

PRETRIAL RELEASE PRACTICES IN COLORADO:  
A DESCRIPTION

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## EXECUTIVE SUMMARY

In 1983, over 100,000 individuals were taken into custody and booked in Colorado jails. To increase our knowledge of this group and to examine how these cases are handled pretrial, we analyzed 4434 cases that were booked in 15 Colorado counties in 1983. A summary of our findings is presented in this executive summary.

### Who Is Detained?

Ninety two percent (92%) of the offenders booked in are released prior to trial. There are two basic differences between the group that is released and the group that is not released prior to trial. The group that is detained tends to have higher bail amounts (\$5,000 or more) and they have a higher conviction rate than the group released pretrial.

### How Are They Released?

Over 77% of the cases who secure pretrial release are released on bond. The type of bond a defendant secures appears to be associated with the offense charged. Felons are more likely to receive a personal recognizance (PR) bond than the other offense categories, but this may be due to the inability of many of these defendants to make the relatively high bail required in felony cases. We found that PR bonds are sometimes granted only after defendants are unable to secure the resources to make a money bond. Also, PR bonds are often granted in addition to a property/cash bond requiring a bondsperson, so that the meaning of a PR bond as a nonmonetary method of release is sometimes lost in the field.

### How Long Do They Stay?

Seventy percent (70%) of the cases we analyzed were released from detention within 24 hours. One-fifth were released in less than one hour. The overall average of length of pretrial detention for those released within the first week is 14 hours. This hourly average increases as the seriousness of the charge increases. Interestingly, we found that males serve significantly more time pretrial than females, a fact that holds true across charge classifications.

The average length of pretrial detention tends to increase with bail amount. Those with bail amounts less than \$1,000 average 11 hours of pretrial detention while those with bail over \$5,000 average 33 hours of detention. However, higher bail amounts reflect more serious offense charges, and then

cases are generally required to go to court to secure release (as opposed to being released through the sheriff's office). Going to court for release requires significantly more time than release through the sheriff's office, except in counties that operate pretrial programs. There is great variation among the 15 counties in the percentage and types of cases required to go to court for a release decision.

#### Driving Under The Influence of Alcohol (DUI)

Defendants charged with drunk driving comprise 58% of the traffic offenses and 22% of the total sample of cases for this study. We found that most counties that booked a high percentage of DUI cases also made provisions to release them quickly, thus managing the impact of these cases on the jail operations. While public attitudes are impacting local law enforcement policies and this 1983 data may no longer reflect current practices, it is important to document them here so future comparisons may be made with this data.

#### Crowding

We found that counties operating overcrowded facilities require a higher percentage of cases to go to court to secure release. Also, crowded facilities hold defendants significantly longer pretrial than noncrowded facilities. The greatest variation exists for traffic offenses, and since traffic cases account for half of the cases booked in, variation in the handling of this group can directly impact jail operations. Also, crowded facilities release only 12% of their cases on PR bonds compared with 35% for the noncrowded jails.

#### Urban/Rural Jails

In general, there is very little variation between urban and rural detention facilities. A higher percentage of felons are booked in urban jails; a higher percentage of traffic cases are booked in rural jails. Further, rural facilities release 43% of the traffic cases within the first hour, compared with 21% in urban jails. Thus, urban facilities tend to hold defendants longer, except in felony cases.

#### Counties With Pretrial Programs

The most significant difference between counties that operate pretrial release programs and those that do not is the location of the release decision. In counties with pretrial programs, 61% of the cases are required to go to court to secure release compared with 35% for the "other" counties. While we would expect the length of detention to be greater, then, in pretrial

counties, this is not the case. Rather, there is no statistically significant difference in length of pretrial detention between counties with and those without pretrial programs. Further research is necessary if we are to explain this finding.

### Public Risk

Utilizing a complicated computer program for tracking recidivism (explained in the text), we analyzed 967 cases to assess the public risk associated with releasing individuals on bond prior to trial. Public risk is defined as felony rearrest occurring between the time of arrest for the charge which landed them in our sample and the court disposition date of that case. Sixteen defendants were rearrested for felonies during this period. Two defendants committed a violent offense (robbery and sexual assault).

### Implications

Our data suggest that overcrowding is related to release practices including location of release and bonding practices. The location of the release decision (either the sheriff's department or the court) and bonding decisions are determined by local policies. Since these decisions impact length of stay, how the jail is used is directly related to pretrial release policies. Fortunately, these policies are under the control of local officials who may want to assess current practices in light of this study's findings.

Further, pretrial release decisions are being made in several local jurisdictions with minimal amounts of information about many defendants. This lack of data limits analysis but, more importantly, many detention facilities are operating without necessary management information on the population of pretrial detainees. Lack of information, in the long run, obstructs planning future jail operations.

## INTRODUCTION

Interest in pretrial release practices has increased dramatically in the past 20 years. Goldfarb (1975) notes that in the early 1960's, social scientists began criticizing the bail system for discriminating against needy defendants and for establishing an industry that generated corruption by bailbond personnel and manipulative judges. In 1970, the U.S. Department of Justice published its landmark National Jail Census with the finding that half of the adults behind bars had not been convicted of an offense but were instead too poor to raise the necessary bail.

Serving pretrial time in jail often costs defendants their jobs and leaves them unable to support their families. These costs are often indirectly assumed by the taxpayer in the form of public assistance programs, in addition to the expense of operating the detention facility. Thus, concerns about the costs to both the defendant and the public spurred reform efforts (Thomas, 1976; Wise, 1974).

In 1979, the American Bar Association published Pretrial Release Standards favoring the release of accused persons before trial. Reflecting the criminal justice system's changing responsibilities in terms of pretrial detention practices, the ABA stated "It should be presumed that the defendant is entitled to release...the presumption may be overcome by a finding that there is substantial risk of nonappearance..." (Standard 10.5.1:1979).

In 1982, more than 120,000 individuals were arrested and booked into Colorado jails. Many of Colorado's jails are overcrowded. In addition to the common plight of local jails (few fiscal and community resources, dilapidated facilities, etc.), many of Colorado's jails are responsible for holding state inmates, an arrangement which, until this fiscal year, did not require the state to reimburse the counties for the expenses they incurred in this process. The state prison system is unable to accommodate its present population and, as a result, hundreds of state inmates are backlogged in county jails. This situation is likely to worsen with the state legislature's recent passage of a "get tough" sentencing bill (HB 1320) which promises to increase the state prison population by as much as 50% to 100% in the next decade.

With state resources focused on prison populations, the need for jail



problems to be solved at the local level is most pressing. While options regarding sentenced offenders are more limited, local jurisdictions can make important decisions about pretrial populations.

The purpose of this study is to provide information which will be useful in such decisions. Specifically:

1. To provide data on persons arrested and booked into county jails and released from pretrial detention.
  - Who is detained?
  - Who is released?
  - What is the average length of pretrial detention?
2. To describe factors affecting pretrial release decisions.
3. To analyze differences in pretrial release practices in overcrowded and nonovercrowded jails.
4. To consider risk to the public of pretrial release of arrested individuals.

The report is organized as follows. First, a brief description of the Methodology is presented. Second, a statistical profile of who goes into jail and an analysis of who is released is included. This is followed by a description of how suspects are released. The third section looks at length of stay and its correlates; the fourth section addresses some of the consequences of pretrial practices on overcrowding, with a special emphasis on Driving Under the Influence of alcohol cases, rural-urban differences, and counties with formal pretrial release programs. The fifth section looks at risk to the public of pretrial release. Finally, a summary of the major findings and their implications for Colorado jails is presented.

## METHODOLOGY

### The Sample

In 1983, over 100,000 individuals were arrested and booked into Colorado's jails. Since cost precluded collecting information on all of these cases, a sample of cases was drawn.

The sampling plan was divided into two parts. During the time period under study, there were 54 operational detention facilities and 5 temporary holding facilities in Colorado. Fifteen county jails were included in the sample to assure the representation of various demographic, geographic and detention facility characteristics present in the state. Thus, the sample includes urban and rural areas, plains and mountain regions, and jurisdictions with both overcrowded and nonovercrowded detention facilities. The following table lists the counties selected as sites for data collection.

TABLE 1

<u>LIST OF SAMPLE COUNTIES</u>			
<u>County</u>	<u>Number of Cases</u>	<u>County</u>	<u>Number of Cases</u>
Adams*	309	Las Animas	302
Arapahoe*	302	Mesa	298
Denver*	300	Montrose	300
El Paso	300	Morgan	300
Fremont	294	Pueblo	301
Jefferson*	302	Prowers	230
La Plata*	298	Routt	300
*Detention facility was overcrowded more than 25% of the time in 1982.			

The second portion of the sampling plan involved the actual selection of cases. Excluding fugitive cases and cases held for other jurisdictions, a systematic sample of three hundred cases from each county was drawn.<sup>2</sup> This was accomplished by dividing the total number of 1982 booking cases for each individual county by X and selecting every nth case until 300 cases were drawn. However, in two counties, all of cases booked in 1982 were included because of the low number of cases. Fremont county had 294 cases, and Prowers totaled 230. In this fashion a total of 4434 cases were

selected as the sample for the study. The findings are generalizable to those 15 counties.

#### Data Collection

Data for this project were collected between November, 1984 and April, 1985 by trained data collectors. Data were collected from three primary sources: the jail book, the jail inmate files and the county court records.

The jail log in each county provided information relevant to immediate booking (name, offense, time in, and time out), and often date of birth (although sometimes age was listed instead). These booking entries generally corresponded to an office file containing more information (particularly demographic) about the offender. Not surprisingly, the amount and quality of information in the jail files was inconsistent among locations. In some jurisdictions there was either no corresponding file or the file contained a minimum amount of demographic data while in other counties the data were more extensive. For example, in Pueblo County, the jail maintains two separate files on each individual, a social file and a criminal history file. Much information was thus available about inmates in the Pueblo County jail, but that jail's procedures are obviously exceptional in this regard. Finally, county court files were the source for case disposition information. If a presentence report was ordered, this was an additional (although rare in many jurisdictions) source of data.

#### Missing Data

Jails have a history of operating minimal records-keeping systems, not only for external research projects, but also for internal use. One county in this sample, for example, does not record the time of release ("book-out time") so length of detention cannot be calculated. As another example, case disposition was missing in approximately half of the cases in two other counties.

Fortunately, data on the primary research variables was generally available. Data was missing, on the average, in less than 4% of the cases for these variables. However, length of stay could not be calculated for 13% of the cases. This percentage primarily reflects the unavailability of information in one county.

Because data were available on the primary variables, and because high

rates of missing data could be traced to particular counties, the problem of external validity is minimized. However, data analysis was limited because of the lack of further information. For example, criminal history information was unavailable in over 70% of the cases. Therefore, more probing questions about Colorado's pretrial practices and characteristics of defendants could not be addressed. A more thorough discussion of missing data is included in Appendix G of this report.

## WHO IS DETAINED?

This section of the report will describe Colorado's statutory provisions for pretrial release followed by a statistical profile of those who are arrested and detained and those who are released.

### Statutory Provisions For Pretrial Release

In Colorado, arrested individuals are granted the right to bail except in the case of Class 1 Felonies (first degree murder and first degree kidnapping). Bail and the conditions of bond are fixed by a judge at the first court appearance, unless an indictment, information or complaint has been filed against the defendant which fixes the amount of bail and type of bond for his or her return.<sup>3</sup> In many jurisdictions, the court has given the sheriff's department the authority to release certain defendants on bond according to a formal bonding schedule.

Colorado legislation states the purpose of this pretrial release procedure:

The primary condition of the bail bond, and the only condition for a breach of which a surety or security on the bond may be subjected to forfeiture, is that the released person appear to answer the charge against him at a place and upon a date certain and at any place or upon any date to which the proceeding is transferred or continued (CRS 1973 16-4-103),

The judge may also impose additional conditions, such as pretrial supervision by "some qualified person or organization," (ibid.) such as a pretrial services agency or the probation department.

However, within the context of a Constitutionally guaranteed right to bail and the state statutory provisions for releasing defendants before trial, many questions arise as to what actually happens, prior to trial, to individuals arrested and booked into local detention facilities. This section, thus, attempts to describe pretrial release practices in Colorado.

### Profile of Detainees

As previously described, the sample consists of 4434 cases of individuals arrested and booked into fifteen Colorado detention facilities in 1982. The following two tables display some demographic (Table 2) and offense-related characteristics (Table 3) of the sample.

As these table illustrate, the typical offender booked into Colorado

TABLE 2

DEMOGRAPHIC CHARACTERISTICS OF OFFENDERS\*

<u>SEX</u>			
Male	89%		
Female	11%		
TOTAL	100%		
<u>ETHNICITY</u>		<u>EMPLOYMENT STATUS</u>	
Anglo	72%	<u>AT ARREST</u>	
Hispanic	20%	Employed	56%
Black	6%	Unemployed	44%
Am. Indian	1%	TOTAL	100%
Other	1%		
TOTAL	100%		
<u>MARITAL STATUS</u>		<u>AGE</u>	
Single	56%	18-19	8%
Married	30%	20-24	30%
Separated,		25-29	23%
Widowed,		30-34	15%
Divorced	14%	Over 35	24%
TOTAL	100%	TOTAL	100%

\*This and subsequent tables are based on the data gathered from 15 Colorado counties. All percentages are rounded.

TABLE 3

OFFENSE-RELATED CHARACTERISTICS OF INDIVIDUALS  
BOOKED INTO JAIL IN COLORADO
Most Serious Charge Classification at Arrest

Felony	27%
Misdemeanor	21%
County-Muni.	5%
Traffic	47%
TOTAL	100%

Violence

Violent Offense	8%
Nonviolent Offense	92%
TOTAL	100%

Disposition

Charge Dismissed	20%
Not Convicted	1%
Convicted	79%
TOTAL	100%

jails is a single, employed Anglo male between the ages of 20 and 25 who has been charged with a violent offense, a fact that holds true for both urban and rural communities.

#### WHO IS RELEASED? -

##### Defendant Profile

Ninety two percent (92%) of the defendants booked in are released prior to trial. Only 8% remain in detention facilities. Interestingly, there appears to be little variation in demographic and offense-related characteristics of defendants released prior to trial and those that remain confined. Some of these relationships are illustrated in Table 4.

TABLE 4

<u>OFFENDER CHARACTERISTICS AND RELEASE</u>		
	Released	Not Released
<u>SEX</u>		
Male	91%	93%
Female	9%	7%
TOTAL	100%	100%
<u>Ethnicity</u>		
Anglo	66%	69%
Hispanic	25%	17%
Black	7%	12%
Other	2%	2%
TOTAL	100%	100%
<u>CHARGE CLASSIFICATION</u>		
Felony	47%	37%
Misdemeanor	22%	23%
County-Muni.	6%	13%
Traffic	26%	28%
TOTAL	100%	100%
<u>VIOLENCE</u>		
Violent Charge	8%	10%
Nonviolent Charge	92%	90%
TOTAL	100%	100%

These findings hold constant when controlling for urban and rural areas and for overcrowded and nonovercrowded facilities.<sup>5</sup>

However, for the group that remains in jail pending trial, the amount of bail imposed may be a factor. As Table 5 illustrates, nearly half (45%) of those not released had bail imposed in the amount of \$5,000 or more. Those who received bail of \$5,000 or more accounted for only 7% of the entire sample.

TABLE 5

<u>BAIL AMOUNTS OF THOSE RELEASED AND NOT RELEASED PRIOR TO TRIAL</u>		
<u>Bail Amount</u>	<u>Released</u>	<u>Not Released</u>
\$0-499	44%	21%
\$500-999	26%	15%
\$1,000-4,999	20%	19%
\$5,000 or more	10%	45%
TOTAL	100%	100%

It is also interesting to compare conviction rates of those released and those not released. As Table 6 illustrates, the conviction rate is higher for the group that was not released on pretrial status, a finding that holds constant when selecting for charge classification. This outcome may be related to the suspects criminal history or to strength of the evidence. Thus, it appears that the more serious offenders receive the highest bonds and stay in jail for the longest period of time. Unfortunately, criminal history information was unavailable for analysis (see missing data section).

TABLE 6

<u>COMPARISON OF CONVICTION RATES FOR CASES RELEASED AND NOT RELEASED PRIOR TO TRIAL</u>		
	<u>Released</u>	<u>Not Released</u>
Convicted	76%	98%
Not Convicted	24%	2%
TOTAL	100%	100%



## HOW THEY ARE RELEASED ?

This section describes the bonding alternatives available to local authorities, the variation in their use, and some of the consequences of bonding practices.

### Bonding Practices

The majority of cases (77%) are released from pretrial detention through the process of posting bond (see Table 7). For the purpose of

TABLE 7

<u>METHODS OF PRETRIAL RELEASE</u>	
<u>Method</u>	<u>Percent of Cases Released</u>
Bond	77%
Case Dismissed	3%
Transferred to another jurisdiction	12%
Other (Summons, fine, etc.)	8%
TOTAL	100%

this analysis, the types of bonds available have been broken down into three categories: personal recognizance (PR), surety and property/cash. (For a description of these bond types, see Appendix A).

The fifteen counties vary in the use of each type of bond, as shown in the distribution on the following page (Table 8). The variation among the counties is distinct enough to make meaningless an overall average for the fifteen jurisdictions.

Larimer County releases the highest proportion (68%) of cases on PR bonds and the lowest proportion (10%) on full property/cash bonds. Conversely, Routt County (an energy impact and resort county) and Denver County (the most urban jurisdiction) release the greatest percentage of cases on property/cash bonds (44% and 43%, respectively). Las Animas County releases the highest percentage (68%) of cases on surety bonds; in Prowers County, only 18% of the cases are released on a corporate surety bond. This may reflect the availability of PR bonds in these counties.

USE OF TYPES OF BONDS: EACH COUNTY

[illegible]

This variation is complicated by the fact that the bonding practices for each type varies from jurisdiction to jurisdiction. In some counties, a PR bond is granted for applicable cases only when those defendants are without the resources to make a money-related bond, while in other counties, PR bonds are granted to those defendants who meet the typical "ties to the community" and "criminal history" criteria. Further, in some locales, only a judge has the authority to issue PR bonds while in other counties the sheriff's department may issue PR bonds. This is important because going to court for release increases the length of detention, a point that will be discussed in detail later in this report.

To further complicate the situation, some jurisdictions "piggy back" PR bonds on top of cash bonds requiring in some cases, for example, collateral for a substantial property/cash bond, plus a lesser cash amount PR bond cosigned by a friend or relative. Therefore, several methods of PR bonding exist among the fifteen counties.

The practical use of PR bonds in the field, then, appears to differ somewhat from the theoretical use of PR bonds as "a presumption in favor of pretrial release on a simple promise to appear [applied] to all persons arrested and charged with a crime,"<sup>6</sup> and the use of PR bonds as a form of nonmonetary release.

#### Bond Type by Charge Classification

As might be expected, bond types vary by Charge Classification. Table 9 shows that the greatest variation for the felony offense category is the relatively low percentage (14%) of cases released on a property/cash and the relatively high percentage (50%) of cases requiring a bondsperson. This likely reflects the higher monetary amounts attached to bonds for more serious offenses.

TABLE 9

<u>BOND TYPE AND CHARGE CLASSIFICATION</u>				
<u>Type of Bond</u>	<u>Felony</u>	<u>Misd.</u>	<u>Co-Muni.</u>	<u>Traffic</u>
PR	37%	28%	25%	28%
Surety	50%	47%	31%	41%
Property/Cash	13%	25%	44%	31%
TOTAL	100%	100%	100%	100%

Interestingly, of the four charge categories, a higher percentage of felons receive PR bonds but, again, this quantitative finding is colored by the "piggy back" and the "PR as a bond of last resort" bonding practices, discussed previously. Almost half (44%) of the county/municipal violators bond out on property/cash bonds, possibly reflecting the lower amounts of money or equity required for lesser offense cases. The majority of traffic cases falling into the surety bond category are cases charge with drunk driving.

In sum, the use of the three bond types differs from jurisdiction to jurisdiction. Additionally, how and where (sheriff's office or the court) PR bonds are issued varies. This practice plays a role in most jurisdictions in how long it takes to obtain release from pretrial detention. This issue is addressed later in this report.

#### HOW LONG DO THEY STAY?

Length of pretrial detention is an important determinant of how county jails are used. This section looks at length of stay in county jails, variations in length of stay by offense and offender type, and how bond type and location of release decision affect length of stay.

##### Average Length of Pretrial Detention

There are many ways to analyze the data to yield information on length of pretrial detention. The hourly average is probably the most common and meaningful method of measuring length of stay. However, extreme cases can strongly bias this measure. While the majority of cases are released relatively quickly (81% are released within three days), many are unable to secure an early release, skewing the hourly average upwards. Thus, the discussion that follows includes both frequency distributions and hourly detention averages to address the length of stay question. The majority of the defendants in this sample are released on pretrial status during the first 24 hour period (70%). Table 10 presents the length of time defendants are held in jail before release.

TABLE 10:

PERCENT OF CASES RELEASED WITHIN VARIOUS TIME PERIODS		
Period of Time	Percent Released	Cum. %
Less than 1 hour	20%	20%
over 1-6 hours	27%	47%
over 6-24 hours	23%	70%
over 24-72 hours	11%	81%
over 72-168 hours	6%	87%
over one week	13%	100%
	100%	--

Table 10 above shows that 87% of those booked in are released within one week. For that group of cases, the average length of pretrial detention is illustrated below in Table 11. This table reflects the average amount of time to release for each charge classification category, for the group that is released within the first week of detention. The overall average for this group is 17 hours. Again, as we would expect, traffic cases in this group spend, on the average, the least amount of time of jail before trial (11 hours) while felony cases average 32 hours of pretrial detention.

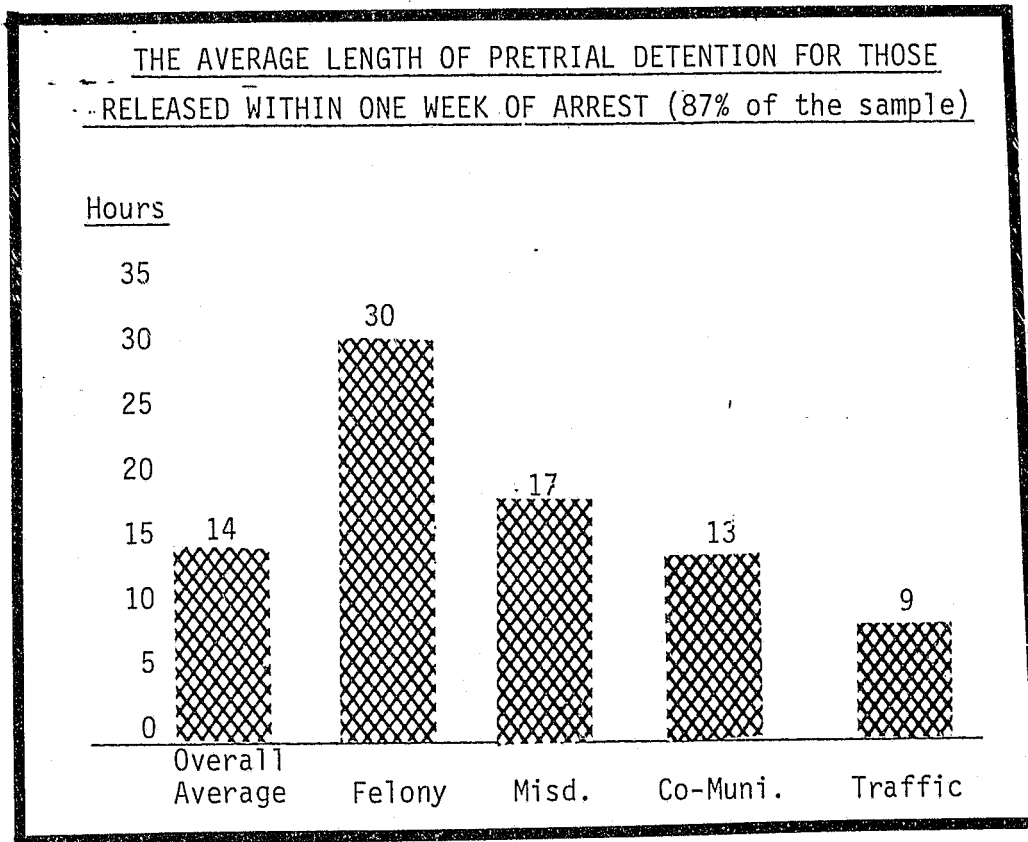
#### Offense and Offender Characteristics and Time to Release

It is not suprising that length of stay varies by charge classification. However, we also found variation by sex of defendant.

We found that length of stay is related to charge classification (see Appendix B). We found that 32% of the traffic cases are released within the first hour compared with 9% of the felony cases. This might be expected since most felons must go to court to secure release while lesser offense cases are sometimes released through the sheriff's office.

Conversely, 29% of those charged with felonies remain in jail longer than one week (which cannot be explained by the delayed wait to go to court since this generally occurs within a few days). Only 3% of the traffic cases stay over one week.

TABLE 11

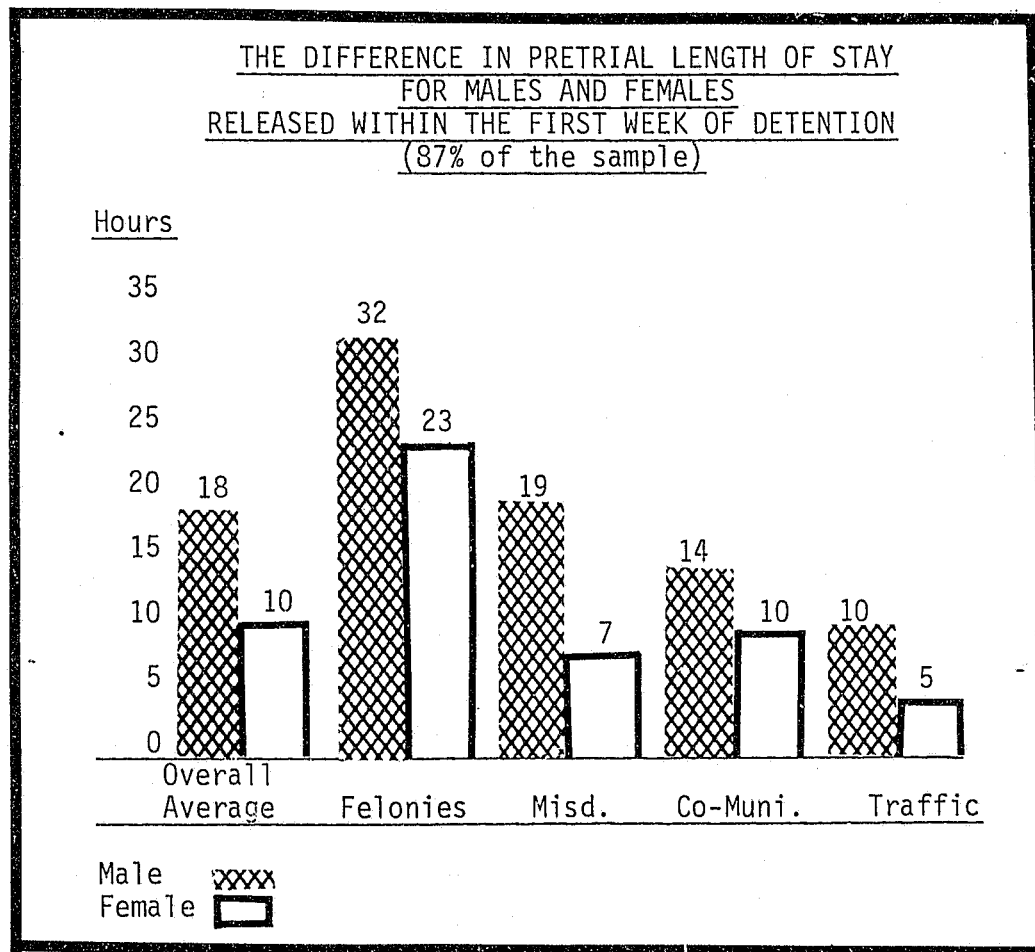


Regarding sex of the defendant and length of pretrial detention, the data reveal there is a statistically significant difference<sup>7</sup> in the length of detention for males and females. Of all cases that are eventually released pretrial, the average length of pretrial detention is 3.5 days for men compared with 1.25 days for women.<sup>8</sup> However, since extreme cases can skew this average upwards, it is necessary to look more closely at the group released within the first week of confinement. With this group, there is also a statistically significant difference in length of pretrial detention.<sup>9</sup>

Males serve more time pretrial than females, a fact that holds true across charge classifications categories. Overall, for the group that is released within the first week, males spend eight hours longer in pretrial detention than females. For those charged with traffic offenses, males spend twice as long in pretrial detention; for those charged with misdemeanors, males spend nearly three times as long in detention (see Table 12).

For other variables that might impact length of pretrial detention, the sexes are fairly equally distributed. That is, there is little variation in the percentages of males and females falling into the various categories of charge classifications, type of bond, bond amount, residence, and demographic characteristics. Employment is one area of variation, however, as a higher percentage of women are unemployed (60% compared to 40% of the men). Criminal history may be a factor, but this data was generally not available.

TABLE 12



The variation in length of stay may be due to the ability of some detention facilities to appropriately accommodate (with space and staff) female detainees. Also, cultural factors associated with one's ability to make bond may explain this difference. For example, while women tend to have

access to less money (a higher percentage are unemployed, discussed above, and women tend to earn less than men when they work outside the home), cultural factors may induce family and friends to make bond sooner for females than males. Also, discretion on the part of criminal justice officials may play a part in this difference. Lack of data limits our ability to speculate beyond the findings. This variation may be an appropriate subject for future research.

#### Bond Amount and Type and Time to Release

Time to release is also related to bond amount. Property/cash bonds, in many counties, may be posted through the sheriff's department, eliminating the delay inherent in going to court; the sheriff's office does not have the authority to release defendants on their own recognizance. However, in one county, the sheriff has the authority to grant PR bonds, but in practice does not do so. In two localities where the sheriff has the authority to issue PR bonds, it is generally for lesser offense cases.

For the group released within the first week of detention, the average length of detention is illustrated below in Table 13.

TABLE 13

<u>BAIL AMOUNT AND LENGTH OF PRETRAIL DETENTION FOR THOSE THAT WERE RELEASED WITHIN ONE WEEK</u>	
<u>Bail Amount</u>	<u>Average hours held</u>
\$0-499	11 hours
\$500-999	11 hours
\$1,000-4,999	21 hours
\$5,000 +	33 hours

The average length of pretrial detention averages 11 hours for cases receiving bail amounts of less than \$1,000. This average detention period triples to 33 hours for cases assigned a bail amount of \$5,000 or more. Thus, the higher the bail, the longer it takes to secure release. Those with a higher bail amount tend to be felons who were more likely to be required to see a judge for the release decision. As Table 14 illustrates, 8% of those charged with felony offenses have bail amounts less than



\$1,000 compared with 86% of those charged with misdemeanors, 94% of the county-municipal defendants and 95% of the traffic defendants.

TABLE 14

<u>BAIL AMOUNTS AND CHARGE CLASSIFICATION</u>				
Bail Amount	Felony	Misd	Co-Muni	Traffic
Less than \$1,000	8%	86%	94%	95%
\$1,000 or more	92%	14%	6%	5%
TOTAL	100%	100%	100%	100%

The type of bond granted to the defendant appears to affect length of pretrial detention. There is, in fact, a statistically significant difference<sup>10</sup> between the type of bond granted and the hourly average length of pretrial detention (Table 15 ). The data indicate that the quickest method of release is with a property/cash bond, for which the average detention period is nine hours. Surety and PR bonds each require, on the average, approximately the same period of detention, but this period is six to seven hours longer than the time served prior to release on property/cash bonds.

TABLE 15

<u>BOND TYPE AND HOURLY AVERAGE LENGTH OF PRETRIAL DETENTION</u>	
Type of Bond	Average Hours Detained
PR	15 hours
Surety	16 hours
Property/Cash	9 hours

Table 9 on page 12 of this report indicates that a higher percentage (37%) of defendants charged with felonies are released on PR bonds than is the case with the other three charge classifications. In most instances, these are cases that are required to go to court due to the severe nature

of the offense. A common practice (not reflected in the quantitative data is for the defense attorney to request a PR bond at a hearing following advisement when a substantial money bond was imposed. In these instances, the detention period is extended.

In general, this variation holds constant across the counties, as may be seen on the following page in Table 16. Denver is the only county in which it is faster to be released on a PR bond than money bonds (13 hours compared with 17 hours for the other two types of bonds). This may be due in part to the fact that, although many of these cases are required to go to court because of the nature of the offense, Denver holds court on Saturday mornings and Monday holidays, reducing the typical weekend delay period. The greatest difference in bonding periods appears to occur in Fremont County, where it takes, on the average, five hours to be released on a property/cash bond, 14 hours to be released with the aid of a corporate surety and 41 hours to be required to release a defendant on a PR bond. This suggests that the investigation generally required to release a defendant on a PR bond delays the release. Again, we see that the variation in pretrial release practices in Colorado is fairly great, and these differences affect the length of pretrial detention.

#### Release Location and Length of Stay

Progressive pretrial release practices arrange for defendants to be released at the earliest possible time following arrest.<sup>11</sup> The decision to release defendants before trial is the formal responsibility of the court. However, some courts may grant the sheriff's department the authority to release in some instances. Pretrial release programs, which existed in five of the counties in this sample in 1983, do not possess the authority to release. Rather, they are essentially an investigative arm of either the sheriff's department or the court and function to provide recommendations to officials regarding the release of defendants.

The location of the release decision affects the length of pretrial detention. In fact, there is a statistically significant difference between the location of the release decision and the average hourly length of detention.<sup>12</sup> Table 17 reflects that, of the cases the sheriff's office releases, 89% are out within 24 hours. Of the cases the court releases, 59% are released within 24 hours.

Table 16

## BONDING PRACTICES AND AVERAGE LENGTH OF PRETRIAL DETENTION (IN HOURS)

	Adams	Arapahoe	Denver	El Paso	Fremont	Jefferson	La Plata	Larimer	Las Animas	Mesa	Montrose	Morgan	Prowers	Pueblo	Routt
<u>Bonding and Average Length of Detention</u>	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS	HOURS
PR	29	13	13	17	41	16	23	18	20	34	27	34	-	14	6
Surety	37	22	17	19	14	12	11	15	8	13	12	19	-	22	17
Prop/Cash	15	9	17	6	5	5	9	9	11	8	11	9	-	14	5

TABLE 17

<u>RELEASE LOCATION AND LENGTH OF DETENTION</u>		
	Sheriff	Court
Less than 24 hours	89%	59%
More than 24 hours	11%	41%
	100%	100%

The data in the following table reflect that the sheriff's office makes release decisions in primarily lesser offense cases. Conversely, the court makes the decision in 78% of the felony cases.

TABLE 18

<u>LOCATION OF RELEASE AND CHARGE CLASSIFICATION</u>			
	Sheriff's Office	Court	Total
Felony	22%	78%	100%
Misd.	59%	41%	100%
Co-Muni.	79%	22%	100%
Traffic	80%	21%	100%

Once again, we can examine the length of stay in terms of hours in pretrial detention. The following table focuses on the group released within the first week since the impact of the location of the release decision on length of stay will be nonexistent beyond that time period.

Obviously, releasing through the sheriff's office will be quicker, due

TABLE 19

<u>RELEASE LOCATION AND HOURLY LENGTH OF PRETRIAL DETENTION</u> for the group released within one week		
<u>Charge Classification</u>	<u>Sheriff's Office</u>	<u>Court</u>
Felony	16 hours	31 hours
Misdemeanor	9 hours	26 hours
County-muni.	10 hours	30 hours
Traffic	6 hours	18 hours
OVERALL AVERAGE	8 hours	26 hours

to proximity to the booking process, and the above table confirms this. The average length of detention for cases released through the sheriff's office is 8 hours compared with 26 hours for those who must see a judge first. For misdemeanor, county-municipal and traffic cases, it takes three times longer to be released by the court than through the sheriff's office. For felony cases, the average length of pretrial detention is doubled when cases are required to see a judge for the release decision.

Whether or not the court or the sheriff's office makes pretrial release decisions depends upon judicial policy in a particular jurisdiction. Since "who makes the (release) decision...tends to determine how long a defendant will be in custody,"<sup>13</sup> it is important to consider the variation in practice among counties in the sample.

The following histogram (Table 20 ) illustrates the variation in release practices among the counties in the sample. Note that in six counties, the sheriff's office releases over 90% of the traffic cases, and in another four counties over 80% of the traffic cases are released through the sheriff's office. Yet a few counties in the sample release less than half of their traffic cases through the sheriff's office and the remaining cases must wait to go to court to secure pretrial release. This is relevant since, for example, traffic cases account for nearly half of the cases booked in and how these cases are handled can impact facility populations.

Half of the defendants charged with felonies in Denver, El Paso, and Las Animas counties are released by the sheriff's department, and slightly more than 40% of those charged with felonies in Montrose and Routt counties are released by the sheriff's departments, as illustrated in Table 20<sup>2</sup> (histogram). For seven counties in the sample, less than 12% of the felony cases are released through the sheriff's office.

In general terms, Adams, Arapahoe and Fremont counties tend to grant pretrial release through the sheriff's office in a low percentage of cases. Importantly, Adams county, which requires 76% of its traffic defendants to go to court for pretrial release, and Arapahoe county, which requires all felons and over 70% of its traffic defendants to go to court, had overcrowded county detention facilities in 1982.<sup>14</sup>

Therefore, as the histogram indicates, the variation in release decision practices can vary dramatically from county to county. This is important since this practice impacts capacity requirements. The Denver sheriff's office releases 97% of its misdemeanor cases; neighboring Adams County releases

TABLE 20

VARIATION IN RELEASE PRACTICES AMONG COUNTIES:  
PERCENT OF CASES RELEASED THROUGH THE SHERIFF'S OFFICE

Percent

100%

90%

80%

70%

60%

50%

40%

30%

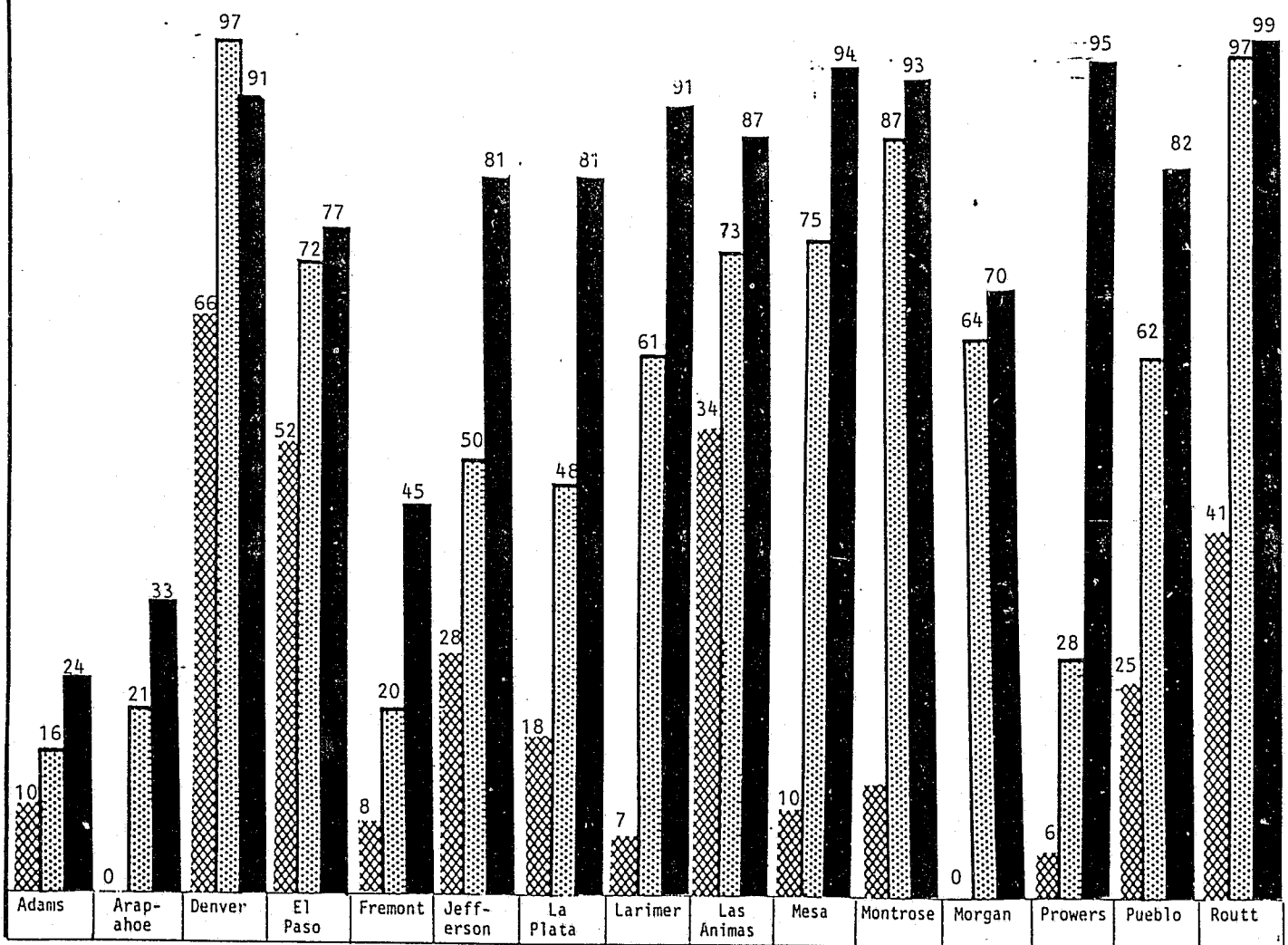
20%

10%

0

Adams Arapahoe Denver El Paso Fremont Jefferson La Plata Larimer Las Animas Mesa Montrose Morgan Prowers Pueblo Routt

Felony  
Misd.  
Traffic



only 16%, thus requiring the remainder to go to court for release. The Denver County and Las Animas County sheriff's offices release approximately 55% of the felons booked into those counties; Arapahoe and Morgan require all felony cases to go to court for release.

## DRIVING UNDER THE INFLUENCE OF ALCOHOL: ARRESTS AND PRETRIAL RELEASE

Defendants arrested for driving while under the influence (DUI) of alcohol comprise 58% of the traffic offenses and 22% of the total sample of cases for this study. Clearly, how these cases are handled within the jurisdiction can directly impact jail space and resources.

As a result of changing public attitudes about drinking and driving, Colorado has recently increased criminal sanctions for this offense. In some jurisdictions, local law enforcement policies regarding drunk driving have also changed within the past two years. While the information that follows may not reflect the current situation for some counties, it is accurate for most counties. Further, with local policies continuing to change, it is important to document these findings so comparisons may be made in the future.

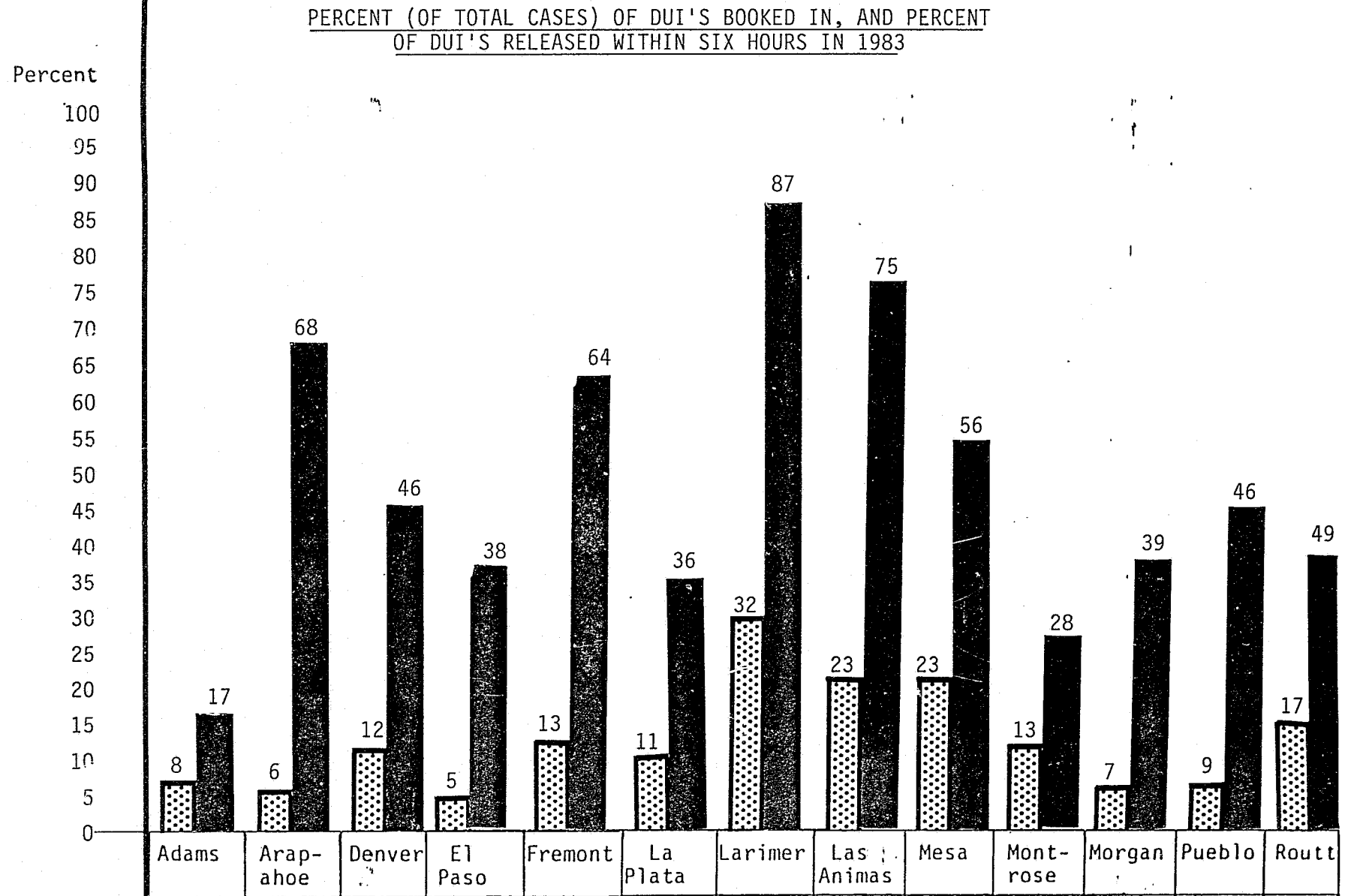
In 1983, the majority (88%) of DUI defendants were released from pretrial detention within 24 hours. Nearly 60% were released within the first six hours following arrest. In certain jurisdictions, these percentages are even higher. Table 21 shows the variation among some of the counties in the sample regarding proportion of DUIs booked in to the total percentage of cases booked in for each county, and the percent released within six hours.



As Table 21 illustrates, Larimer County leads the sample counties in the percentage of individuals who are charged with DUI and booked into that jail. This finding is corroborated by the fact that Larimer County has recently received publicity for having one of the "toughest" DUI enforcement policies in the state. This county leads the sample in the percentage of cases released within six hours: one-third of its bookings are DUI cases, and nearly 90% of these are released within six hours.

It is important to qualify, in Table 21 below, the release-time data with the year for which these data were collected (1983). Since that year, some local jurisdictions have instituted policies which require defendants charged with drunk driving to go to court to secure pretrial release, which increases the duration of pretrial detention for these individuals. The Denver County Sheriff's department, for example, has enacted such a policy with the purpose of possibly deterring DUI violators who must wait in jail until they see a judge. These pretrial release policies are not necessarily reflected in the current data.



TABLE 21



Percent of DUI's booked in   
 Percent of DUI's released within 6 hours 

Note: Jefferson and Prowers are not included due to lack of data on traffic offenses.

In sum, the data suggest that, in 1983, counties with strong DUI enforcement policies tended to have corresponding release policies. Also, Table 21 illustrates again that Adams County, with the lowest overall release rate, releases the lowest percentage of DUI violators within the first six hours following arrest.

#### PRETRIAL PRACTICES AND OVERCROWDING

As previously mentioned, five counties operated overcrowded facilities in 1983: Adams, Arapahoe, Denver, Jefferson and La Plata. The first four of these five are considered "metro area" counties; Adams, Arapahoe, and Jefferson border Denver County. La Plata County is located in the mountainous western portion of the state; Durango is the county seat.

These five counties fall into the "crowded facility" category. All the others, naturally, fall into the "not crowded" category.

The data indicate that indeed there are some variations in practices between jails that are crowded and those that are not. One variation is in the percentage of cases required to go to court to secure release. The following table reflects the variation between crowded and noncrowded facilities, in the percentages of cases released by the court rather than the sheriff's office.

TABLE 22

<u>PERCENT OF CASES RELEASED THROUGH THE COURT:</u> <u>CROWDED AND NOT CROWDED JAILS</u>		
<u>Charge</u> <u>Classification</u>	<u>Crowded</u>	<u>Not Crowded</u>
Felony	83%	75%
Misd.	53%	35%
County-muni.	25%	19%
Traffic	40%	15%

While most felons in Colorado are required to go to Court to be granted release, Table 22 above reflects that facilities that are not crowded release a slightly lower percentage through the court, thus reducing the release delay in these cases. The variation is greatest for traffic and misdemeanor cases. For traffic cases, 40% are required to go to court in overcrowded

counties compared with only 15% in counties that are not crowded. Since nearly half of the cases booked into jails are traffic, this practice can impact facility populations, as discussed in the previous section of this report.

Regarding length of pretrial detention, there is a significant difference between crowded facilities and those that are not crowded <sup>15</sup> for the group of defendants released within the first week. The following table reflects the difference, in hours, in the length of detention for each charge classification between crowded and noncrowded facilities. For the

TABLE 23

<u>LENGTH OF DETENTION FOR THE GROUP OF DEFENDANTS RELEASED WITHIN THE FIRST WEEK OF CONFINEMENT:</u> <u>CROWDED AND NOT OVERCROWDED JAILS</u>		
Charge Classification	Crowded	Not Crowded
Felony	30 hours	31 hours
Misd.	16 hours	18 hours
County-Muni.	15 hours	12 hours
Traffic	13 hours	8 hours
OVERALL AVERAGE	19 hours	16 hours

group released within the first week of detention, the overall average of time spent prior to release is 19 hours for crowded jails compared with 16 hours for jails that are not crowded. The greatest variation exists in the category of traffic offenses, where the average detention period is 13 hours in crowded facilities compared with 8 hours in the other jails. Since nearly half of the individuals booked are charged with traffic offenses, this difference is important.

The following table illustrates the percentage of cases released within the first 24 hours. It appears that the most apparent differences in release practices occur within the first hours of detention. Facilities that are not crowded release a higher percentage of misdemeanants, county-municipal ordinance violators and traffic cases within the first six hours of detention. The variation in the percentage released within the first hour is particularly important since, as previously discussed, immediately released will not draw heavily on the jail's resources. Practices associated

with early release will thus immediately affect capacity demands. Table 24 reflects that the difference between crowded and not crowded jails exists

TABLE 24

<u>PERCENT OF CASES RELEASED WITHIN 24 HOURS:</u> <u>CROWDED AND NOT CROWDED JAILS</u>			
Time Period		Crowded	Not Crowded
One hour or less	Felony	7%	10%
	Misd.	8%	23%
	Co-Muni.	5%	27%
	Traffic	12%	38%
Six hours or less	Felony	23%	28%
	Misd.	39%	51%
	Co-muni.	30%	43%
	Traffic	53%	67%
24 hours or less	Felony	45%	45%
	Misd.	72%	71%
	Co-muni.	74%	79%
	Traffic	82%	89%

in the hours soon after arrest; when looking at the percentages of cases released within 24 hours, the difference is negligible.

Regarding residence, the data reflect that crowded facilities hold a greater percentage of defendants who reside in surrounding counties. Specifically, 25% of the offenders in crowded jails reside in neighboring counties, compared with 7.2% for noncrowded jails. This is likely due to the fact that four of the five crowded facilities border each other in the Denver Metro Area.

TABLE 25

<u>BOND TYPES: CROWDED AND NOT CROWDED JAILS</u>		
Type of Bond	Overcrowded	Not Overcrowded
PR	12.1%	35.3%
Surety	37.9%	25.9%
Property/Cash	50.0%	38.8%
Total	100.0%	100.0%

Thus, in the highly populated metro area, a defendant may not committ an offense in his or her county of residence, but likely will reside nearby.

The percentage of cases released on the three bond types (personal recognizance, surety or property/cash) varies between crowded and not crowded facilities. As Table 25 illustrates, only 12% of the cases released on bond in crowded facilities received personal recognizance bonds compared with 35% for noncrowded facilities. Conversely, of the bonded cases in noncrowded facilities, surety and property bonds are used more frequently by crowded counties when compared with noncrowded counties.

TABLE 26

<u>BAIL AMOUNTS: CROWDED AND NOT CROWDED JAILS</u>		
<u>Bail Amount</u>	<u>Overcrowded</u>	<u>Not Overcrowded</u>
Less than \$1,000	65%	72%
More than \$1,000	35%	28%
Total	100%	100%

There is also some variation in the amount of bail imposed above and below \$1,000. Table 26, presented above, shows that overcrowded jails set 65% of bail amounts at less than \$1,000 as compared to 72% of not overcrowded jails. However, there is no variation between crowded and not crowded jails in terms of the percentage of cases that are released from pretrial detention and the percentage of cases receiving various sentencing options (probation, jail, community corrections or prison).

#### PRETRIAL PRACTICES IN URBAN AND RURAL COUNTIES

In an attempt to identify variations in pretrial practices, urban and rural counties were compared. The following Table 27 lists the counties in terms of how they were divided for this analysis.

In general, there is very little variation in offender characteristics between urban and rural jurisdictions. Table 28 reflects that there is a slightly higher percentage of felons booked into urban facilities while

TABLE 27

COUNTIES IN URBAN-RURAL  
ANALYSIS CATEGORIES

<u>Urban</u>	<u>Rural</u>
Adams	Fremont
Arapahoe	La Plata
Denver	Las Animas
El Paso	Montrose
Jefferson	Morgan
Larimer	Prowers
Mesa	Routt
Pueblo	

TABLE 28

CASES CHARGED WITH VIOLENT OFFENSES:  
URBAN AND RURAL JAILS

	<u>VIOLENCE</u>	
	<u>Urban</u>	<u>Rural</u>
Violent Offense	8%	8%
Nonviolent Offense	92%	92%
Total	100%	100%

TABLE 29

CHARGE CLASSIFICATION:  
URBAN AND RURAL JAILS

	<u>Urban</u>	<u>Rural</u>
Felony	34%	25%
Misd.	21%	23%
County-Muni.	8%	4%
Traffic	36%	48%
Total	99%	100%

(\*For further information on the overall similarities between urban and rural jurisdictions, please refer to Appendix C.)

a higher percentage of traffic cases are booked into rural jails.

While urban jails book a somewhat higher percentage of felony cases, there is no variation in the percentage of cases that are violent, as illustrated in Table 29. For further information on the overall similarities between urban and rural jurisdictions, please refer to Appendix .

Despite the similarities, there is, however, a significant difference<sup>16</sup> between urban and rural facilities and the average length of pretrial detention for the group released within the first week of detention. The table below illustrates the average hourly detention, broken down by charge classification.

TABLE 30

<u>LENGTH OF PRETRIAL DETENTION FOR THE GROUP OF CASES RELEASED WITHIN THE FIRST WEEK OF DETENTION: URBAN AND RURAL JAILS</u>		
<u>Charge</u>	<u>Hours Held Pretrial</u>	
	<u>Urban</u>	<u>Rural</u>
Felony	29 hours	33 hours
Misd.	18 hours	16 hours
County-muni.	15 hours	9 hours
Traffic	10 hours	8 hours
OVERALL AVERAGE	18 hours	15 hours

On the average, urban facilities hold defendants longer, except in felony cases where they are released an average of four hours sooner than rural facilities. This finding holds constant when controlling for overcrowded status. That is, both crowded and not crowded urban facilities hold defendants longer before trial except in felony cases.

Once again, we can see the difference is established in the hours soon after being booked in. The following Table 31 illustrates the difference in the percentage of cases that are released within one hour, within six hours, and within 24 hours of detention.

Since traffic cases account for almost half of the cases booked into Colorado jails, how these cases are handled is very important in any discussion of pretrial release practices. In Table 31 following, we can see that 43% of the traffic cases in rural areas are released within the first hour of detention compared with 21% in urban areas.

TABLE 31

THE PERCENTAGES OF CASES RELEASED WITHIN  
THE FIRST 24 HOURS OF DETENTION:  
URBAN AND RURAL JAILS

<u>Release Period</u>	<u>Urban</u>	<u>Rural</u>
One hour or less:		
Felony	9%	8%
Misd.	12%	25%
County-muni.	10%	30%
Traffic	21%	43%
Six hours or less:		
Felony	27%	25%
Misd.	48%	47%
County-muni.	32%	47%
Traffic	70%	66%
24 hours or less:		
Felony	48%	40%
Misd.	70%	74%
County-muni.	71%	92%
Traffic	86%	90%

Focusing on traffic cases, Table 32 below summarizes some relevant facts pursuant to urban and rural counties. Specifically, we see a higher percentage of traffic violators booked into rural areas. Rural areas also tend to release a higher percentage of traffic violators quickly. This corresponds with a previous finding that counties which book a high percentage of traffic cases (including DUIs) release a high percentage of traffic cases (see Table 21 on page 24). Along with this finding, we note that a slightly higher percentage of traffic cases are released through the sheriff's office in rural communities than in urban areas (84% compared to 74%).

TABLE 32

THE HANDLING OF TRAFFIC CASES IN  
URBAN AND RURAL AREAS

	<u>Urban</u>	<u>Rural</u>
% of Book-ins charged with Traffic Violations	36%	48%
% of Traffic Violators released within 1 hour	21%	43%
% Traffic Violators released by the sheriff's office	74%	84%



## COUNTIES WITH FORMAL PRETRIAL RELEASE PROGRAMS

In 1983, five of the counties in the sample operated formal pretrial release programs: Larimer, Denver, Arapahoe, Jefferson, Adams. For this analysis, then, the counties were divided to include the five cited above as "Pretrial Counties" and the remainder of the counties in the sample as the "other group."

Pretrial counties have a higher proportion of felony bookings, as shown below in Table 33, whereas other counties have a higher percentage of cases charged with county-municipal violations.

TABLE 33

CHARGE CLASSIFICATION: PRETRIAL AND OTHER COUNTIES		
Charge Classification	Pretrial Counties	Other
Felony	39%	27%
Misd.	21%	23%
County-muni.	2%	9%
Traffic	39%	41%
Total	101%	100%

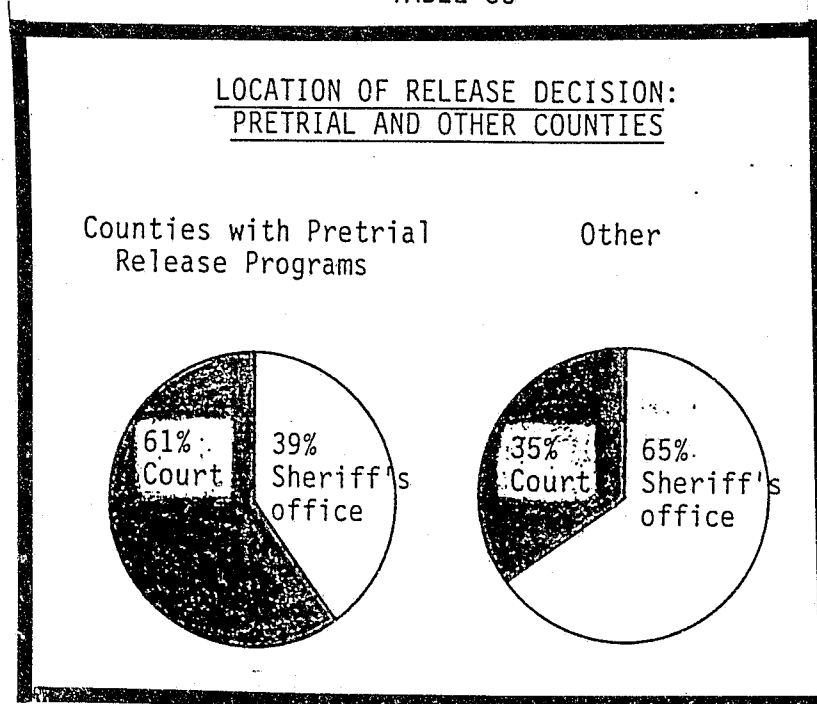
The higher proportion of felons in counties with pretrial release programs may account, in part, for the fact that bail amounts tend to be higher in these counties. Fifty percent (50%) of the bail amounts in counties with pretrial release programs fall into the \$1,000 or more category, compared with 28% for the other counties. This difference is illustrated in Table 34.

TABLE 34

BAIL AMOUNTS: PRETRIAL AND OTHER COUNTIES		
Bail Amounts	Pretrial Counties	Other
\$ 0 - 999	50%	72%
\$1,000 - or more	50%	28%
Total	100%	100%

Another variation between those counties with pretrial programs and those without is the location of the release decision. Thirty-nine percent (39%) of the cases in pretrial counties are released by the sheriff's department, compared with 65% for counties not operating pretrial programs. This relationship is illustrated in Table 35 .

TABLE 35



Since we have found that counties that have pretrial programs send a higher proportion of cases to court to secure release (61% compared to 35% for the "other" counties), and we have found that releasing through the court instead of the sheriff's office increases the length of pretrial detention, we would expect to find counties with pretrial programs detaining cases longer. However, this does not appear to be the case.

Although a higher percentage of cases are required to go to court to secure release in counties that operate formal pretrial release programs, the proportion of cases released within the first 24 hours is very similar for counties with pretrial release programs and those without them, as indicated in Table 36 . This is an important finding because we would expect to find a

TABLE 36

PERCENTAGES OF CASES RELEASED WITHIN  
THE FIRST 24 HOURS OF DETENTION:  
PRETRIAL COUNTIES AND OTHERS

Time Period		Pretrial	Other
One hour or less	Sheriff	33%	27%
	Court	13%	9%
Six hours or less	Sheriff	75%	62%
	Court	38%	28%
24 hours or less	Sheriff	91%	87%
	Court	65%	55%

lower percentage of cases released in the "six hour or less" category since requiring cases to go to court for release, as is the practice for 61% of the cases in counties with pretrial programs, tends to take longer than release through the sheriff's office. When we look at the average hourly length of pretrial detention, this finding is underscored. While the specific variation is readily apparent in Table 37, the difference in the overall average is not statistically significant.<sup>17</sup>

TABLE 37

AVERAGE LENGTH OF PRETRIAL DETENTION FOR THE GROUP  
RELEASED WITHIN THE FIRST WEEK OF DETENTION:  
PRETRIAL AND OTHERS

Charge Classification	Pretrial	Other
Felony	27 hours	33 hours
Misd.	15 hours	19 hours
County-muni.	17 hours	14 hours
Traffic	8 hours	11 hours
OVERALL AVERAGE	16 hours	18 hours

This might suggest, then, that counties with pretrial release programs make provisions that reduce or eliminate the typical delays associated with bond hearings. However, this does not appear to be the case. While Denver County holds court on Saturday mornings and Monday holidays, other pretrial counties do not. Further research is needed to explain this difference.

## SUMMARY OF MAJOR FINDINGS

This study found significant variations in pretrial release practices in Colorado. Whether the sheriff's office or the court grants bonds for the various charge classifications differs from county to county, as does the frequency with which various bond types are issued. Additionally, the practical definition of personal recognizance bonds varies from place to place. These factors affect the length of time it takes for defendants to secure release, and consequently, the pretrial detention period varies significantly from jurisdiction to jurisdiction.

Overcrowded facilities tend to hold defendants longer before trial than facilities that are not crowded. Females secure release in nearly half the time males do, even when controlling for bond type and charge classification. Counties with pretrial release programs do not release cases sooner than counties without pretrial programs, but they do not hold them longer either. This is a surprising finding since pretrial counties send nearly double the number of cases to court for a release decision (sending defendants to court normally extends the pretrial detention period).

The quickest way out of pretrial detention is posting a cash or property bond. It takes significantly longer to bond out on a personal recognizance bond. In fact, in some counties, PR bonds may not be offered to defendants who possess the resources to post a cash or property bond. This makes the PR bond, in some locales, a bond of last resort.

## IMPLICATIONS

These findings have several important implications for local correctional facilities. Our data suggest that overcrowding is related to release practices including location of release decision and bonding practices. These release practices are discussed below.

Location of Release Decision: The greatest variation in pretrial practices in Colorado in 1983 appears to be the location of the release decision, at either the sheriff's office or the court. The data confirm that release through the sheriff's office is more immediate than waiting to see a judge, except in counties where formal pretrial programs exist. This is particularly important since the location of the release decision can impact the length of pretrial detention.

The importance of this finding lies in the fact that where the release decision is made affects how the jail is used. If release is delayed until defendants see a judge, the jail staff must safely detain and supervise this population. The staff must provide food, exercise, medical treatment, if necessary. Also, advanced correctional practices require that pretrial detainees be separated from convicted offenders. Thus, the adequate management of pre-trial detainees reduces these demands.

As previously mentioned, local policy determines where the release decision is made. The court may grant the sheriff's office the authority to release certain defendants. Often this practice is structured by personal recognizance bond requirements and a formal bonding schedule. Thus, overcrowding may be reduced by changing policies governing the authority to release, particularly in the cases charged with lesser offenses.

#### Bonding Practices

From the analysis of bonding practices, several important findings were made. Seventy-seven percent of the cases that are released prior to trial are released on bond. However, the counties differ in the frequency with which the various bond types are used, as indicated by Table on page .

It takes significantly longer to be released on a PR bond than a property-cash bond (15 hours compared with 9 hours). This is due to many factors. For many lesser offense cases, property/cash bonds can be posted immediately through the sheriff's office, but many sheriff's departments do not authorize PR bonds. This imposes a delay while defendants go to court to secure release. Also, the investigation that generally precedes the granting of a PR bond may cause a delay in release. Additionally, some counties "piggy back" PR bonds on top of a cash bond, illustrating the difference between the theoretical definition of release on recognizance and the practical definition.

Further, PR bonds are often granted only when the defendant does not have the resources required for cash, property or surety bonds. Thus, in some cases defendants without the means to post a property/cash bond stay in jail longer before pretrial release until they can go to court and get a PR bond.

Again, the difference among the counties in use of the three bonding categories, and the different practices surrounding the bond types (particularly PR bonds), illustrate the variety of pretrial release operations

in Colorado. County officials may want to examine their use of particular types of bonds and the local definitions and practices surrounding monetary and nonmonetary bonds to expedite the early release of defendants.

#### Data Quality

Pretrial release decisions are being made in several local jurisdictions with minimal amounts of information about many defendants. Criminal history information, the partial basis for assessing risk to the community, is absent in over three quarters of the cases. Ties to the community indicators, like marital status and who the defendant lives with, are frequently missing.

As defendants are processed through the system, more and more information is compiled on them. In cases for which presentence reports are prepared, much more data is available, but these are often defendants charged with more serious offenses. Even this group of cases becomes biased when the presentence investigation may be waived for some defendants as part of the plea bargaining agreement.

This means that much data is unavailable on the defendants who are charged with lesser offenses, on defendants who are quickly released from custody without further processing, or defendants whose cases are dismissed early in the process. This is the situation for many defendants who are booked into local detention facilities. The lack of data on this group of criminal justice clients limits empirical analysis.

Further, and perhaps more importantly, many detention facilities are operating without necessary management information on the population of pretrial detainees. One county in the sample does not record book-out time so average length of detention cannot be calculated. Some counties do not record the physical condition of individuals booked, information which might indicate the type of medical program best suited for a particular jail. Lack of information interferes with the jail staff's ability to effectively manage the facility, and in the long term, it obstructs planning future operations.

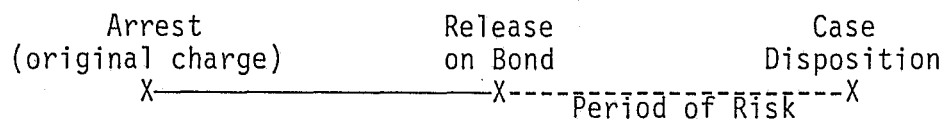
Thus, we recommend local jurisdictions obtain a National Institute of Corrections publication entitled How to Collect and Analyze Data: A Manual for Sheriff's and Jail Administrators (Elias, 1970). Information on how to obtain this document is contained in the Footnotes of this report.

## RISK TO THE PUBLIC

### Definition of Risk

One of the central issues raised in a discussion of pretrial release practices is whether or not the public is at risk by releasing individuals from detention prior to trial. To assess public risk associated with pretrial release practices, we used the computerized files (felony rap sheets) of the Colorado Bureau of Investigation (CBI). The CBI rap sheets reflect arrests and handling of felony offenses. Lessor offenses are not consistently recorded on CBI files. Therefore, for the purpose of this analysis, public risk is defined as felony rearrest.

To pose a risk associated with release from custody prior to trial, the defendant must have been rearrested and charged with a felony offense between the time period of his or her release ("date of release") from jail on bond to the disposition of the original case ("case disposition date"). This time period is illustrated below:



### Method of Analysis

First, we searched the CBI files for individuals from our sample who had been rearrested for any offense during their "period of risk." However, the data quality problems that were encountered throughout this project were relevant again at this point. From our original pretrial database (data collected in the field on pretrial release practices), several pieces of information (date of booking or date of release from detention and date of case disposition) are necessary to establish the "period of risk" for each case. The exact name and date of birth is also required to match defendants with their records. Due to problems with the availability of data in the field, an issue discussed elsewhere in this report, this information was not available on more than half the cases in the sample.

Further, to "hit" on a defendant in the CBI files (i.e., match a person, name and date of birth from our sample with a rap sheet), the individual must be on the CBI computer system. That is, they must have an existing rap sheet. They may be on the CBI system due to the offense that placed them in our sample

(the "instant offense"), or due to an additional offense (before or after the instant offense). This eliminates many lesser offense cases that were recorded in the field but were never recorded in the centralized state files. Nevertheless, for a defendant to be on the CBI system, his or her record must have several identifiers: name, date of birth, crime classification, NCIC (National Crime Information Center) codes, fingerprints, and the date of the offense. Without all of these data elements, a case may not be included in the CBI centralized files. Obviously, the more serious the offense, the greater the likelihood of an offender's history (plus all the required data elements) being recorded on the CBI files.

Nearly 57% of the cases in our sample were found in the CBI criminal record files (a total of 2516 cases). However, insufficient pretrial release data available in the field further eliminated a large number of defendants from the risk analysis. Consequently, a total of 967 cases (24%) out of the 4,079 cases that bonded out were analyzed for the risk posed to the public by individuals released prior to trial.

TABLE 38

<u>CASES AVAILABLE FOR RISK ANALYSIS</u>		
	<u>N</u>	<u>%</u>
Number of cases matched with CBI rap sheet:	2516	58% (of total sample)
Number of cases released pretrial and containing data necessary for analysis	967	24% (of those released pretrial)
Number of cases which recorded new offenses during "period of risk"	37	4% (of 967)
Number of cases which recorded arrest during the "period of risk"	16	.4% (of 967)

Thus, information to assess risk was available on 24% of the cases released from detention before trial. Of the 967 cases available for analysis, 16 recorded new offenses between release from jail and disposition of instant offense. Of these, 16 were charged with felony offenses. (Appendix F provides a profile of the 967 cases available for risk analysis).



## Findings

Using the procedure described above, 37 defendants (4%) were identified as subjects who were rearrested for an offense during the pretrial period of risk. Of these 37, 16 defendants were charged with felony offenses, two were charged with a violent felony offense (robbery and sexual assault), thus meeting the definition of public risk. The remaining cases were charged with lesser offenses: two of these were charged with failure to appear.

Eleven of the sixteen reoffenders were originally charged with felonies; one was originally charged with a misdemeanor; four with traffic violations. Fourteen of the sixteen posing a public threat were males. Half were released on a PR bond, five were released on a surety bond and one was released on a property/cash bond. Eleven had been released on a bond by a judge, and eleven had originally been charged in urban communities. Finally, of those who were charged with a new felony, only one had originally been charged with a violent offense. Characteristics of the 16 defendants who were rearrested for a felony offense while on bond are presented in Appendix E.

Because of the attrition rate of cases available for risk analysis, these findings must be reviewed with caution. However, the profile of the 967 cases that were available for risk assessment (located in Appendix F) tends to resemble the profile of the original sample with few exceptions. Urban counties and crowded facilities are overrepresented; Hispanics are underrepresented by about 10%. Cases charged with felonies are overrepresented (51% compared to 27% in the original sample) and traffic cases are underrepresented (23% compared to 47%). This is not surprising since felony charges are more likely to be recorded on the CBI computer files than traffic cases.

In sum, the findings regarding risk to the public must be qualified according to the limitations posed by the data. Of the 967 cases for which information was available to analyze risk, 16 defendants were charged with new felony offenses during the time they were out on bond. Two of these were violent offenses. If we can assume that the CBI criminal files accurately reflect criminal activity, then we can assume that defendants released on bond prior to trial pose little risk to the public.

## FOOTNOTES

- 1 Colorado Jails: Population and Conditions, Colorado Division of Criminal Justice, Denver, Colorado, 1983.
- 2 The decision to draw 300 cases for each county is based on the assumption that this number is generally considered adequate for certain types of statistical analysis.
- 3 A description of bonding practices in Colorado is included in Appendix A.
- 4 Note that these figures indicate that over one-quarter of those booked on traffic violations are not released. However, many traffic cases are resolved at the first court appearance within hours of arrest. Yet, these cases will not be "released" (according to our data) on pretrial status prior to disposition and so will fall into the "not released" category.
- 5 Denver, Jefferson, Arapahoe, La Plata and Adams counties were overcrowded during the time period under study.
- 6 National Association of Pretrial Service Agencies, Performance Standards and Goals for Pretrial Release and Diversion, 1010 Vermont Ave., N.W., Washington, D.C., July, 1978, p. 6.
- 7 Statistical significance is measured at the .05 or less level of probability.
- 8  $F=10.193; p=.00014$ .
- 9  $F=14.336; p=.0002$ .
- 10  $F=10.084; p=.0000$ .
- 11 American Bar Association, Standards Relating to Pretrial Release, Institute of Judicial Administration, New York, September, 1978, and National Association of Pretrial Service Agencies, Performance Standards and Goals for Pretrial Release and Diversion, cited above.
- 12  $F=18.218; p=.0000$
- 13 Galvin, John, et. al., Instead of Jail: Alternatives to Pretrial Detention, Vol 1, U.S. Department of Justice, Washington, D.C., October, 1977, p.2.
- 14 While releasing early can reduce jail capacity requirements, it is obvious that crowding problems will not necessarily be solved by simply granting the sheriff the authority to release pretrial detainees. Denver county, which releases over 90% of both its misdemeanor and traffic defendants through the sheriff's office, was also overcrowded in 1982. A possible topic for future research is whether or not overcrowding may be a factor in the development of release policies that grant the sheriff's office greater authority to release.

15  $F=3.951; p=.0470$ .

16  $F=4.181; p=.0410$ .

17  $F=1.828; p=.1765$ .

18 Elias, Gail, How to Collect and Analyze Data: A Manual for Sheriff's and Jail Administrators, published by the National Institute of Corrections, U.S. Dept. of Justice, Washington, D.C., October, 1982. This document may be obtained in its entirety from the National Institute of Corrections Jail Center, 1790 30th Street, Suite 130, Boulder, Colorado, 80301. Phone (303) 444-1101.

## BIBLIOGRAPHY

American Bar Association, Standards Relating to Pretrial Release, Institute of Judicial Administration, New York, September, 1978.

Bureau of Justice Statistics, Special Report - Crime Control and Criminal Justice Records, U.S. Dept. of Justice, Washington D.C., October, 1985.

Colorado Division of Criminal Justice, Colorado Jails: Populations and Conditions, Denver, Colorado, June, 1983.

Colorado Revised Statutes: Titles 12, 16 to 21, Colorado District Attorneys Association, Suite 36C, 1020 Fifteenth Street, Denver, Colorado, 80202, 1973.

Elias, Gail, How to Collect and Analyze Data: A Manual for Sheriffs and Jail Administrators, National Institute of Corrections, U.S. Dept. of Justice, Washington, D.C., 1982.

Galvin, John, et. al., Instead of Jail: Pre- and Post-Trial Alternatives to Jail Incarceration, Vol. 2, U.S. Dept. of Justice, U.S. Government Printing Office, Washington D.C., October, 1977.

Goldfarb, Ronald, Jails: The Ultimate Ghetto, Anchor Press, Garden City, N.Y., 1975.

Law Enforcement Assistance Administration, 1970 National Jail Census, U.S. Dept. of Justice, Washington D.C., February, 1971.

National Association of Pretrial Services Agencies, Performance Standards and Goals for Pretrial Release and Diversion, 1010 Vermont Avenue N.W., Washington, D.C., 20005, July, 1978.

National Jail Census, Law Enforcement Assistance Administration, U.S. Dept. of Justice, Washington, D.C., 1970.

Thomas, Wayne H. Jr., Bail Reform in America, University of California Press, Berkeley, 1976.

Wise, Paul, Freedom For Sale, Lexington Books, Lexington, Massachusetts, 1974.

## APPENDIX A

### STATUTORY PROVISIONS FOR BOND IN COLORADO

(§16-4-104 and §16-4-105, Colorado Revised Statutes, 1973)

#### TYPES OF BONDS:

Personal Recognizance (PR) Bonds: Sometimes referred to as a signature bond, the defendant is released on his or her promise to appear in court when required. The court has the authority to require additional signers and to attach a cash amount to the bond, but the defendant is not required to put up any money or property for release. If the defendant fails to appear in court as directed, a bench warrant may be issued for the defendant and the cash amount must be paid by the defendant or the cosigner(s).

For class three misdemeanants, petty offenders, or defendants charged with a violation for which the maximum penalty is six months or less imprisonment, the law requires the judge to release the defendant on a PR bond unless: the defendant 1) fails to provide identification, 2) refuses to sign the bond, 3) is considered dangerous, 4) is likely to fail to appear, 5) has previously failed to appear on a PR bond, 6) is facing probation/parole revocation proceedings.

Surety Bond: The defendant must put up sureties worth 1 1/2 times the amount of bail set in the bond. An insured corporate surety company (bondsperson) may be authorized to meet the bond obligations, taking possession of collateral equal to the bail amount of the bond. Typically, the corporate surety requires the defendant to put down, in cash, 10% of the bail amount of the bond and frequently a cosigner is required.

Cash Bond: At the time of release, the defendant deposits, with the clerk of the court, 100% of the bail amount in the form of cash, market value stocks or bonds considered legal under state laws.

Property Bond: At the time of release, the defendant deposits with the clerk of the court a "sworn schedule" which describes the market value of the defendant's interest in unencumbered equity of property owned in the state of Colorado.

#### FACTORS CONSIDERED IN BOND SELECTION (Quoted directly from Statute 16-6-105)

- (a) The amount of bail shall not be oppressive;
- (b) When a person is charged with an offense punishable by fine only, the amount of bail shall not exceed the amount of the maximum penalty;
- (c) The defendant's employment status and history and his financial condition;
- (d) The nature and extent of his family relationships;
- (e) His past and present residences;
- (f) His character and reputation;
- (g) Identify of persons who agree to assist him in attending court at the proper time;
- (h) The nature of the offense presently charged and the apparent probability of conviction and the likely sentence;

- (i) The defendant's prior criminal record, if any, and, if he previously has been released pending trial whether he appeared as required;
- (j) Any facts indicating the possibility of violations of law if the defendant is released without restrictions;
- (k) Any facts indicating a likelihood that there will be an intimidation or harassment of possible witnesses by the defendant;
- (l) Any other facts tending to indicate that the defendant has strong ties to the community and is not likely to flee the jurisdiction;
- (m) Unless the district attorney consents, no person shall be released on personal recognizance if he has a record of conviction of a class 1 misdemeanor with two years, or a felony within five years, prior to the release hearing;
- (n) Unless the district attorney consents, no person shall be released on personal recognizance if he has a record of conviction of a class 1 misdemeanor within two years, or a felony within five years, prior to the release hearing;
- (o) No person shall be released on personal recognizance until and unless the judge ordering the release has before him reliable information concerning the accused, prepared or verified by a person designated by the court, or substantiated by sworn testimony at a hearing before the judge, from which an intelligent decision based on the criteria set forth in this section can be made. Such information shall be submitted either orally or in writing without unnecessary delay.

## Appendix B

### PERCENT OF CASES RELEASED WITHIN VARIOUS TIME PERIODS

Length of Detention	Felony	Misd.	Co-Muni.	Traffic	Total
One hour or less	9%	18%	15%	32%	20.2%
More than 1 hour, less than 6 hours,	18%	30%	21%	32%	26.6%
More than 6 hours, less than 24 hours	19%	24%	41%	24%	23.6%
More than 24 hours, less than 72 hours	15%	13%	13%	6%	10.8
More than 72 hours, less than 168 hours	11%	7%	4%	3%	6.1%
More than 168 hours (one week)	29%	9%	6%	3%	12.6%
Total	101%	101%	100%	100%	99.9%

# Appendix C

## DIFFERENCES IN URBAN-RURAL COUNTIES

	<u>URBAN</u>	<u>RURAL</u>
Sex		
Male	88%	90%
Female	12%	10%
Total	100%	100%
Employment		
Employed	53%	61%
Unemployed	47%	39%
Total	100%	100%
Pretrial Release		
Released	92%	93%
Not Released	8%	7%
Total	100%	100%
Method of Pretrial Release		
Bond	73%	74%
Transfer to another jurisdiction	11%	10%
Summons	4%	7%
Paid Fine	3%	1%
Not Released	9%	7%
Total	100%	99%
Release Decision		
Sheriff	54%	66%
Court	46%	33%
Total	100%	100%
Traffic		
Sheriff	74%	84%
Court	26%	16%
Total	100%	100%
Bond		
Felonies		
PR	41%	30%
Surety	49%	52%
Prop.-Cash	10%	17%
Total	100%	99%

(continued)



(continued)

Appendix C

DIFFERENCES IN URBAN-RURAL COUNTIES

	<u>URBAN</u>	<u>RURAL</u>
Bail Amounts		
<u>Felonies</u>		
\$ 0- 499	4%	4%
500- 999	4%	3%
1,000-4,999	59%	53%
5,000+	32%	40%
Total	<u>100%</u>	<u>100%</u>
<u>Misdemeanors</u>		
\$ 0- 499	59%	62%
500- 999	27%	24%
1,000-4,999	13%	12%
5,000+	1%	2%
Total	<u>100%</u>	<u>100%</u>
Disposition		
Convicted	79%	80%
Not Convicted	21%	20%
Total	<u>100%</u>	<u>100%</u>
<u>County Muni</u>		
Convicted	90%	52%
Not Convicted	10%	48%
Total	<u>100%</u>	<u>100%</u>

## Appendix D

ADDITIONAL INFORMATION ANALYZED BY COUNTY

	Adams	Arapahoe	Denver	El Paso	Fremont	Jefferson	La Plata	Larimer	Las Animas	Mesa	Montrose	Morgan	Prowers	Pueblo	Routt
<u>Percent of cases with out-of-state residency</u>	3%	6%	1%	1%	7%	4%	15%	11%	16%	4%	9%	1%	13%	6%	20%
<u>Percent of Females Booked</u>	7%	12%	12%	14%	14%	11%	12%	17%	8%	10%	10%	6%	3%	15%	12%
<u>Percent of cases unemployed</u>	51%	35%	47%	48%	53%	40%	48%	37%	48%	48%	26%	38%	*	62%	25%
<u>Race</u>															
Anglo	76%	79%	48%	64%	88%	75%	74%	89%	38%	89%	85%	69%	56%	50%	97%
Black	10%	10%	26%	20%	1%	6%	0%	1%	2%	1%	0%	2%	2%	7%	1%
Hispanic	13%	10%	25%	14%	11%	16%	20%	10%	60%	9%	15%	27%	42%	42%	2%
Other	1%	1%	1%	2%	1%	3%	6%	0%	0%	1%	0%	2%	0%	1%	0%
<u>Average Length of Detention</u>															
Felony	43 hrs	23 hrs	32 hrs	26 hrs	20 hrs	13 hrs	33 hrs	23 hrs	25 hrs	31 hrs	33 hrs	65 hrs	*	34 hrs	34 hrs
Misd.	27 hrs	11 hrs	16 hrs	27 hrs	17 hrs	17 hrs	14 hrs	14 hrs	16 hrs	12 hrs	32 hrs	16 hrs	*	25 hrs	8 hrs
Co-Muni.	*	*	14 hrs	11 hrs	*	11 hrs	9 hrs	10 hrs	10 hrs	15 hrs	11 hrs	*	*	19 hrs	3 hrs
Traffic	14 hrs	11 hrs	17 hrs	14 hrs	11 hrs	9 hrs	10 hrs	4 hrs	5 hrs	8 hrs	12 hrs	14 hrs	*	15 hrs	3 hrs
Male	30 hrs	15 hrs	20 hrs	20 hrs	15 hrs	12 hrs	14 hrs	12 hrs	13 hrs	14 hrs	21 hrs	29 hrs	*	32 hrs	10 hrs
Female	16 hrs	25 hrs	13 hrs	10 hrs	13 hrs	21 hrs	16 hrs	3 hrs	2 hrs	10 hrs	21 hrs	21 hrs	*	6 hrs	3 hrs
OVERALL AVERAGE	29 hrs	15 hrs	20 hrs	19 hrs	15 hrs	13 hrs	15 hrs	11 hrs	11 hrs	14 hrs	21 hrs	29 hrs	*	25 hrs	8 hrs

\*Information not available

# Appendix E

## PROFILE OF 967 CASES ANALYZED TO ASSESS RISK

<u>Original Charge</u>	
Felony	51%
Misd.	22%
Co-muni.	4%
Traffic	23%
Total	100%

<u>Bond Type</u>	
PR	30%
Surety	48%
Prop/cash	22%
Total	100%

<u>Original Charge Violent?</u>	
Yes	11%
No	89%
Total	100%

### County Originally Booked

Adams	16%	El Paso	10%	La Plata	5%	Mesa	6%	Prowers	0%
Arapahoe	11%	Fremont	7%	Larimer	5%	Montrose	7%	Routt	9%
Denver	3%	Jefferson	15%	Las Animas	1%	Morgan	5%	Total	100%

<u>Sex</u>	
Male	89%
Female	11%
Total	100%

<u>Ethnicity</u>	
Anglo	79%
Hispanic	9%
Black	12%
Total	100%

<u>Location of Release Decision</u>	
Sheriff	43%
Court	57%
Total	100%

<u>Urban-Rural</u>	
Urban	65%
Rural	35%
Total	100%

<u>Crowded</u>	
Yes	50%
No	50%
Total	100%

CHARACTERISTICS OF DEFENDANTS WHO WERE ARRESTED  
FOR ANY OFFENSE WHILE ON PRETRIAL RELEASE (N=16)

	<u>N</u>		<u>N</u>		<u>N</u>
Adams	3	Fremont	1	Montrose	2
Arapahoe	1	Jefferson	3	Morgan	1
El Paso	3	Larimer	1	Routt	1
				Total	<u>16</u>

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## Appendix G

### DATA QUALITY

#### In General

The quality of data in criminal justice research is a recurring problem. In the past 15 years, in an effort to raise internal standards of professionalism and to maintain a higher level of public accountability, data management systems have become more important to criminal justice agencies. While the availability and quality of this data have improved over the years, problems still exist.

Individuals going through the criminal justice system come into contact with many agencies: the local police and/or sheriff's department, the detention facility, the pretrial release program, the public defender's or private attorney's office, the district attorney's office, the court, the probation department (if a presentence report is required), and, depending on the sentence, various correctional and treatment programs. When these agencies systematically collect and retain information on cases, the data naturally reflect their specific needs and purposes. Demographic data, current offense information and criminal history records, for example, are more important to some agencies than others. Thus, the desired information is often located in different agencies. Further, agencies vary from jurisdiction to jurisdiction, both in terms of what data is maintained on defendants and the quality of that data. The National Institute of Corrections (1983) refers to this problem as "scattered data."

Tracking a defendant through the system is complicated by these data management issues. Information on convicted offenders becomes more important to criminal justice officials as the defendant nears sentencing so that sentencing, treatment and classification issues may be considered with adequate knowledge of the defendant. It is difficult, then, to describe an offender's complete involvement in the criminal justice system, particularly if the individual enters only the first few stages of criminal justice processing (arrest, questioning, booking) before the case is dismissed. This situation is particularly relevant to the study of pretrial detention.

A second problem with incomplete data for jail administrators is that, while the data may be available somewhere in the country, it may not be available in the form or quality needed by the jail. In the end, the

responsibility for maintaining a useful facility-specific data management system rests with the local jail staff.

Nevertheless, it was discernable that some jurisdictions, both large and small, do not collect (although they may have informal knowledge of) some basic data elements necessary for jail inmate population profiles and, for example, personal recognizance bonding (i.e., criminal history information). This information is required for proper facility management and planning. It is also necessary to maximize the safe use of pretrial release methods and to protect the facility staff in the event of litigation. In order to specifically address the issue of data quality, a discussion of the availability of data will follow (see "Data Quality--Specific Variables" below).

Thus, jails need reliable data, collected in-house, to address critical management issues such as classification, crowding, policy and procedure development, staff training, budget development, transportation, and programs and services needs. The National Institute of Corrections has published a document entitled How to Collect and Analyze Data: A Manual for Sheriff's and Jail Administrators (Elias, 1982).<sup>18</sup> It specifies information necessary for jails to collect on an ongoing basis and it organizes the processes according to four categories:

1. Inmate Population Data Elements.
2. Inmate Profile Data Elements.
3. Operational Data Elements.
4. Criminal Justice Performance Data Elements.

This excellent publication is extremely useful and highly recommended for use by jail staff. It describes, step by step, how to develop a practical jail management information system.

#### DATA QUALITY - SPECIFIC VARIABLES:

In spite of the lack of information about the defendant, decisions obviously continue to be made in the field. One reason for including this section on missing data is to illustrate the lack of information available on individuals going through local criminal justice systems in this state. In the case of pretrial release, of course, the information is not necessarily directly applicable to the release decision. After all, the two criteria for release before trial (as specified by the American Bar Association, discussed previously) are 1) the likelihood of appearance in court, and 2)

the risk to the public. Yet, the lack of data limits empirical analysis.

As Table 39, reflects, information on variables measuring criminal history was missing for between 69% and 91% of the cases. Criminal justice status information (whether or not the offender is on bond, probation, or parole) was missing in over two-thirds of the cases sampled. Juvenile history was rarely available.

Table 39

<u>PERCENT OF CASES WITH MISSING DATA ON SPECIFIC VARIABLES</u>	
<u>Research Variables</u>	<u>Percent of Cases</u>
<u>CRIMINAL HISTORY</u>	
Felony Arrests	81%
Misdemeanor Arrests	84%
Traffic Arrests	74%
Felony Convictions	74%
Misdemeanor Convictions	78%
Traffic Convictions	81%
Criminal Justice Status	69%
Juvenile History	91%
Juvenile Time Served	91%
Prior Probation/Parole Revocation	85%
Previous Bond Revocation	84%
<u>DEMOGRAPHIC INFORMATION</u>	
Date of Birth	35%
Employment	25%
Race	2%
Type of Work	42%
Living Situation	80%
Education	76%
Drug History	84%
Date of Birth	3%

The availability of demographic data, illustrated in Table , varies greatly, too. Fortunately, date of birth was readily available (it was missing

in less than 35 of the cases). However, marital status was unavailable in 35% of the cases and whether or not an individual was employed was missing in one-quarter of the cases. Education was missing in over three-fourths of the cases.

When criminal history information is available, it is likely to be on cases charged with more serious offenses. Criminal history information and complete demographic data is typically available in presentence reports prepared by the probation department and located in the county or district court files. These defendants have generally been charged with a felony or a serious misdemeanor. Thus, this information is more difficult to obtain for lesser offense offenders. However, in some jurisdictions, the presentence report is frequently waived as part of the plea bargaining process. Waiving the presentence investigation is particularly beneficial to defendants with criminal histories, so the presentence report is indeed a meaningful bargaining chip. Also, in an effort to cope with a limited probation staff, some smaller jurisdictions have instituted "abbreviated" presentence reports for lesser offense cases which contain less than half the information available in a regular report. This practice, too, limits the availability of data for research and criminal justice processing.

#### SUMMARY

In undertaking this research project, we not only found interesting variations in pretrial release practices in Colorado but we also identified the quality of criminal justice data pertaining to pretrial detainees in 1983. We utilized the jail book, the jail inmate files, and the county court records in each locale as data sources. Despite improvements in the last decade, we found data availability and quality continue to be a problem for local jurisdictions in Colorado. Criminal history information is not available in over 74% of the cases we sampled. Juvenile history is not available in over 90% of the cases. This situation limits empirical research but, perhaps more importantly, it inhibits effective processing of cases in the field. As noted in a recent Bureau of Justice Statistics Special Report,

Effective crime control measures depend heavily on the accuracy of criminal records. Programs aimed at serious, recidivistic offenders require the capability to identify dangerous offenders at key decision points in the criminal



justice system, such as pretrial release and sentencing. Design and implementation of such programs as mandatory and determinate sentencing, pretrial detention, and selective incapacitation thus must rely on the accuracy, completeness, and availability of adult and juvenile criminal history and other criminal records. (P.1)

Thus, current trends in correctional policy require that thorough and accurate records be kept on individuals processed through the system. The findings of this study reiterate the need for adequate data management systems in local criminal justice systems in Colorado.