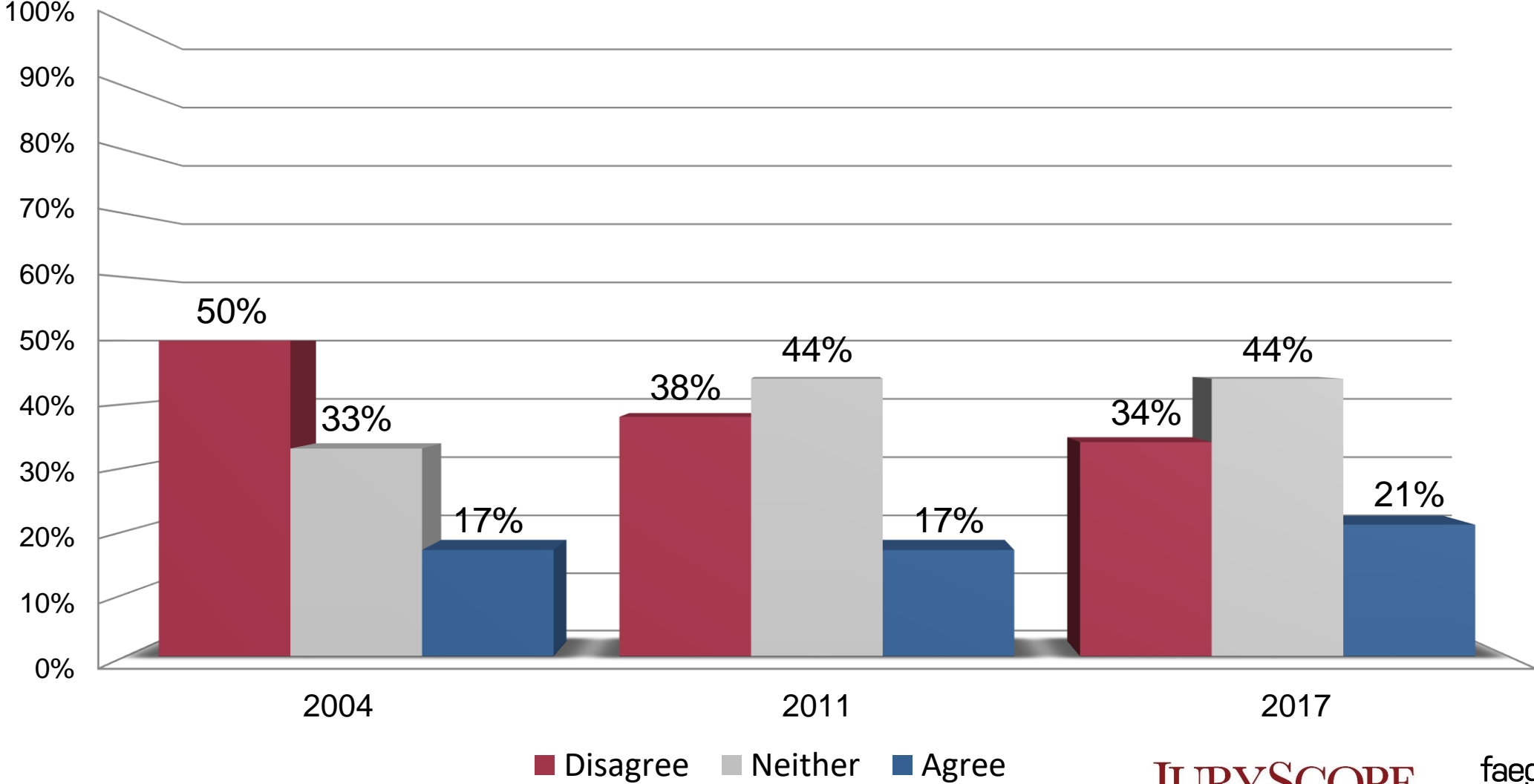
What Have We Learned from the Past?

*Juror Opinions Remain
Pretty Stable Over Time*

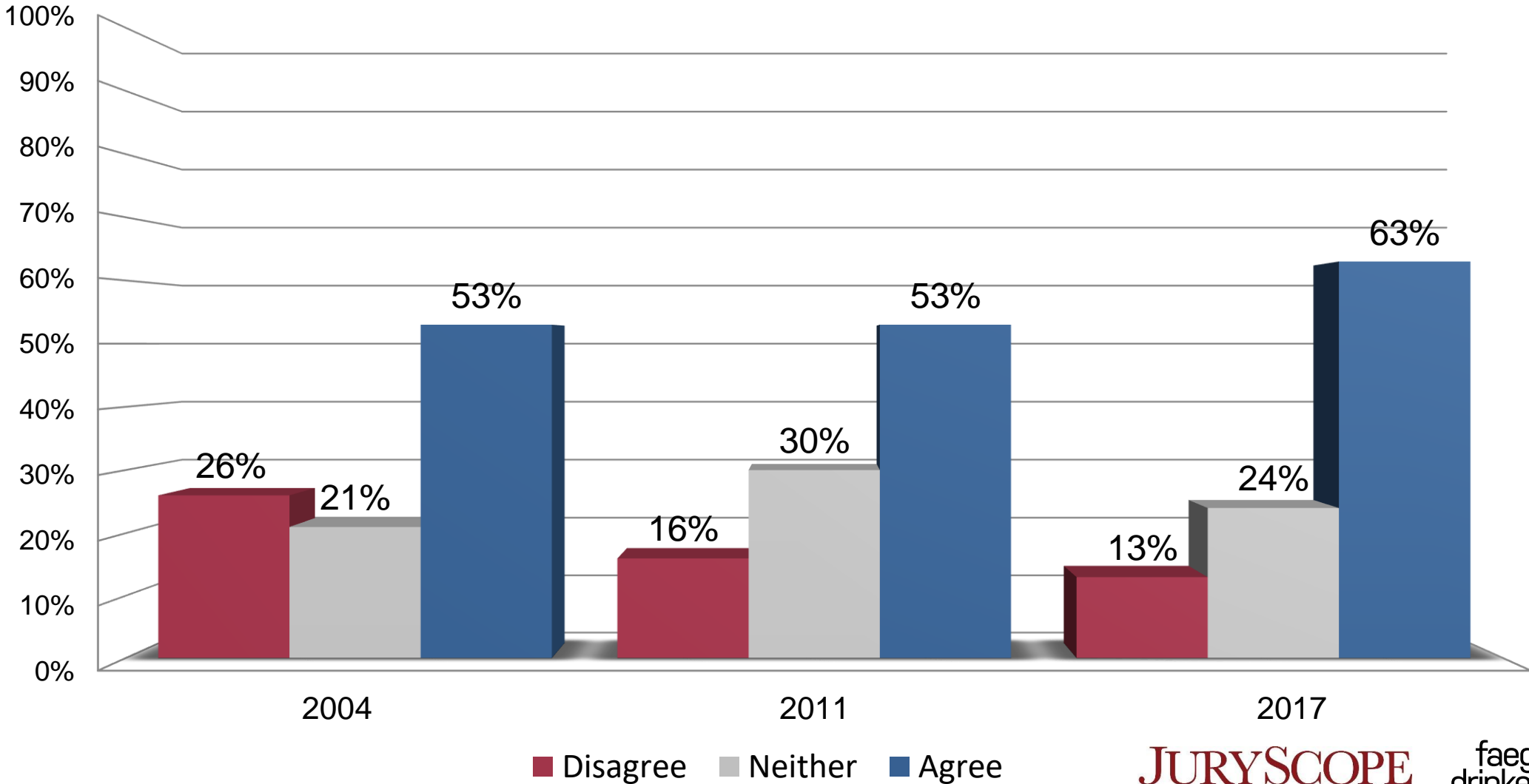
Executives Will Lie to Help Their Company



The Larger a Company is the Less I Trust It

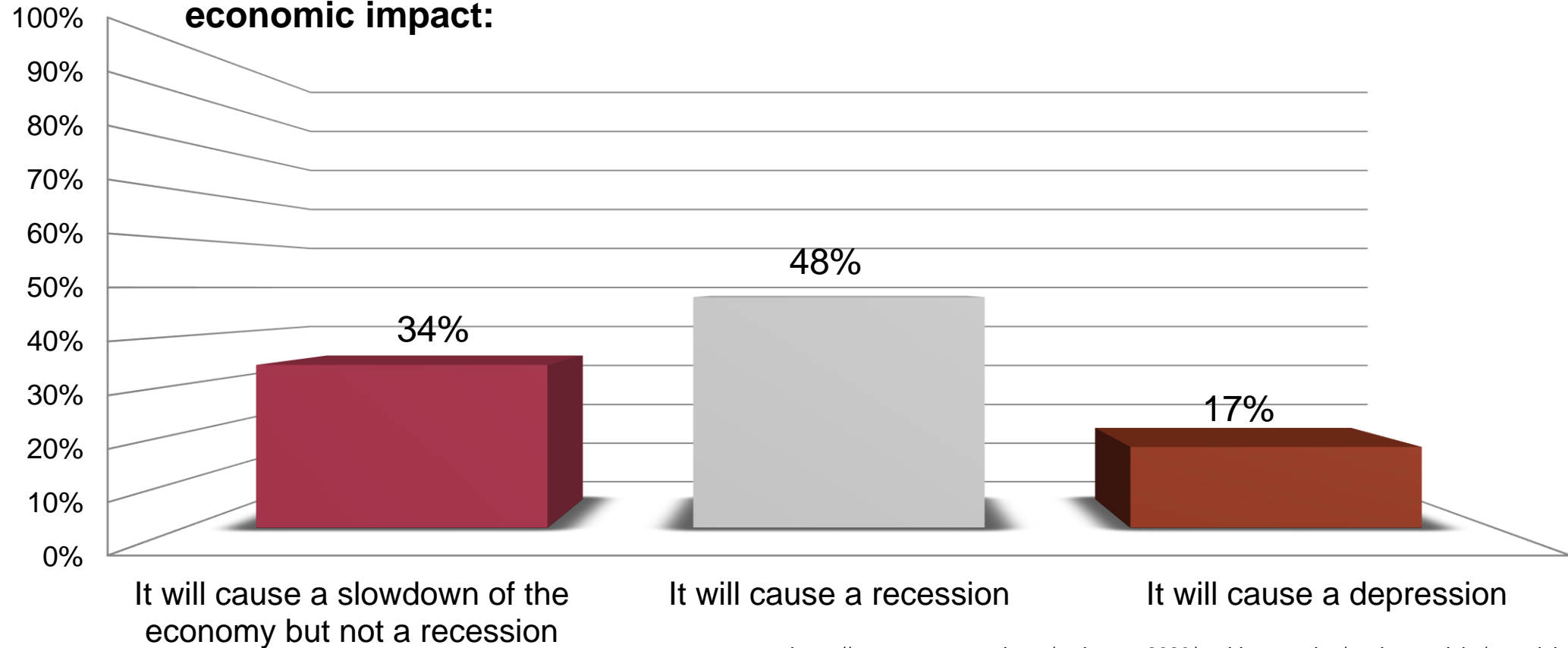


A Legal Case Must Have Some Merit if it is Not Settled Before Trial



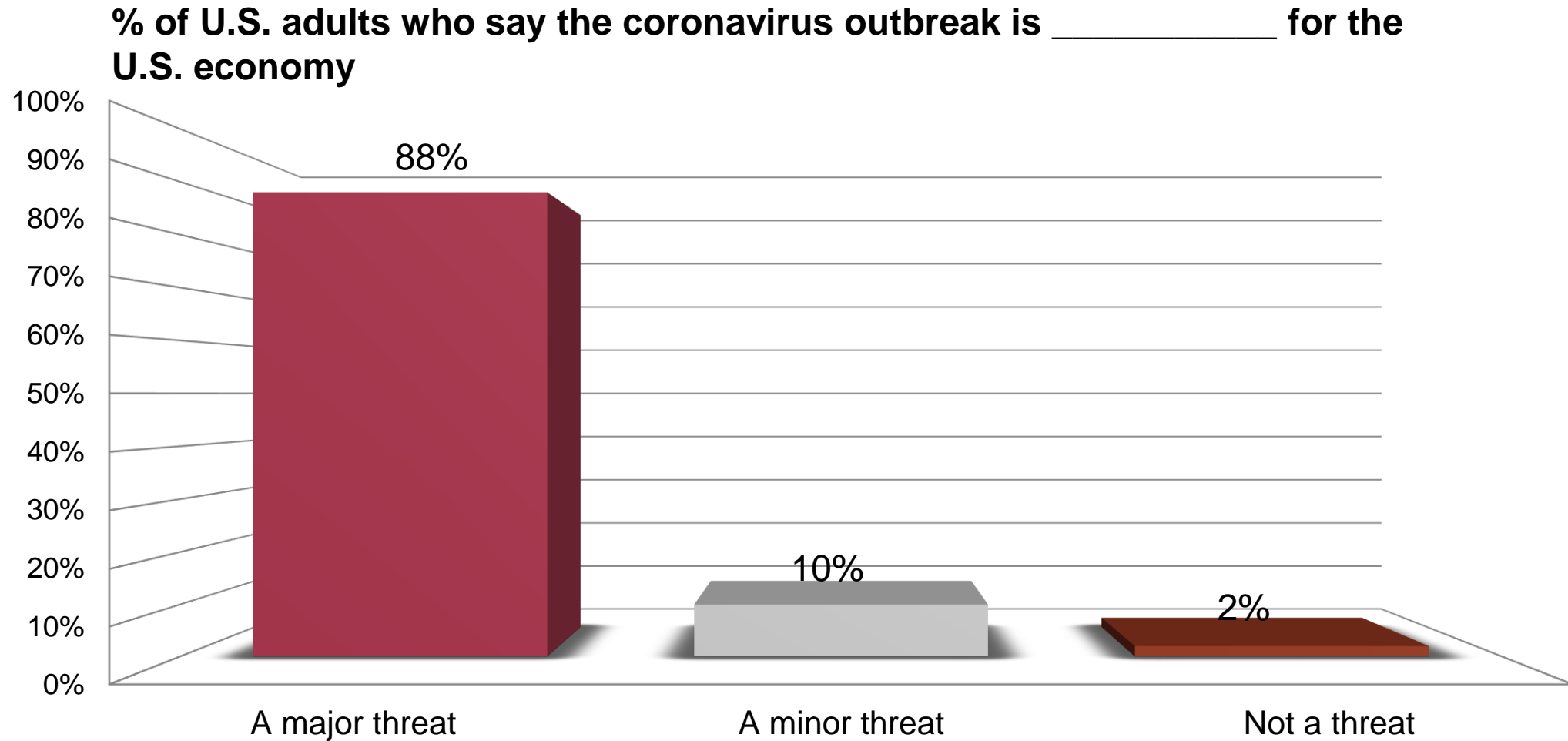
Effect of COVID-19 on Economic Life

% of U.S. adults who say that they believe, because of what they have read and heard, that the coronavirus outbreak will have the following economic impact:



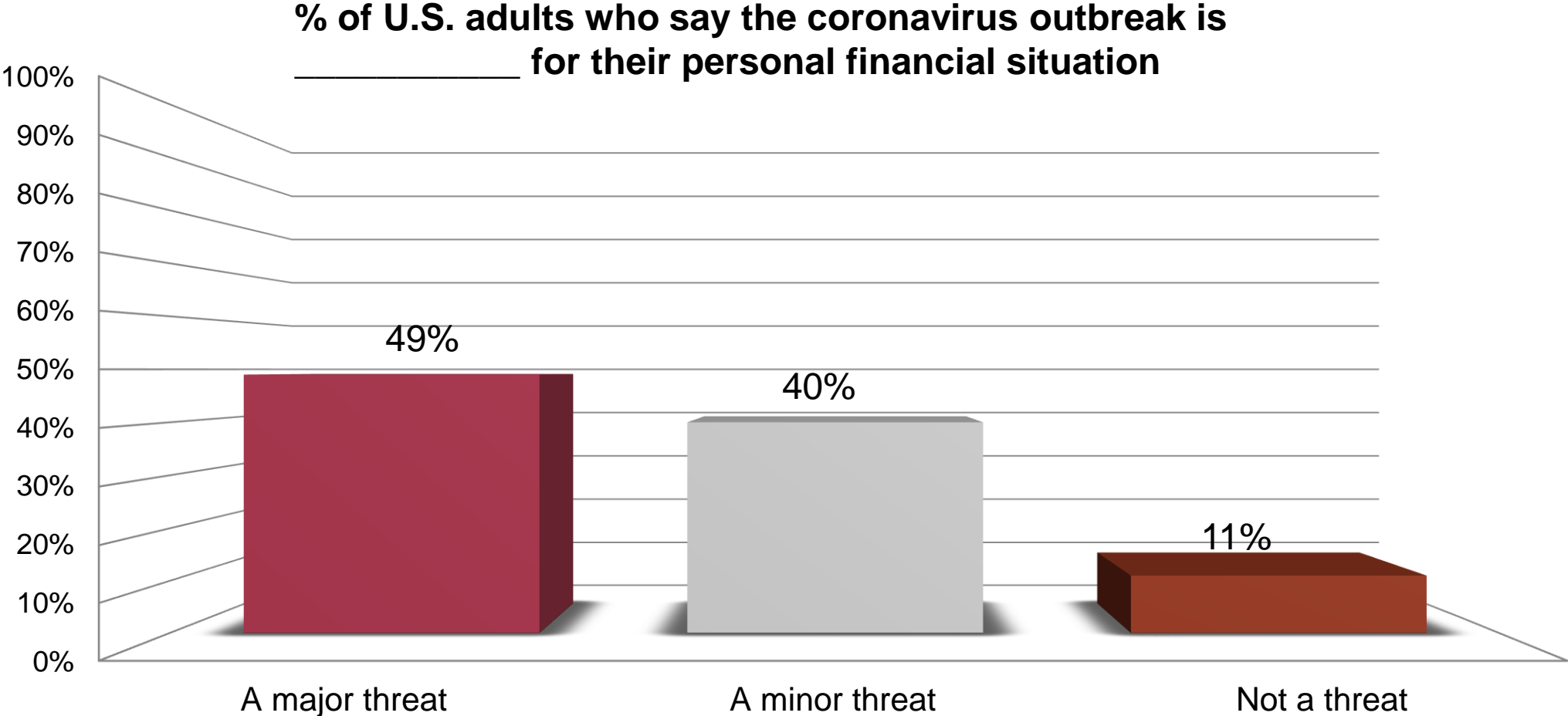
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Effect of COVID-19 on Economic Life



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Effect of COVID-19 on Economic Life

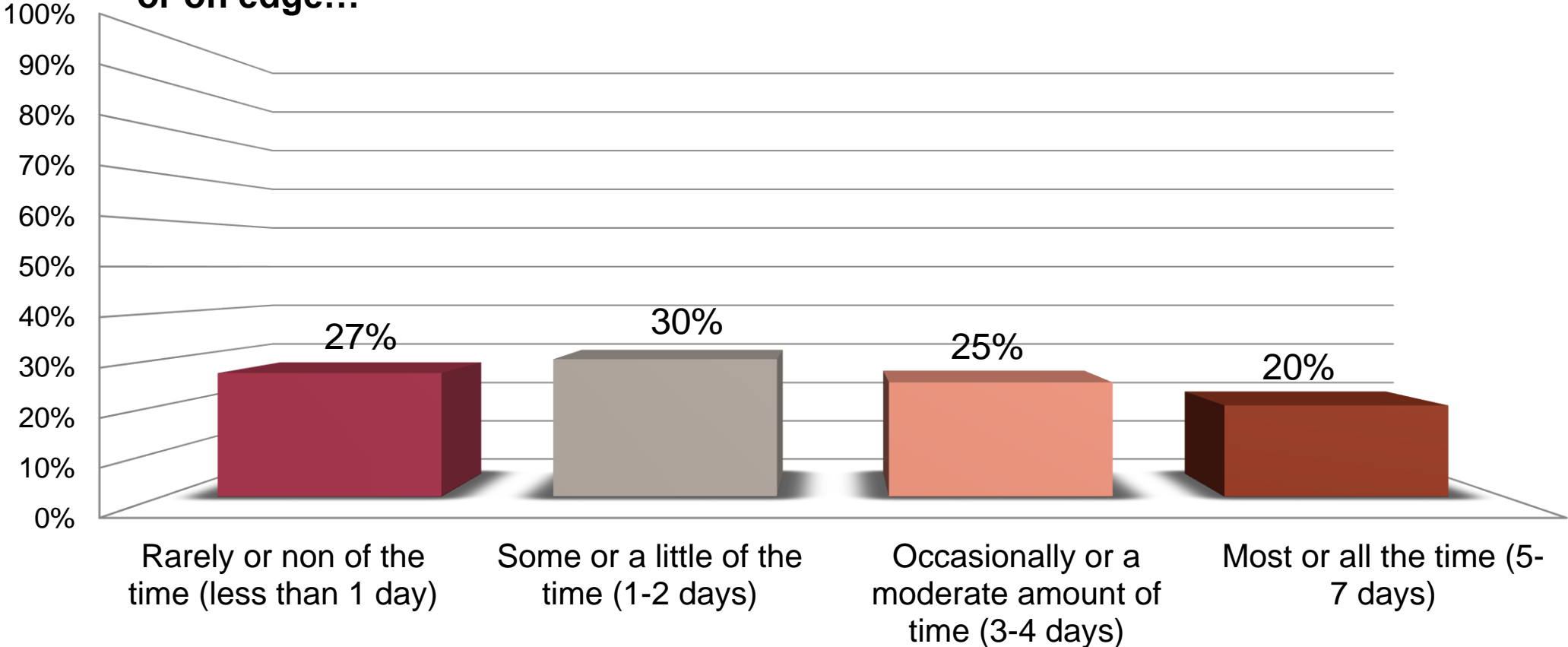


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COVID-19 Context

Effect of COVID-19 on Personal Life

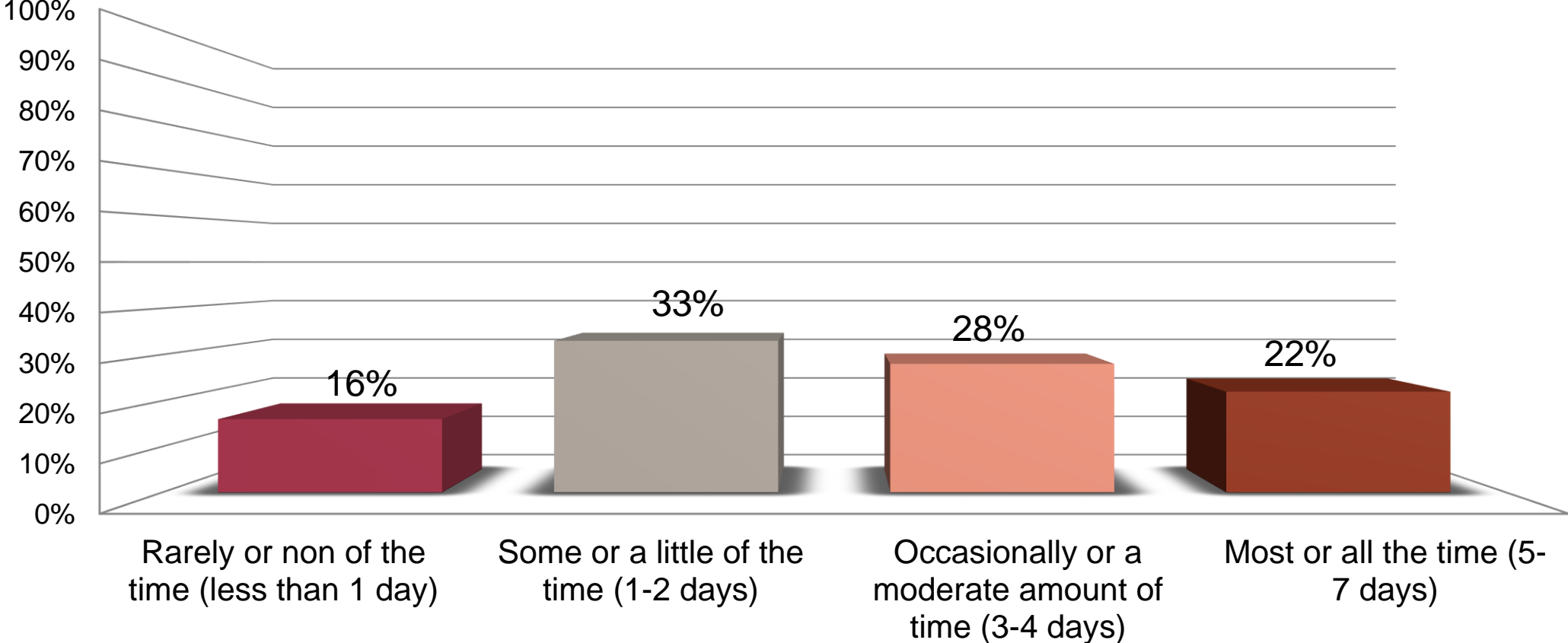
% of U.S. adults saying in the past seven days they have felt nervous, anxious or on edge...



https://www.pewresearch.org/pathways-2020/mh_track_d/total_us_adults/us_adults/

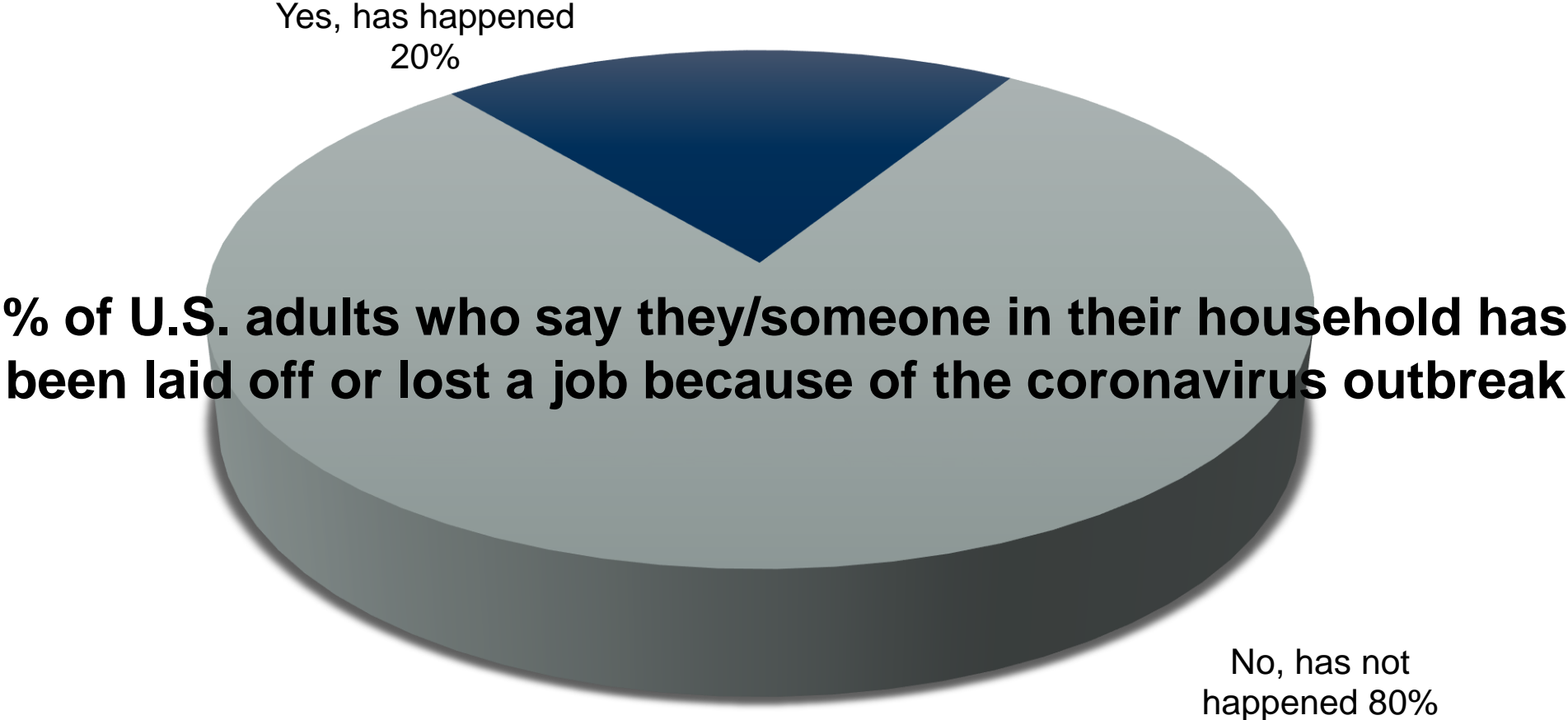
Effect of COVID-19 on Personal Life

% of U.S. adults saying in the past seven days they have felt hopeful about the future...



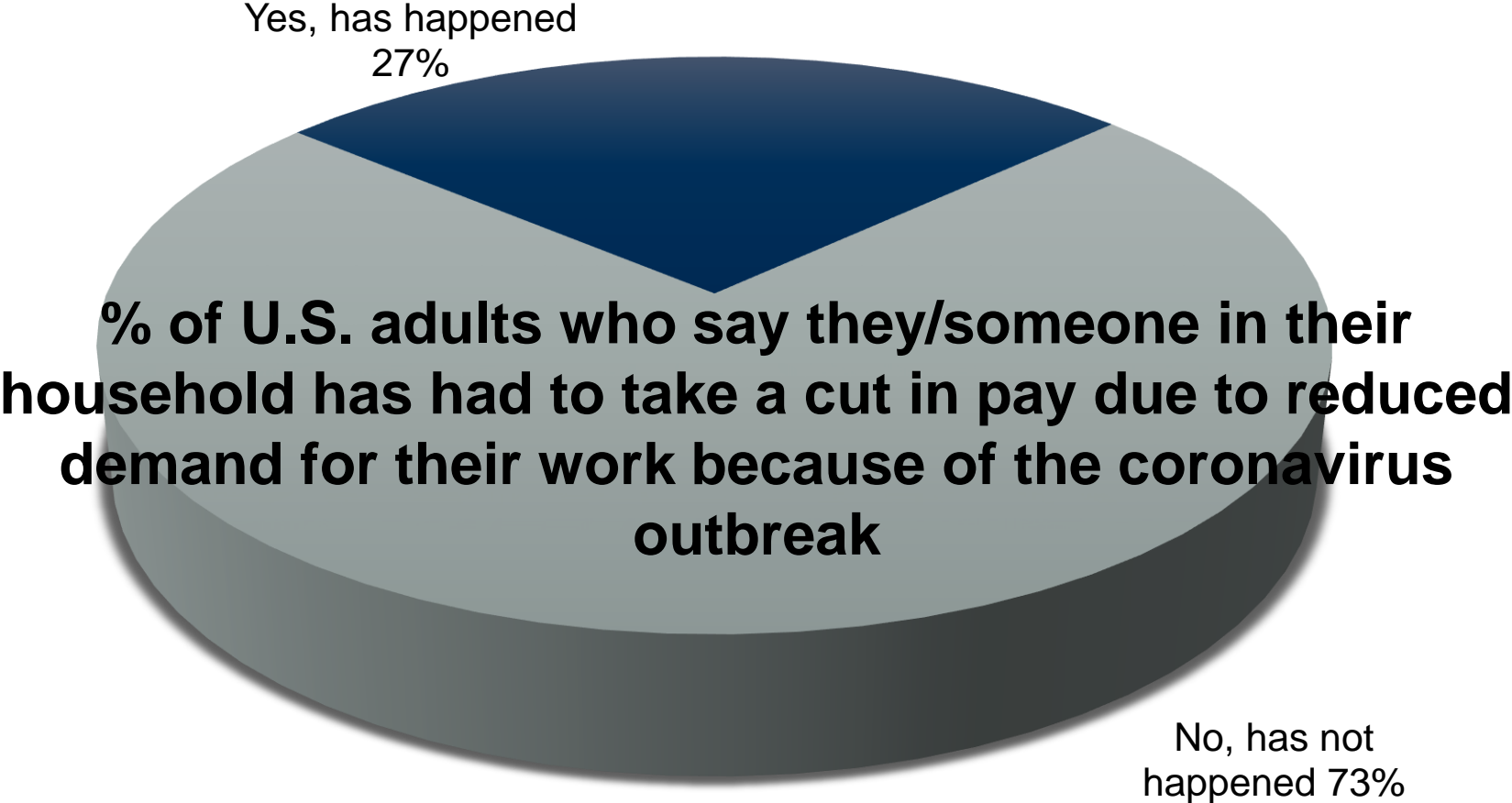
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Effect of COVID-19 on Personal Life



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Effect of COVID-19 on Personal Life



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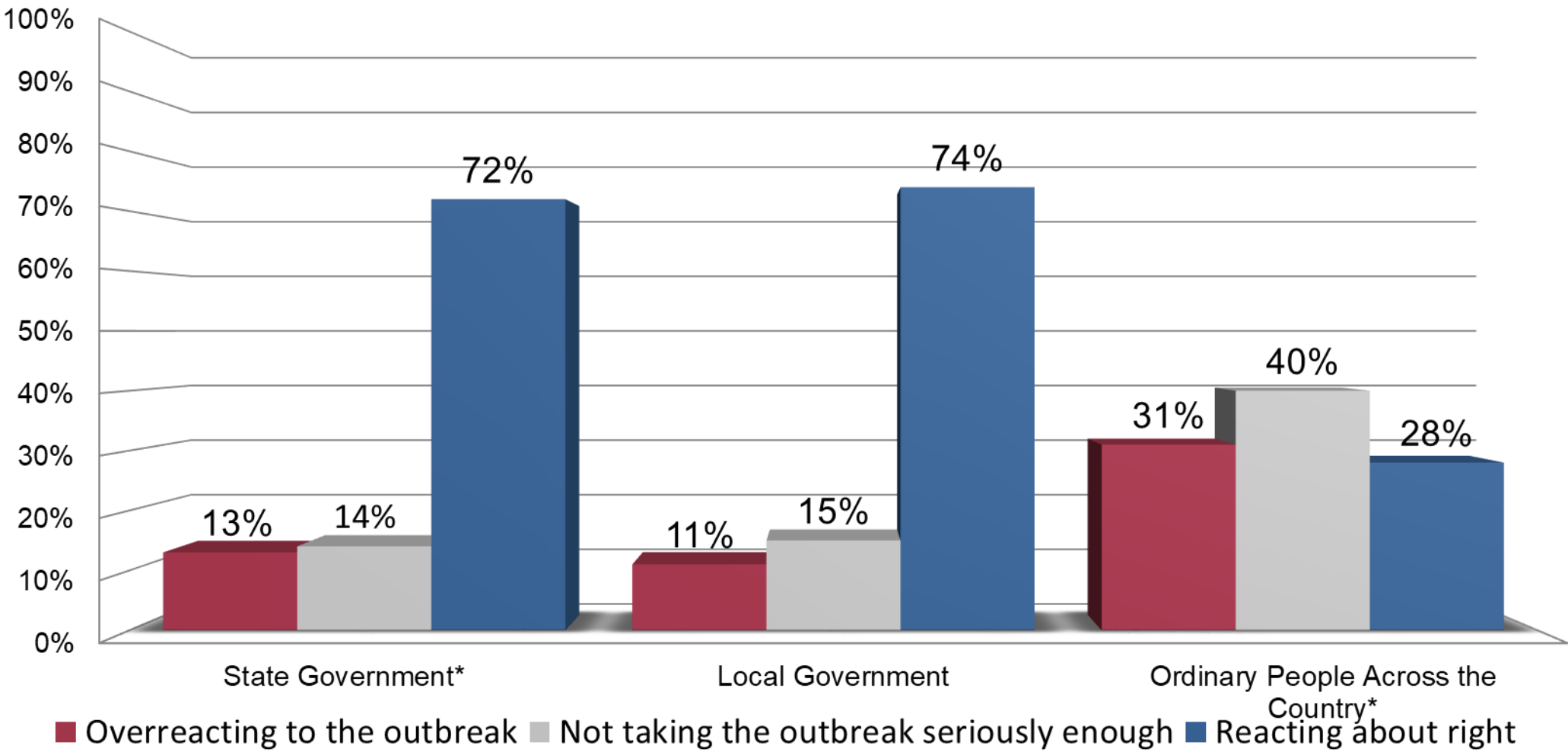
Who is Most at Risk for Adverse Psychological Outcomes?

- High perceived life threat
- Low social and emotional support
- Residing in a high-prevalence region
- Ambiguity and uncertainty surrounding the given disease
- Isolation and quarantine
- Being in the same home or health facility as sufferers of the given disease
- Low individual education level
- Being female
- Being elderly
- Personally knowing someone affected by the disease
- Frequent modification of infection control procedures and public health recommendations
- Being deprived of family visits

Perrin © 2009 Prehospital and Disaster Medicine

Potential Impact on Juror Opinions of Government/Institutions

COVID-19: Overreacting/ Not Taking Seriously

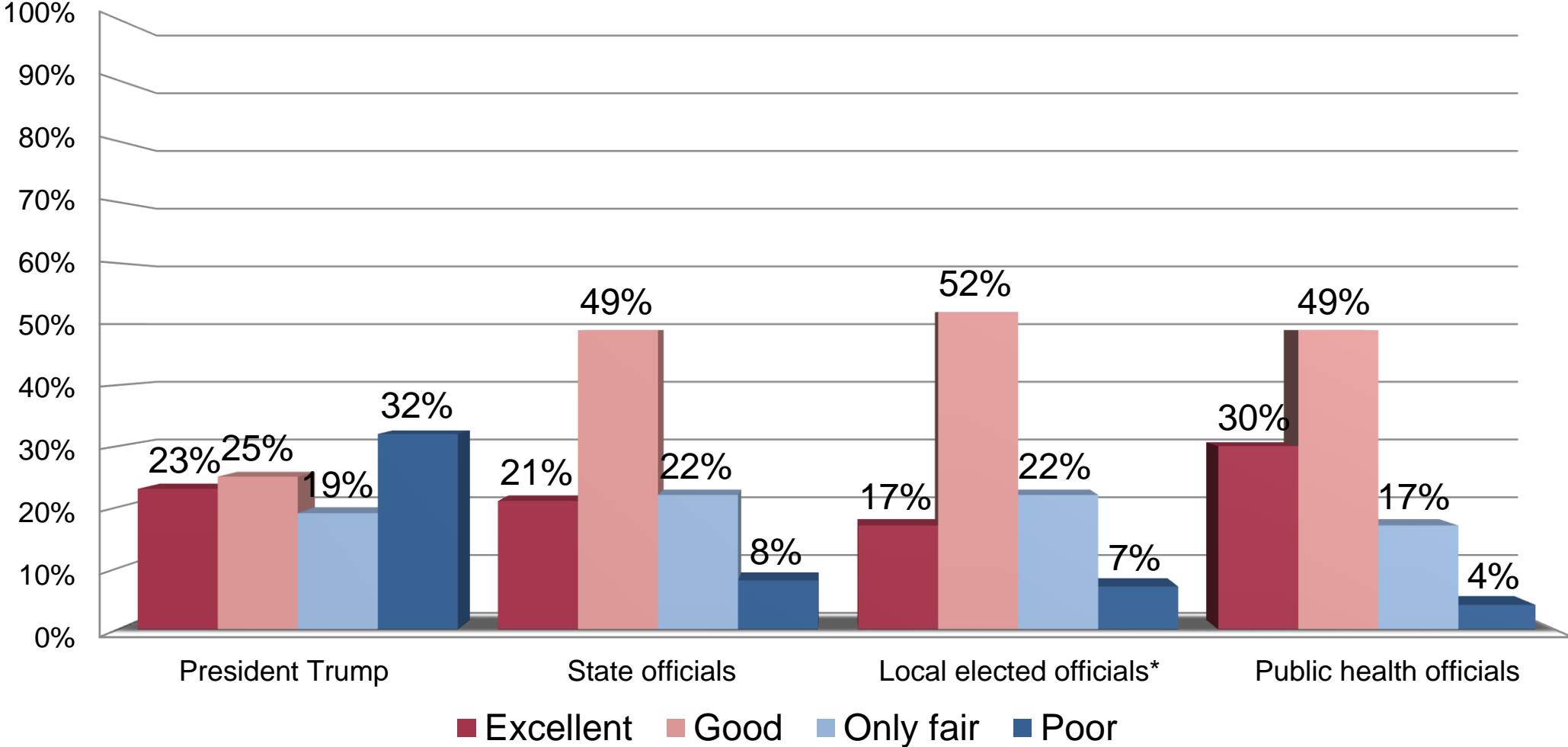


*1% Refused to Respond

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COVID-19: Rating of Response to the Outbreak

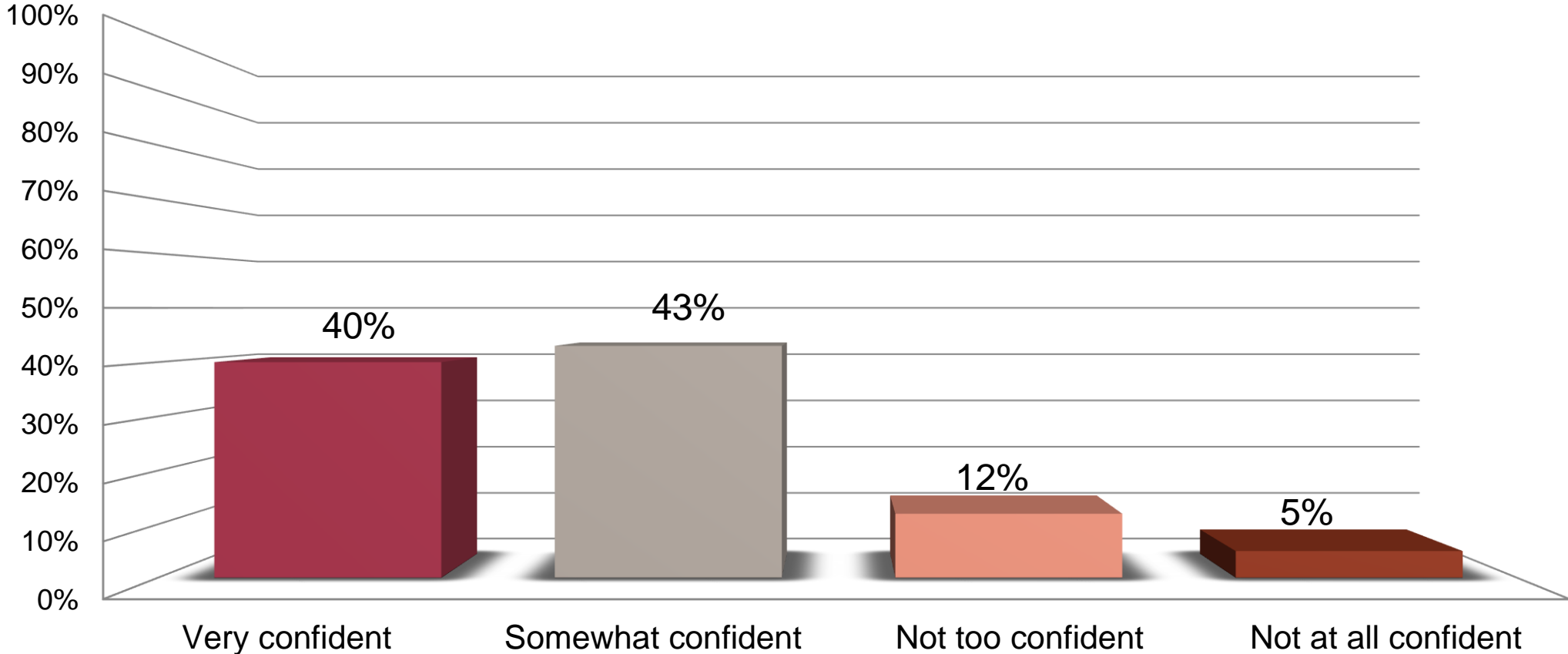


*1% Refused to Respond

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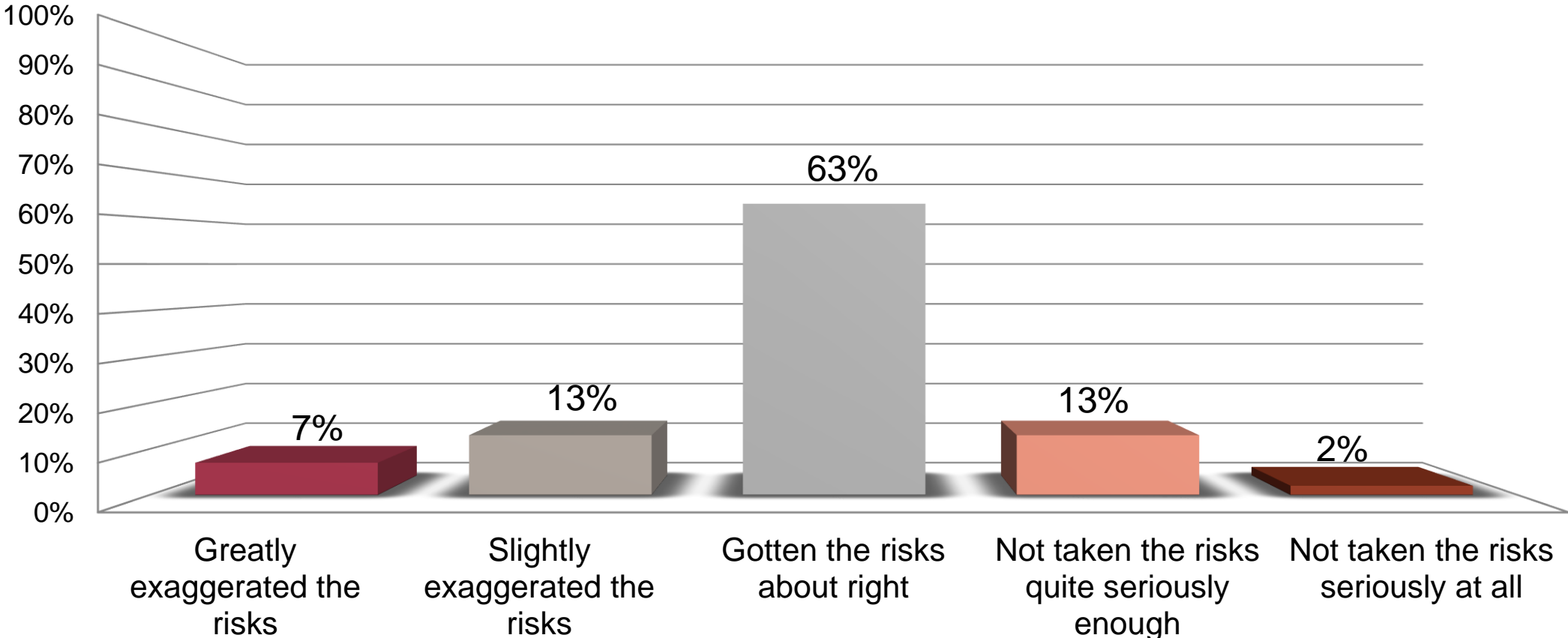


Effect Of COVID-19: Public Health Officials at the CDC are Doing a Good Job of Responding to the Coronavirus Outbreak



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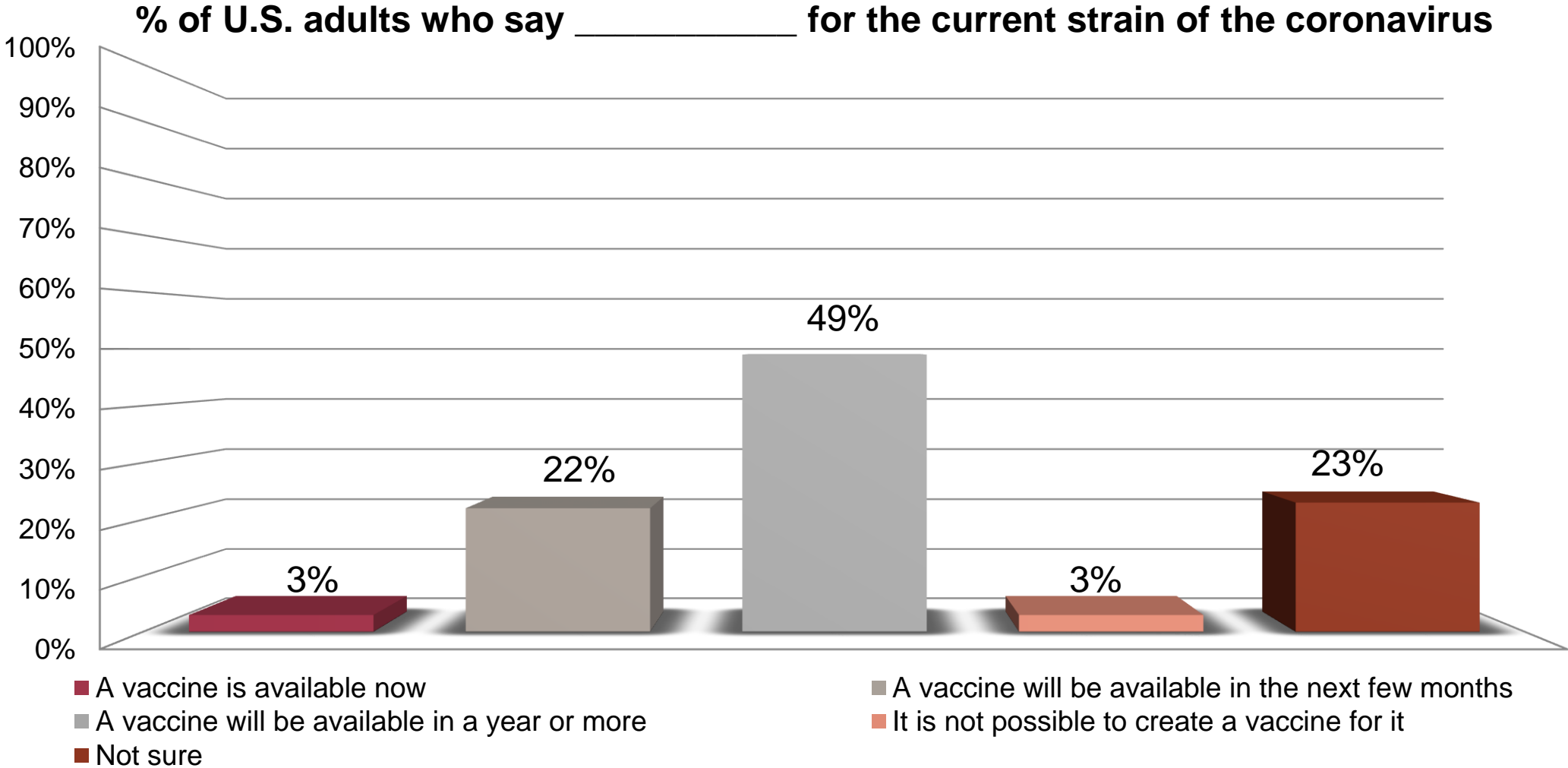
Effect Of COVID-19: Public Health Officials at the CDC Have ____ of the Coronavirus Outbreak



https://www.pewresearch.org/pathways-2020/covidtone_d/total_us_adults/us_adults/

The Juror Knowledge Gap

COVID-19: Solutions?



https://www.pewresearch.org/pathways-2020/covidvacc/total_us_adults/us_adults/

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- ✓ Download the presentation slides from the Handouts list.
- ✓ Your certificate of attendance will be sent via email within 30 days after completion of the program. Only those who have viewed at least 75 minutes of the webinar and responded to the ending survey with the two code words will receive a certificate of attendance. If you met these requirements, we will also automatically report your attendance directly in the following states: Pennsylvania, Illinois, Indiana, and Texas.
- ✓ If a question you asked did not get answered during the live webcast, one of the presenters will answer your question via email.