~~MF1~~
Cr Sent
~~S6 33~~
MF1

ILLINOIS
CRIMINAL JUSTICE
INFORMATION AUTHORITY

The Pretrial Process in Cook County

An Analysis of Bond Decisions Made in Felony Cases During 1982-83

August 1987

by
Christine A. Devitt, Senior Research Analyst
John D. Markovic, Research Analyst

with
James R. Coldren, Research Director
Criminal Justice Statistics Association, Washington, D.C.

Illinois Criminal Justice Information Authority

William Gould, Chairman
J. David Coldren, Executive Director

This research was supported in part by a grant from the U.S. Department of Justice, Bureau of Justice Statistics (Grant Number 82-BJ-CX-K425). The Illinois Criminal Justice Information Authority appreciates the support provided by the Bureau of Justice Statistics for its research efforts, but the Authority accepts complete responsibility for the contents of this report.

Printed by authority of the State of Illinois
August 1987
Number of copies: 300
Printing order number: 87-88

Table of Contents

List of Tables and Figures

TABLES

FIGURES

Acknowledgments

Many individuals in the Cook County Circuit Court organization, and in other Cook County criminal justice agencies, made valuable contributions to this report. Chief Judge Harry D. Comerford and Judge Richard J. Fitzgerald deserve thanks for granting us access to the court's personnel and courtrooms. Judge Peter Bakakos, chief of the Surety Division and former chairman of the Study Committee on Bail Procedures, provided valuable advice and cooperation in the project's initial stages. Frank Baley of the Cook County Circuit Court Clerk's Office and James O'Donnell, now of the Administrative Office of the Illinois Courts, also provided assistance.

Shelly R. Mueller, former director of the Authority's Rapid Automated Prosecution System, was invaluable as an advisor on the project's design and on the prosecutorial process in Illinois.

Other individuals who made valuable contributions include Jim Piper of the Cook County State's Attorney's Office and former assistant state's attorneys Bob Raab, Greg Ginex, and Cliff Johnson; Robert Grossman and Stan Kedzior of the Cook County Circuit Court Clerk's Office; Jeffrey Arnold, Cook County Court administrator; and all the judges, clerks, assistant state's attorneys, assistant public defenders and police officers in the municipal courts who took time to talk with us about the issues addressed in this project.

Introduction

In 1978 the Study Committee on Bail Procedures of the Illinois Judicial Conference published a report based on its study of bail procedures and problems in 10 Illinois counties (Illinois Judicial Conference, 1978). The report explained the research undertaken, proposed a number of recommendations regarding the administration of bail, and discussed the need for pretrial services. It stated:

> The Study Committee recognizes the need for the establishment of a permanent statewide pretrial reporting system to monitor the operation of the pretrial release practices of the circuit courts and assemble valuable statistical data for future policy decisions.

Nearly 10 years later, pretrial service agencies are about to be established in each judicial circuit in the state (Ill.Rev.Stat.1987 Supp., ch. 38, par. 301 *et seq*). The current project was undertaken to provide some baseline information on the pretrial process in the Cook County Circuit Court, as recognized by the study committee. It was conducted under the advisement of, and in cooperation with, the Surety Division of the Cook County Circuit Court, as well as two former members of the committee.

Information requirements must be identified before an information system or network can be established. Once the strengths and weaknesses of existing information sources are documented, program design can begin. Documentation of the pretrial information needs in each county in Illinois is not feasible. Such a project would require years of work and hundreds of thousands of dollars. In light of this, the decision was made to focus on the pretrial information needs (especially regarding bond decisions) of the Cook County Circuit Court, the largest and most complex circuit court in Illinois.

The purposes of this research were to *describe* the pretrial process in the Circuit Court of Cook County, especially as it pertains to bond decisions, and to *assess* the quality and availability of two types of information regarding bond decisions:[1]

1. Court case and defendant information needed by judges to make bond decisions; and

2. Statistical information necessary to study bond decisions over time.

The research presented in this report was conducted in three stages. The first stage was the development of a detailed explanation of the step-by-step procedures by which bond decisions are made in municipal courts, including identification of the information needed at each point in the decision process. The findings from the first phase of the project, which include a detailed explanation of the purpose of bond, the organization of the Cook County Circuit Court, and the procedures by which bond decisions are made in the municipal courts, are presented in Part I of this report.

[1]The term "bond decision," as used in this report, refers to a number of separate but related decisions that a judge can make before the defendant is arraigned in open court. These can include decisions on whether to grant bond, and further determination of the appropriate bond type and amount.

The second stage was an examination of the quality and availability of the key data elements identified. This included integration of findings from the Authority's various data-quality studies [such as the annual audits of the state Computerized Criminal History (CCH) system] as well as an empirical analysis of the availability of these data elements in the official court records. Conclusions about data quality issues are presented in Part II of this report.

The third stage was the documentation of the researchability of bond decisions over time, using the archival data that reside in court files Knowledge about the cumulative impact that bond decisions have on a jurisdiction, and the consistency of those decisions across decision-makers, is a necessary foundation for informed changes in policy, and can serve as a benchmark against which to evaluate such changes. The findings of the third phase -- that of a statistical analysis of a sample of felony cases that were disposed of in Cook County during 1982 and 1983 -- are presented in Part III of this report. These findings supplement the generalized description of how and when bond decisions are made by examining the bond decisions that were made in actual felony cases. Furthermore, they illustrate the various issues associated with bond decisions that can be addressed in this type of research.

Presented in Part III are descriptive profiles of the defendants who composed the sample of 519 cases examined in this analysis, as well as an exploration of several topics related to pretrial release decisions:

- Patterns of pretrial decisions for various categories of defendants, focusing especially on the most serious offenders;
- The degree to which the defendants with the most serious prior criminal histories are identified during the pretrial process, and are, as a whole, subject to consistent pretrial decisions;
- The issue of some defendants' failure to appear and the effects of that type of pretrial misconduct on the jurisdiction; and
- The issue of "bond crime" -- arrests of suspects while they are free on bond.

While the data presented in this report were first collected during 1983 and 1984, they accurately reflect both that time period in Cook County Circuit Court and the general types of data that can be found today in the court files for research on pretrial decisions. The Authority hopes that these findings will be useful as a historical benchmark to the policymakers and criminal justice practitioners who are already working hard to perfect one of the largest and most complex courts in the country.

Part I: The Pretrial Process

Overview

Research Methods

The following methods were used to gather the data presented in Part I of this report:

1. A review of pertinent literature and legal documents;

2. Interviews with criminal justice officials;

3. Observations of pretrial and bond decision activities in the municipal department courts; and

4. A review of available summary statistics on the Cook County Circuit Court.

In the literature review, particular attention was paid to law journal articles and research reports concerning information needs in the administration of bail in Cook County and Illinois, and to reports of national pretrial studies.

The interviews with criminal justice officials were informal and unstructured. They covered descriptions of pretrial processes and respondents' ideas concerning information needs in their respective jurisdictions. Twenty-seven interviews were conducted between April and October 1983. The majority of these interviews were with the judges, court clerks, assistant state's attorneys and others who participated in the bond hearings observed in each municipal court. Other interviews were conducted in the offices of criminal justice officials. The respondents were chosen on the basis of availability, without specific concern for "representativeness," in the statistical sense.

The observations of pretrial activities covered most of the municipal courts in which bond hearings are held, in each of the six municipal districts. Typically, two project staff members arrived at a courtroom in the morning and introduced themselves to the supervising clerk and judge. They sat either next to the judge, or close to the judge's bench, in order to observe the bond hearings being conducted. Staff members used coding sheets to note the parties present, defendant characteristics, criminal charges, length of hearing, and actions taken by the prosecution, defense, and judge. In most instances, the observers interviewed judges and clerks during recesses between bond hearings, or after all of the day's bond hearings were completed. Fifteen courts were observed between July and October 1983. Appendix B contains the schedule for the court visits and descriptions of each court.

Because bond decisions and specific courtroom practices are, to a certain degree, dependent on the judge making the decision, some of the specific details based on our courtroom observations of bond hearings may not be observed again in the same courtroom under a different judge.

Judges hearing criminal calls in the suburban municipal districts rotate among the various courtrooms on a regular basis (at least every six months). In addition, the presiding judge in each district can change the associate and circuit judges' courtroom assignments as he sees fit, based on caseloads, vacation schedules, and other factors. Our observations, however,

led us to believe that the general decision process is fairly consistent across judges.[2]

These were exploratory research methods, designed to discover the processes by which bond decisions are made and, more specifically, to identify information quality and availability issues pertinent to bond decision-making. Thus the information presented below is descriptive, based mainly on observations and interviews. Though the general bond decision process is described, no attempt is made to predict the bond decisions any one judge, or all judges, will make. This report was written with court officials, criminal justice practitioners, and other persons familiar with legal terminology in mind. Readers not familiar with criminal justice and legal terms should consult the definitions found in Appendix A.

Bond in Illinois

Bond-setting procedures in Illinois are designed to ensure a defendant's compliance with the conditions of bond, which are:[3]

1. Appearance in court to answer the charge(s).
2. Submission to the orders and process of the court.
3. No departure from the state without court permission.
4. No violation of any criminal laws.
5. Other conditions the court finds reasonably necessary to ensure the defendant's appearance in court, protect the public from him, or prevent his unlawful interference with the orderly administration of justice.

The Illinois Revised Statutes (chap. 38, par. 110-1 through 110-17) provide the legal requirements under which bond is administered in Illinois. Basically, release on bond may be secured in the following ways:

1. Release on own recognizance, whereby a defendant is released ***without having to deposit funds***, on the condition that he or she appear in court on the date set by the judge. Failure to appear may result in issuance of a warrant and rearrest of the defendant.
2. Deposit of a 10 percent cash bail, whereby a defendant is released ***upon depositing a cash amount equal to 10 percent of the total bond amount*** set by a judge, on the condition that he appear in court on the date set. The law was amended in 1985 to read that monetary bail should be set only when it is determined that no other conditions of release will reasonably ensure the defendant's appearance in court (Ill.Rev.Stat.1985, chap. 38, par. 110-2). Failure to appear may result in issuance of a warrant, rearrest, and forfeiture of the deposit and liability for the total bond amount.
3. Deposit of stocks or bonds, whereby a defendant is released ***upon depositing the equivalent of 100 percent cash bail in stocks or other securities***, on the condition that he appear in court on the set date. Failure to appear may result in issuance of a warrant, rearrest, and forfeiture of the securities deposited.

[2]See Part III of this report for empirical support for this assertion.

[3]See Wayne Thomas' book, *Bail Reform in America*, for a discussion of the history and purposes of bond and bail. See also Ill.Rev.Stat.1985, chap. 38, par. 110, for Illinois bond laws.

4. Deposit of real estate, whereby a defendant is released *upon depositing real estate situated in the state equivalent to 200 percent of the bond amount*, on the condition that he appear in court on the set date. Failure to appear may result in issuance of a warrant and forfeiture of the real estate in an amount equal to the bond amount.

5. Persons charged with an offense under the Illinois Controlled Substance Act (chap. 56 1/2, par. 1100 et seq.) -- that is a Class X felony -- may be required by the court to *deposit a sum equal to 100 percent of the bond*, not just the 10 percent deposit required of other defendants.

The majority of felony defendants in Illinois who secure release do so by depositing 10 percent cash bail. There are also conditions under which judges may deny bond to a defendant. These include cases where the offense is punishable by death or life imprisonment. A 1986 amendment to the Illinois Constitution allows judges to deny bond for felony offenses where a prison sentence would be imposed upon conviction and where it was further determined that release of the defendant would pose a real and present threat to the physical safety of any person.[4] The state may also file a petition to increase or revoke bond previously set on a forcible felony when the defendant is charged with a subsequent forcible felony (Ill.Rev.Stat.1985, chap. 38, par. 110-7). Although such a petition tends to undermine the speedy-trial process, it is instrumental in removing potentially dangerous persons from the community.[5]

State law also outlines the factors that judges must consider in determining bond amounts (Ill.Rev.Stat.1985, chap. 38, par. 110-5). At the time this research was conducted in 1983, the law read as follows:

"(a) The amount of bail shall be:

(1) Sufficient to assure compliance with the conditions set forth in the bail bond;

(2) Not oppressive;

(3) Commensurate with the nature of the offense charged;

(4) Considerate of the past criminal acts and conduct of the accused; and

(5) Considerate of the financial ability of the accused.

(6) When a person is charged with a drug related offense involving possession or delivery of cannabis or a controlled substance, the full "street value" of the drugs seized shall be considered.[6]

(b) When a person is charged with an offense punishable by fine only, the amount of bail shall not exceed double the amount of the maximum penalty.

---

[4]In Spring 1987, a bill was passed in the 85th Illinois General Assembly (Senate Bill 28) that spells out the procedures that would be followed when bail is denied on the grounds of defendant dangerousness. Such legislation is needed to change the bail provisions in the Criminal Code to be consistent with the amendment to the Illinois Constitution. The bill is awaiting the Governor's approval.

[5]"Preliminary Hearing," by Robert J. Raab, in *Prosecution of the Criminal Case*, Illinois Institute for Continuing Education, 1983.

[6]In 1985, this section was amended to read that "street value" could be determined for bond purposes on the basis of a proffer by the state, based on reliable information of a law enforcement official contained in a written report (chap. 38, par. 110-7 (4)).

(c) When a person has been convicted of an offense and only a fine has been imposed, the amount of the bail (to secure release pending appeal) shall not exceed double the amount of the fine."[7]

In 1985, the Illinois General Assembly amended the law in several significant ways. The factors the court must take into consideration to reasonably ensure the appearance of the defendant *or the safety of any other person in the community* were expanded to specifically include:

(1) the nature and circumstances of the offense charged;

(2) the victim's condition;

(3) the likelihood that a greater charge would be filed;

(4) the weight of evidence against the defendant;

(5) the defendant's family ties, length of residence in the community, and, if a foreign national, whether the defendant was lawfully admitted to the United States;

(6) the defendant's employment, financial resources, and amount of unrecovered proceeds lost as a result of the alleged offense;

(7) the defendant's character and mental condition, past conduct, and prior use of alias names or dates of birth; and

(8) records of convictions, appearance at court proceedings, flight to avoid arrest or prosecution, escape or attempted escape to avoid arrest, or failure to appear at court proceedings.

The law further states that all evidence on these factors is admissible if it is relevant and reliable, regardless of whether it would be admissible under the rules of evidence applicable at criminal trials (chap. 38, par. 110-50).

While these amendments to Illinois' bail laws clarify the factors to be considered in determining bond amounts and conditions, this new specificity raises issues about the quality of information available at the time bond decisions are made. The examination of the quality of pretrial information presented in Part II addresses these issues in detail.

The Circuit Court of Cook County

The Cook County Circuit Court is one of the largest (in terms of caseload) and most complex organizations of general jurisdiction and trial-level courts in the country.[8] It is divided into two departments, county and municipal. The County Department contains the Criminal Division, which hears all felony cases in Cook County, from arraignment to final disposition. The Municipal Department is composed of six districts determined by geographic location. It hears all felony cases from the initial bond hearing through the preliminary hearing process.[9] This activity occurs in a "criminal calls" section in each municipal district.

[7] This final condition applies to defendants who have been convicted of a criminal offense, but who have been granted release on an "appeal bond" while they appeal the conviction or the sentence imposed.

[8] See Appendix C for an organizational chart.

[9] Some felony cases are tried in branch courts that have felony courtrooms. By and large, though, felony cases are tried in the County Department.

As of March 1986, there were 356 authorized judgeships in the Circuit Court of Cook County.[10] There are two types of judges. Circuit judges, elected by the public to six-year terms, account for 177 of the 356; associate judges, elected by circuit judges to four-year terms, account for the remaining 179

Circuit judges are typically the only judges to try felony cases in Cook County. Associate judges preside over bond and preliminary hearings and try misdemeanor cases in the municipal courts. However, if authorized by the chief judge of the Circuit, associate judges can try felony cases as well.[11]

As of March 1986, there were 32 circuit judges assigned to the Criminal Division of the County Department. Of the approximately 44 judges working in the criminal calls section in the municipal courts, there were 22 associate and 3 circuit judges assigned to the First Municipal District (City of Chicago) and approximately 19 judges in the suburban districts.[12]

An average of 60 percent of all felony cases statewide are filed in Cook County. In recent years there has been a steady increase in the number of felony cases disposed of. The number of felony cases disposed of increased from 36,135 in 1978 to 43,700 in 1984, representing a 17 percent increase over that period. There has also been an 8 percent increase in the number of convictions obtained since 1978.[13]

A large portion of the court's work regarding felony cases is performed at the municipal court level.[14] Approximately half of the defendants who enter the preliminary hearing process as "approved" felony cases (see the section on felony review, below) never reach the first stage -- arraignment -- in the Criminal Division of the County Department.

Felony cases may be terminated at the municipal level for a variety of reasons. A defendant may plead guilty to the charge, in which case an associate judge may accept the plea and set a sentence.[15] The state may decline to prosecute (*nolle prosequi*) or may strike the case off the court calendar with leave to reinstate (SOL), based on lack of strong evidence, unavailability of witnesses, or as part of a larger prosecutorial strategy to obtain a grand jury indictment or reinstatement of the case at a later time. Furthermore, the judge may find "no probable cause" to hold the defendant over for trial. The case may also be stricken off the court call if the defendant fails to appear in court after 30 days of a scheduled appearance. The case will be reinstated when the defendant returns voluntarily or is apprehended on the bond forfeiture arrest warrant ordered by the judge at the time of nonappearance. These and the other bond and preliminary hearing activities in the municipal courts are described in more detail in the remainder of this section.

---

[10] Statistics provided by the Cook County Court Administrator's Office.

[11] As of March 1986, there were eight associate judges so authorized.

[12] Statistics provided by the Office of the Cook County Court Administrator. The number of associate and circuit judges in any district changes at the discretion of its presiding judge.

[13] *Annual Reports to the Supreme Court of Illinois, 1978-1984*, Administrative Office of the Illinois Courts.

[14] It is impossible to present accurate figures regarding municipal court felony caseloads here, because the available data are confusing and inconsistent. See the Illinois Law Enforcement Commission report, *How to Trace Crimes Through the Illinois Criminal Justice System* (1981), for a discussion of Illinois courts data. This description of the courts' workload is based on our observations of court activities and on interviews conducted with officials from the Cook County Circuit Court and State's Attorney's Office.

[15] This can occur only if the charge does not carry a mandatory prison term, as only judges in the Criminal Division may set prison terms.

Hearings in the Municipal Courts

The pretrial process involves many participants, both inside and outside the court organization. These participants include police officers, prosecutors, defense attorneys, judges, defendants, and representatives of other regulatory agencies, such as the U.S. Immigration and Naturalization Service. All of these parties contribute to the determination of the bond or detention decisions in the Cook County Circuit Court. The step-by-step process by which bond and detention decisions are made in Cook County is explained below, beginning with felony arrest.

Felony case processing differs somewhat between the First Municipal Court District and the five suburban districts (2 through 6). Although this section does not present two different descriptions of pretrial processes, it does note important distinctions between the city and suburban districts.

Felony Arrest

There are approximately 120 arresting agencies in Cook County.[16] In 1985, these arresting agencies accounted for approximately 38,000 felony arrests, or about 67 percent of all felony arrests in Illinois.[17] Persons arrested in Cook County are taken to the arresting officer's police headquarters, where the process of collecting information for use in all subsequent pretrial decisions begins.

Identification of Offenders

At the time of arrest, police are responsible for establishing the positive identification and prior criminal history of the arrestee by using local and state fingerprint and criminal history record information. The Chicago Police Department (CPD) maintains a bureau of identification with capabilities to analyze fingerprints and generate its own rap sheets. However, these rap sheets typically are limited to information on arrests made within the City of Chicago.[18] Because none of the suburban districts currently have such sophisticated identification capabilities, they must rely on local records maintained by the arresting police jurisdictions and on records maintained by the state Bureau of Identification (BOI) at the Illinois Department of State Police (DSP).[19] The state rap sheets produced by DSP's Computerized Criminal History (CCH) system have been documented to have problems with missing disposition information, although the CCH rap sheets do record arrests for both felonies and serious

---

[16] This approximate number represents the number of municipalities in Cook County that reported employing at least one full-time sworn police officer in January 1985 (Illinois Local Government Law Enforcement Officers Training Board, 1985).

[17] *Crime in Illinois, 1985, Illinois Department of State Police.*

[18] Arresting agencies within Illinois are required to report arrests only to the Department of State Police. As a courtesy, however, they may forward arrest information on Chicago residents to the CPD; thus some arrests from other jurisdictions may appear on CPD rap sheets. In addition, arrests from other jurisdictions posted on the defendant's Federal Bureau of Investigation (FBI) rap sheet may be added to the CPD rap sheet.

[19] At the present time, 36 law enforcement agencies in northern Illinois also can acquire and exchange criminal history information through participation in the Police Management Information System (PIMS), developed and maintained by the Authority.

misdemeanors that occurred in Illinois.[20]

Warrant Systems

At the time of arrest, police also check whether the person has any outstanding arrest warrants. In Cook County the identification of such warrants can be problematic because several independent warrant systems exist.

The Chicago Police Department has established a computerized warrant system (the "hot desk") for all warrants within the City of Chicago. Because this system currently does not automatically interface with any other warrant system, much of the information on Chicago's system is not readily available to other law enforcement groups.[21] The CPD also manually enters all felony warrants into the state warrant system, the Law Enforcement Agencies Data System (LEADS). These LEADS warrants are accessible throughout Illinois and, in the most serious cases, throughout the country as well.

The LEADS warrant system was developed to ensure that uniform and complete warrant information is available to law enforcement personnel throughout Illinois, and is the primary means by which Cook County suburban jurisdictions obtain information about outstanding warrants. Many police departments are reluctant to submit warrants for lesser offenses (especially traffic and misdemeanor offenses) to LEADS. Due to the lack of resources for transporting these arrestees back to the originating jurisdiction, these omissions from the warrant system tend to greatly limit the usefulness of LEADS and may create dangerous situations for police who do not know that a suspected offender has possible outstanding warrants.[22]

A third warrant system is operated by the Cook County Sheriff's Police Fugitive Warrants Section, which is responsible for serving all active indictment, bond forfeiture, and violation of probation warrants issued by the Circuit Court of Cook County. Due to the tremendous number of warrants that must be processed by this system, and the fact that the system was only recently automated, there is a chronic backlog of outstanding warrants that has reached numbers as high as 65,000. As with the Chicago warrant system, the county system does not interface directly with any other system, so priority warrants must be manually entered into LEADS.[23]

The existence of autonomous warrant systems in Cook County, along with a lack of coordination of criminal history record information between the City of Chicago and the state BOI, lead to problems in the apprehension, identification, and proper charging of offenders in Cook County. The lack of automatic communication among the various local, county, and state law enforcement agencies creates the potential for serious gaps in the information needed for effective bond setting and sentencing (for example, when outstanding warrants or prior convictions are not known). This lack of coordination also provides the very real potential for

---

[20] See *Annual Audit Report 1985-1986: Court Disposition Reporting and Processing*, and *Annual Audit Report 1984-1985: Computerized Criminal History System*, Illinois Criminal Justice Information Authority, 1985, and Part II of this report for more discussion on this issue.

[21] The Chicago Police Department has made redesign of the hot desk one of its priorities, to enable it to interface with other systems.

[22] See *LEADS Warrant Mileage Limitations*, Authority, 1986, and *Illinois' Justice Assistance Program: Fiscal Year 1986 Plan*, Authority, 1985, for more detailed discussion of this and other warrant issues.

[23] A LEADS/county warrant system linkage has been in the planning stages for the past several years. Such coordination would eliminate the duplicate effort now required to enter warrant information on both systems and allow automatic access to the county warrant information by law enforcement personnel around the state.

serious offenders to escape detection and prosecution in Cook County.[24]

Felony Review

If an arrest is made for a felony offense, the arresting officer typically will write up incident and arrest reports and then turn the case over to a police investigator. The investigator will conduct additional investigations, if necessary, and prepare a supplemental incident report. The investigator will then call the Felony Review Unit of the Cook County State's Attorney's Office to obtain approval to file the case as a felony.[25] The Felony Review Unit operates 24 hours a day.

Once the Felony Review Unit has been contacted (over the phone or in person), one of several decisions will be made about the arrest: it can be approved as a felony; it can be permanently rejected as a felony: or it can be rejected temporarily, pending further evidence.

If the arrest is approved as a felony, the case is assigned to one of several courtrooms used for bond and preliminary hearings.[26] In 1982, approximately 72 percent of all felony arrests referred to the Felony Review Unit were approved for further prosecution.[27] The First Municipal District has established guidelines for court assignment of "specialized" felony charges.[28] The suburban district courts are much smaller and typically contain only one or two municipal-level felony preliminary hearing courtrooms, where all types of felony cases are introduced. Appendix B describes the specialized courts in the first district in more detail.

At this point, the prosecutor's case file will include any rap sheets that have been obtained, the arrest report, and information from the warrant check. If the arrest is ***not*** approved as a felony by the Felony Review Unit, two options remain. The police department can file a misdemeanor complaint or, in Chicago, an assistant deputy superintendent (or a higher-ranking officer) can override the decision of the Felony Review Unit.[29]

Prosecution

Felony Review Unit

The Cook County State's Attorney's Office provides 24-hour-a-day felony review. The Felony Review Unit that serves Chicago consists of six assistant state's attorneys. They work 12-hour shifts, three shifts per week, and in teams of two in three offices (one office each on the north, west, and south sides). Each team is composed of one experienced assistant state's attorney and one with less experience. Felony review in the suburbs is also performed by three teams of assistant state's attorneys, one each in the north, west, and south suburbs.

---

[24]See ***Illinois' Justice Assistance Program: Fiscal Year 1986 Plan***, Authority, 1985, for a description of several programs aimed at correcting these problems.

[25]Narcotics cases are not referred to the Felony Review Unit.

[26]It is possible for one defendant to have cases pending in several courtrooms throughout the county. However, the existence of any concurrent cases may not be known until late in the prosecution process. This is especially the case in suburban districts, where these other arrests may not yet be included on the state rap sheet used for criminal history information.

[27]Based on statistics provided by the Felony Review Unit for the first district. During this time period, statistics were not available for suburban districts. More current statistics are not available from the Cook County State's Attorney's Office.

[28]For example, weapons charges go to "gun court," narcotics charges go to one of two "narcotics courts," and so on.

[29]Chicago Police Department General Order Number 81-10; applies to all non-homicide arrests.

When the Felony Review Unit is contacted by phone, an assistant state's attorney may decide to come to the arresting district. Whether by phone or in person, these contacts provide the means by which the assistant state's attorneys review the arrest report, evidence, probable witness testimony, and the elements of the offense. Assistant state's attorneys make personal contact in cases for which they want to observe a lineup identification or talk to victims and witnesses.[30]

For the cases that are accepted as felonies, the assistant state's attorneys working in the municipal courtrooms prepare for the bond and preliminary hearings.

State's Attorney Preparations

The procedures outlined below vary significantly among the city and suburban courts. Pretrial information is generally more available in the bond courts of the First Municipal District, where the necessary resources are centrally located. The section on courtroom procedures discusses these differences in more detail.

Each branch court has at least one assistant state's attorney on duty; we usually observed two or three. Most court calls are scheduled to begin at 9:30 a.m.[31] The assistant state's attorneys arrive earlier to review the day's arrest reports and rap sheets, and to determine if additional investigation needs to be done before the case is presented to the judge. Some arrests or prosecutions on rap sheets may be "open," meaning they do not have corresponding court dispositions. Assistant state's attorneys can call the Docket Section of the State's Attorney's Office to determine the status of "open" charges. During non-office hours, the assistant state's attorneys can go to the Docket Section and look up charge statuses themselves.

They also review the documents to determine what they will recommend to the judge regarding bond or release. Several factors are considered:

- If a defendant is violating the conditions of a probation sentence with the current charge, the assistant state's attorney will verify that the defendant is on probation, file a petition for violation of probation, and later notify the Probation Office that a petition has been filed. Separate bonds are set for the violation and for the offense charged, and the defendant must meet the total bond in order to secure release. A probation hearing is set within five days, usually with the judge who sentenced the defendant to probation. At that time, the judge may review and change the bond set on the probation violation charge at the bond hearing.

- If a defendant is violating the conditions of mandatory supervised release or parole with the current charge, the assistant state's attorney will contact the Illinois Department of Corrections' Apprehension Unit and ask them to file a "parole hold." This hold, authorized by Illinois statutes (chap. 38, par. 1003-14-2), provides that the defendant will be held in custody regardless of ability to post the bond that is set on the new charge.

- If the defendant is identified as a non-U.S. citizen, the assistant state's attorney will contact the Immigration and Naturalization Service. If the defendant is confirmed to be an illegal alien, a detainer can be filed to hold the defendant without bond.

- If the crime charged is a violent crime, an attempt is made to determine the victim's condition. The felony charge may be upgraded (for example, from aggravated battery to

[30]Homicide, sexual assault, and all other Class X arrests are considered "mandatory personals" by the State's Attorney's Office. An assistant state's attorney will always contact the police and victims in person for these arrests.

[31]We observed considerable variation in this starting time, depending on the number of cases in court on a given day, staffing, and any of a number of obstacles that can delay the process.

attempted murder or murder), and a higher bond requested. Also, an attempt will be made to determine if a weapon was involved in the offense.

These preparations are primarily characteristic of procedures in the Chicago courtrooms during normal hours. To facilitate these preparations, the Cook County State's Attorney's Office has set up a centralized site, called the "War Room," for gaining access to various information systems. This facility contains standard equipment for gaining access to LEADS and the state's attorney's PROMIS database (Prosecutors' Management Information System). In addition, the office has installed equipment that enables direct access to criminal history information (rap sheets) from the state Bureau of Identification.[32] Before 1985, preparations in holiday court[33] were only cursory, due to a lack of resources. Through a cooperative effort between the State's Attorney's Office and the Circuit Court, case preparation in holiday court now resembles the preparations for regular bond hearings.

In 1985, the Cook County State's Attorney's Office also established a centralized night bond court for the First Municipal District (at the criminal courts building). Its purpose is to provide the same level of information needed to make bond decisions as is available during regular working hours. This reform was necessary to rectify the almost total lack of information previously available for bond decisions after regular working hours. Under the old night bond court system, which operated between 8 p.m. and 3 a.m. at CPD headquarters, the judges on duty (some of whom had little or no experience with felony bond hearings) had to set bond without the benefit of advice from the prosecution or defense, and without the opportunity to interview the defendant (who remained in police lockup while bond was set). The only information available was an electronically transmitted copy of the initial arrest report and the defendant's rap sheet, sent by the arresting CPD district headquarters. The judge could not make inquiries concerning possible parole or probation violations. If a defendant could not post the bond amount set in night bond court to secure release, he could petition the judge to review the bond at the next appearance in regular branch court.

In contrast, all relevant parties that normally would be present at a daytime bond court hearing (the accused, prosecutors, defense attorneys, etc.) are now present at the centralized night bond court as well, and the judge has access to the defendant's criminal history record information (both CPD and state rap sheets).[34]

The procedures just described are most characteristic of prosecutorial preparations in the First Municipal District. They apply to preparations in the suburban districts as well, with the following exceptions:

1. The suburbs must rely on state rap sheets electronically transmitted from the state Bureau of Identification in Joliet. While the telefacsimile equipment needed for this transmission process was recently upgraded, the utility of these rap sheets is often limited,

---

[32]Proposed improvements in the "War Room" include adding capabilities to gain direct access to other state and local information systems, notably the Cook County Warrants System, the CPD Youth Division database and Illinois Department of Corrections parole information.

[33]Holiday court operates on Saturdays, Sundays, and legal holidays at the Cook County Criminal Courts Building (26th and California) and the Municipal Courts Building, which is located at Chicago Police headquarters.

[34]See *Illinois' Justice Assistance Program: Fiscal Year 1986 Plan*, Authority, 1985, for a discussion of implementation problems encountered in this night bond court process.

due to the lack of disposition information needed for informed decision-making.[35]

2. Night and holiday bond courts are extremely limited in the suburbs. In Niles (Third Municipal District), Markham (Sixth Municipal District), and Maywood (Fourth Municipal District), there is usually a judge available on Saturday mornings.[36] In most districts a judge is "on call" at home from 7 p.m. until midnight to set bonds over the phone, based on whatever information the police are able to provide at the time.

3. Agents of the Illinois Department of Corrections' Apprehension Unit are not always present in the suburbs. Phone inquiries regarding the status of parolees can be made to the parole computer office on a 24-hour basis.

Once the assistant state's attorneys have prepared the cases for the morning call, and all parties are present in the courtroom, the bond and preliminary hearing process begins.

Bond Hearings

The purpose of the bond hearing is to provide defendants the opportunity to hear the charges against them, and allow judges to set provisions on release from custody that will ensure defendants' compliance with the conditions of bond. In crimes punishable by capital punishment, life imprisonment, Class X crimes where the defendant is judged to pose a danger to the community, or in cases of parole violation, release may be denied. Although the bond hearing process is not formally codified, we observed fairly uniform adherence to the following procedures:[37]

1. When called by the court clerk, the defendant is brought before the judge from a holding area by a deputy sheriff. In cases with multiple offenders, all co-defendants are usually heard together.

   In some courtrooms, the judge may allow family members that are present to come up and stand near the defendant. They may be asked by the judge to corroborate the defendant's testimony about employment, living arrangements, and so on, and may even be asked the amount of bond they can afford to post to secure the defendant's release.

2. Also present before the judge are the assistant state's attorney, defense counsel (either a private attorney, assistant public defender, or other court-appointed attorney), and usually the arresting police officer. These participants also may have an impact on the bond decision. Victims and witnesses are not required at the first court appearance unless the state is ready for the preliminary hearing, although they are often present for the bond hearing as well.

---

[35] There have been many problems associated with the telefacsimile system used in Illinois to transmit fingerprints for identification to BOI and return requested criminal history information to law enforcement agencies throughout the state. These are discussed in more detail in *Illinois' Justice Assistance Program: Fiscal Year 1986 Plan*, Authority, 1985. The recently upgraded system has helped alleviate most of these problems.

[36] A judge is also available on Sunday mornings for bond decisions in the Sixth District (Markham).

[37] In our interviews with judges, we were told that this uniformity probably stems from the fact that most judges served a number of years in trial courts and therefore know what procedures are expected. Also, although few judges have ever seen their peers set bonds, they do attend meetings and seminars on current issues in bond setting, and thus are all aware of the same problems.

3. The judge is provided with a copy of the arrest report and sworn complaint, which only briefly describe the circumstances of the arrest [38] The charges against the defendant are read from the complaint form In some of the specialized courtrooms, such as gun court and auto theft court, the charges are not read out, since all of the defendants are there for similar types of crimes.

4. In cases where one or both parties are not yet ready for the preliminary hearing, the judge will elicit the following types of information to set bond:

Information on the current arrest

The only sources for this information are the arrest report and the victim's complaint, since most judges do not allow the information from the police case report to be presented until the preliminary hearing. However, the arresting police officer must swear that all information contained in the complaint is true to the best of his knowledge. Again, the victim's testimony will not be heard until the preliminary hearing, although the condition of victims in violent crimes (especially if they are hospitalized) is always an important factor in the bond decision.[39]

Prior criminal history

This information is provided by the assistant state's attorney, who reads the relevant facts from whatever rap sheet has been obtained. It includes any prior convictions, parole or probation information and, especially, any previous bond forfeiture warrants (BFWs). The completeness of these data is very much dependent on the type of rap sheet used. As previously stated, rap sheets compiled by the Chicago Police Department, while listing only Chicago arrests, tend to be more complete with respect to disposition reporting than state rap sheets. Thus in the suburban districts, which rely almost exclusively on state rap sheets, judges may question defendants directly about gaps in their criminal histories.[40]

In a few instances we observed that although the fingerprint check had not located any prior criminal history, police officers or the assistant state's attorney recognized the defendant as having been arrested before, or as having a case pending in another courtroom. This information was usually admitted into the hearing. The defendant may also volunteer information about any other pending cases, or the assistant state's attorney may be aware of these other cases from checking on the disposition of "open" arrests on the rap sheet. Information on the nature of these other offenses and the bonds set in these cases is taken into consideration when making the bond decision.

Defendant community ties

Several methods were observed for eliciting this information from defendants. In some courtrooms, the public defender assigned to the courtroom interviewed

[38] Sometimes the description of the arrest circumstances is limited to a few words or sentences.

[39] A bill has been passed by the 85th Illinois General Assembly that requires the court to consider a victim impact statement in setting bail (House Bill 696). It is currently awaiting action by the Governor.

[40] In one suburban district, it was the policy to question all defendants about their prior criminal background, even if a complete rap sheet was available. This open-court testimony, which confirms whether they had ever been arrested, convicted, on probation, and so on, could be instantly verified by the assistant state's attorney and thus was used as a "test" of the defendant's honesty and reliability.

all newly arrested defendants before court began, if the defendants were not represented by their own attorneys. Information on each defendant's employment status, marital status, living arrangements, length of residence in the community, age, and other relevant facts would be presented to the judge during the bond hearing. This could be done orally, or in conjunction with a completed assets and liabilities form. In other courtrooms, the public defender would ask the defendant these questions during the actual bond hearing, and then transmit the answers directly to the judge. It was also the practice in some courtrooms to swear in the defendants, and have the judge question them directly about their social backgrounds.

Family members present at the hearing may be allowed to speak on behalf of the defendant and may even be asked the amount of bond they would be able to post. Some judges we observed placed added weight on whether family members were present in court, since that was seen as an indication of the strength of the defendant's family and community ties that would guarantee future court appearances. Such defendants were usually required to post only minimal bond deposits ($100, for example) or were released on their own recognizance (where no monetary deposit is required).

5. Once the judge has heard all the aggravating and mitigating factors in the case (such as criminal history or favorable social background), a bond type (cash deposit or recognizance) and amount, if any, are set. In some courtrooms, the assistant state's attorney will make a bond recommendation, which may then be countered by a plea for a lower bond by the defense counsel. We observed that private attorneys sometimes had more success in obtaining a lower bond, *if* they were willing to vouch for their client's future court appearances. Regardless of these recommendations, some cases, particularly those involving homicide or grave injury to the victim, would be denied bond, or have the bond set at a high amount ($1 million, for example). The final decision on bond type and amount rests with the judge.

6. Those defendants arrested who are currently on probation will also have a violation of probation (VOP) petition filed against them, either by the assistant state's attorney or their probation officer. A separate bond is set on the VOP charge, and the defendant must post 10 percent of the total bond set (for both the current offense and the VOP) in order to secure release. Most judges tend to set the VOP bond higher than the bond amount for the current offense, as these defendants are more likely to face prison terms if found guilty, and thus have more motivation to flee.

7. If the defendant does not appear when scheduled, the assistant state's attorney moves that the defendant's bond be forfeited and a warrant be issued for his arrest. Bond set on this arrest warrant is the amount that the defendant would have to post to secure his release after arrest on that warrant. The typical bond amount on these warrants was observed to be $5,000 to $10,000 for the first occurrence.[41] If the defendant does not appear in court before the 30-day continuance set on the case expires, the original bond deposit is forfeited to the county, and civil proceeding could be initiated to obtain the remaining 90 percent of the original bond amount.

These bond forfeiture warrants can be problematic if not carefully monitored. For example, cases occurred in which a bond forfeiture warrant was ordered, only to have the defendant show up voluntarily later in the day, or sometime within the 30-day time limit. If the arrest warrants in such cases have not been vacated, defendants may be rearrested needlessly, and the BFW may even be entered on their rap sheets. As all judges tend to put substantial

[41] If these defendants are not apprehended, or do not surrender themselves, the state can move to have the case stricken from the court call, but with leave for it to be reinstated any time in the future.

weight on previous BFWs when setting bond, these defendants may be required to post high bonds, or may be denied release on recognizance if they are ever arrested again.

Despite the amount of information that must be solicited and evaluated, the typical bond hearing does not last longer than two minutes (and is frequently shorter) The brevity of this procedure highlights the fact that the bond decision rests on one or two determining factors (usually violent vs. nonviolent offense, or severity of prior criminal background). The bond amount may be modified with additional information, such as employment, marital status, or expected length of incarceration. It was observed, however, that the specific social factors given most consideration, apart from the nature of the offense and the defendant's prior criminal history, tend to vary by judge.[42]

Although all judges we observed reserved "I" bonds (where defendants are released on their own "individual" recognizance) for nonviolent crimes, those judges concerned with keeping defendants out of custody might ask more direct questions about social circumstances in order to gauge the reliability of the defendant if released. Other judges take into consideration the possible sentence if found guilty, and grant "I" bonds to those likely to get probation; defendants' continued court appearances (or nonappearance) are then considered an indication of how well they will comply with probation conditions. Still other judges are especially concerned about the poor quality of medical or psychiatric treatment defendants were likely to receive if held in custody, and might grant a release on a low monetary or "I" bond on the condition that professional treatment be obtained before the next court appearance.

Preliminary Hearings

The purpose of the preliminary hearing is to determine whether there is probable cause to hold the defendant for trial. Most municipal-level courtrooms in Cook County hold preliminary hearings as well as bond hearings. If both the prosecutor and defense are ready for this hearing at the first court appearance, then a bond is not determined until after probable cause has been found. If no probable cause is found, the defendant is released.[43] The preliminary hearing is a critical stage in the criminal process and, as such, is more formal than the bond hearing. All testimony is made under oath and recorded by a court reporter. In contrast, proceedings do not have to be transcribed in bond hearings, although, as a matter of practice, they are transcribed in most of the municipal courts.

Although the preliminary hearing can be held at the defendant's first court appearance, it is usually postponed one to two weeks to allow the state time to prepare its case. Even longer continuances may be necessary in cases where laboratory results or psychiatric tests are critical evidence, as in drug offenses and homicides. The length of this continuance can be a factor in the amount of bond set in the case, since judges are often reluctant to incarcerate defendants where the evidence against them is not very compelling or the alleged offense is not violent. If a "short" date for the preliminary hearing cannot be agreed upon, the judge may hear further arguments from the defense for bond reduction (this may even occur after the defendant has been taken back to the holding area following the initial bond hearing).

At any stage in the adjudication process, either party may ask for a bond modification. For example, if probable cause is found in the case and the defendant has not been able to post bond, the defense again might move for a reduction in bond. At this time, the judge will have heard testimony from the victim and any witnesses, and may consider these and other facts

[42] See Part III of this report for an empirical analysis of the factors that influence bond decisions.

[43] The State's Attorney's Office is free to obtain a grand jury indictment on a case at any time. Thus a person can be indicted before ever being arrested, while awaiting preliminary hearing, or even on the same charges after no probable cause is found. Defendants who have been indicted by a grand jury will have a bond hearing at their first court appearance in the same manner as defendants who have had their cases initiated by a felony arrest.

brought out in the hearing in re-evaluating the original bond decision (which might have been made by another judge). It is also possible that the assistant state's attorney might move to increase bond at this point, even in cases where the defendant is already out on bond.

Summary

The most basic purpose of bail is to ensure that the accused will submit to trial and not flee the jurisdiction. This purpose must be balanced against the right of the accused to remain free prior to the determination of innocence or guilt, as well as against the possibility that the defendant would violate criminal laws if released from custody. While state law outlines the factors that judges *must* consider in determining bond types and amounts, such as the nature of the offense, past criminal acts of the defendant, and financial ability,[44] there is actually much variance in the amount and quality of information that will be available at the time decisions about bond must be made. This variance in information across defendants and jurisdictions undoubtedly affects judges' ability to assess reliably the consequences of permitting a defendant's release on bond.

The determination that a defendant charged with a felony offense is eligible for pretrial release and the amount of money that will guarantee his return to court are established by a judge at the first court appearance. Especially striking is the speed with which the entire bail hearing takes place. The average hearing lasts only a minute or two, during which time the judge is presented with all the known information about the defendant's current arrest, prior criminal history, and social background, including direct observation of the defendant's appearance and demeanor. This information is then integrated into an immediate decision, which, if the defendant is released and successfully makes all court appearances, will not be reviewed again. If the defendant is unable to post the required bail, the defense attorney can request that the bail decision be considered again at the next court hearing, where additional factors about the defendant or the case itself may be presented. In either case, the bail decision is not deliberated for any substantial length of time, even though many factors are considered.

Yet despite this speed, research has shown that judges across the country make the "correct" decision (that is, release persons who will be good risks) in a majority of the cases that come before them. Research in jurisdictions with formal pretrial programs has shown that the percentage of defendants who fail to appear for scheduled court appearances is usually not higher than 13 percent (Pryor, 1982), and that even in jurisdictions with no such pretrial programs, the rate of willful nonappearance is usually not higher than 20 percent (Goldkamp and Gottfredson, 1985). Even more striking are the findings of a recent study that projected "an astonishing 50 percent of the defendants [from Washington D.C.] who did not make bail would have been rearrested before the conclusion of their court case" (Achen, 1985). These types of findings indicate that the present bond decision process, where judges determine bail based on criminal and social information about the defendant, is generally successful in achieving the goals of ensuring the likelihood of future court appearances and minimizing

[44] Ill.Rev.Stat.1985, chap. 38, par. 110.

rearrests of defendants on pretrial release.[45]

The key to improving the accuracy of bond decisions even further is improving the quality and availability of information upon which those decisions are based. With continued concerns about jail crowding, policymakers are constantly seeking ways to identify those defendants who are "good risks" for pretrial release and should not be held in custody for lack of funds. The following discussion focuses on the strengths and limitations of the information currently used in the pretrial bond decision. This discussion can be used as a foundation for improving the quality of that data.

[45]A confounding factor inherent in a cash bond system is the inability to ascertain what the pretrial behavior of defendants unable to post bond would have been if released. Proponents of bail reform argue that many "good risk" defendants are held in custody needlessly, simply because they cannot afford to post bond (Angel, et al., 1971). It must be pointed out, however, that research in which defendants' ultimate conviction or acquittal is used as the criterion for assessing the accuracy of bond decisions (for example, examining cases where defendants were eventually acquitted but held in custody before trial compared to cases where defendants were eventually convicted but released before trial) is ***not*** evaluating the accuracy of those bond decisions in predicting defendant ***pretrial*** behavior. Such research is actually investigating constitutional questions of the presumption of innocence and due process rights.

Part II: Quality and Availability of Defendant Information

One purpose of this research was to identify the factors currently considered in bond decisions and to assess the *quality* and *availability* of that information to inform both criminal justice practitioners and researchers. Those officials supplying the information, as well as those using it for decisions, should be aware of how data quality and availability affect the entire criminal justice system.

Quality information is also essential if research that is useful to policymakers is to be conducted. While this is true for research on any issue, it is particularly important when studying decisions made in the criminal justice system. As stated in a pilot study conducted by the U.S. Department of Commerce (Locke, et al, 1970) and reiterated in the first part of this report, it is important to understand that the current bail system is based largely on the *discretion* of the judiciary (and other criminal justice personnel). The court records that are generated during this process, taken in their entirety, are the only tangible traces of this discretionary system. Even then, only the ultimate decisions (bond type, amount, etc.), and not the complex interplay of factors and interests that make up the "criminal justice system" (police, prosecutors, judges, defendants, etc.), are recorded. Thus it is vital that, at the very least, the final decisions and actions emanating from the process be *accurately* and *completely* recorded on official documents. Without this precondition, it will be impossible to use this information for research to support policy decisions.

During the course of this project, several major categories of information were identified as most important for making bond decisions in the Circuit Court of Cook County. These categories include:

- Information about the current charge(s) against the defendant;
- Information about the defendant's criminal history;
- Information about the defendant's social background; and
- Factors external to the defendant, such as bail recommendations made by the defense and prosecution, crowding in the Cook County Jail, and recent cases receiving media attention.

The following discussion focuses on the sources of each category of information available to judges at bond hearings and, furthermore, the availability and quality of this information for research on bond decisions over time. This examination is based on an analysis of the data actually available in court files, as well as integration of findings from other Authority data-quality projects. Appendix D contains a more detailed discussion of the decision to use court files as the basis of data in this research.

Current Charge Information

The current charge against the defendant is one of the most important factors used to determine eligibility for bond, as well as appropriate bond amount. Implicit in the current charge description are the possible penalties upon conviction and aggravating or mitigating factors that may bear upon those penalties. The monetary amount of bond set has traditionally been tied to the seriousness of the offense, on the assumption that the risk of the defendant fleeing increases with the punishment that he would face upon conviction.

At the time this research was conducted, the only explicit factor about the current charge mentioned in the existing bail laws was that the amount of bail was to be "...commensurate with the *nature* of the offense charged...." This was usually interpreted by judges to mean that the information presented to them about the current charge should be limited to the relevant statute and felony class, although actual interpretation was left to the discretion of the judge.[46]

The primary sources for this charge information are the police arrest report and the sworn complaint form. Both of these forms are available to the judge at the bond hearing, and can usually be found in the court case file. In fact, these forms are an integral part of the court case file. For example, of the 519 cases examined in this research, only 38 court cases (7 percent) initiated by arrest did not contain a copy of the arrest report.

The arrest report and the complaint form actually have very limited information about the offense circumstances, and may include only the criminal statute citation and literal translation. Other information, such as the extent of victim injury, value of any drugs involved, or other salient circumstances of the incident, are rarely mentioned and may not be known at the time the forms are completed.

The arrest report does contain information on certain aspects of the *arrest* event, such as whether the arrestee resisted arrest, was under the influence of drugs or alcohol, or had possession of a weapon. In the sample of 519 cases examined in this research, these elements had been filled out in 87 percent of the arrest cards. However, our observations of bond hearings led us to believe that this information is primarily used by the police to handle the arrestee appropriately while in custody, rather than being used for the purpose of setting bond. An exception to this might be the consideration of injury to an arresting officer as an aggravating factor in the current charge.

For the most part, then, there is very little ***written*** documentation about the circumstances surrounding the offense itself that is available to the judge at the bond hearing. While these factors may be discussed at the bond hearing, they are usually not captured on any documents in the court files, and thus cannot be included in research that relies on these files. Now that state law requires judges to consider more detailed information about the offense, this information should be documented on the arrest report to the extent known to police at the time of arrest. Since the arrest report becomes part of the court case file, that information will also be preserved for future research as well.

In addition to the description of the incident offense, the existence of other pending cases, outstanding warrants, and whether the defendant is currently on probation or parole may

---

[46] Illinois' bail laws were significantly amended in 1985 (Ill.Rev.Stat.1985, chap. 38, par. 110). One of the most extensive changes was revision of the factors about the current charge that the judge must consider when determining the amount of bail and any other conditions of release (chap. 38, par. 110-5). See Part I for a more detailed discussion of these changes.

also directly affect the charges that are filed and the appropriate bond type and amount.[47] In most cases, however, the results of these preparations will not be found in the court case files, except as indicated by the charges filed at arraignment, or as indicated by the consolidation of several cases at final disposition.

Defendant's Prior Criminal History

Sources of Criminal History Record Information

Information on the defendant's prior criminal record is also an important factor in the bond decision, for it is generally believed to be associated with release outcome (successfully making all court appearances) and subsequent criminality of defendants (Toborg, 1981; Goldkamp, 1979). Defendants' prior criminal history records (rap sheets) are obtained by the prosecutors in Cook County from the state central repository maintained by the Department of State Police (DSP) and, whenever possible, from the records maintained by the Chicago Police Department (CPD), prior to the first court appearance.[48]

The usefulness of criminal history information for informed bond decisions hinges on the time frame within which the information is received and the quality (completeness and accuracy) of that information. The CPD maintains its own bureau of identification and criminal history record system. This allows for the timely processing of fingerprints submitted for positive defendant identification and the rapid dissemination of criminal history information on any known Chicago arrests to the arresting officer and, subsequently, to the prosecutor for the initial court appearance.

In 1986, police and prosecutors in four of the five suburban Cook County Circuit Court districts gained easier access to criminal history information from the Chicago Police Department, via telefacsimile and messenger service. Prior to that time, police and prosecutors in those districts had to rely primarily on state rap sheets. The most common format for accessing this criminal history information is via the Law Enforcement Agencies Data System (LEADS). While a response can be obtained in a matter of minutes, the amount of information received (usually based on a name check and not fingerprints) depends on whether the individual's record is fully computerized on DSP's Computerized Criminal History (CCH) system.

For records that are fully computerized, a summary count of charges and convictions is available, along with a more detailed description of the last event (arrest or incarceration) entered on the individual's record. For records that do not have all information entered on the CCH system, a LEADS inquiry will produce only a message stating that a manually typed rap sheet may be obtained from DSP's Bureau of Identification. While a relatively small proportion of active records are not fully automated on the CCH system, audits have shown that at least a third of those persons with older, longer records, particularly those who have served

---

[47] Prosecutors may add charges to a case at any time before formal arraignment in the Criminal Division. See Part I of this report for a more detailed description of state's attorneys' preparations for initial court hearings.

[48] At the time the data were collected for this project in 1983 and 1984, the five suburban Cook County Circuit Court districts had to rely almost exclusively on state rap sheets, while the First District had immediate access only to CPD rap sheets. In April 1985, a special computer link with the state central repository (Computerized Criminal History system) was established in the First District and the Sixth District (Markham), so that both CPD and state criminal history information would be available on the majority of felony defendants in those districts. Negotiations are also underway to make CPD rap sheets more routinely accessible to prosecutors in the suburban districts.

prison terms, do not have completely computerized records.[49]

Besides LEADS transmissions, complete transcripts of criminal history information can be obtained from DSP. The installation of new telefacsimile equipment in nine sites around Cook County to be used for the transmission of fingerprints and criminal history transcripts has greatly improved the timeliness with which state rap sheets are available for bond hearings. These rap sheets are now generally available to prosecutors for the defendant's initial court appearance. These improvements are highlighted by a comparison with the situation that existed in 1977. At that time, an evaluation by the Cook County Special Bail Project stated that "...in perhaps 33 percent to 40 percent of all cases observed, the judge did not take criminal history into account when making a bond decision, [and] in at least 10 percent of the cases observed, no information regarding a defendant's history was available at the time of the bond hearing..."[50] By contrast, observations conducted for this project in 1983 supported the conclusion that prior criminal history information is now available to judges in almost all cases. Even more recently enhancements to the State's Attorney's Office "War Room," including access to LEADS, PROMIS and the state BOI, have ensured that even more information on defendants is available at bond hearings.[51]

Quality of Criminal History Record Information

The *quality* of the criminal history record information received is another issue. During the course of this project, several factors regarding prior criminal history were identified as important to the bond decision:

- Number of prior convictions;
- Number of previous bond forfeiture warrants;
- Previous sentences;
- Previous probation or parole violations; and
- Time lapsed since last arrest.

The various sources of criminal history information available in Cook County vary widely in content and quality of these criminal history factors.

As of 1984, the CPD rap sheets were usually very complete in terms of dispositional information for *Chicago arrests*, as well as bond forfeiture information and parole or probation status. The department fell behind in processing dispositions after that time, resulting in a backlog of about 150,000 Chicago and state dispositions, and about 35,000 FBI dispositions. This backlog is currently being eliminated with the assistance of federal funds under the Justice Assistance Act. Another limitation of CPD rap sheets is the fact that only arrests made within the city limits generally will be posted. Thus the rap sheet may not be a complete his-

---

[49] Illinois Criminal Justice Information Authority, *Annual Audit Report 1984-1985: Computerized Criminal History System*, 1985. A redesign of the CCH system, to be completed in 1987, contains a phase to computerize all records of active offenders.

[50] CONSULT, Ltd., *Evaluation of the Cook County Special Bail Project*, 1977, page 17.

[51] See Part I of this report for a complete description of the bond hearing observations conducted as part of this project.

tory of the defendant's criminal activities.[52]

Although CPD rap sheets have not been subject to formal external audit, it is generally believed that the data are fairly accurate. The findings of this study bear out this belief. For example, of the 295 CPD rap sheets examined in this project, the arrest information (date and charges) posted on them almost always matched the arrest reports found in the court case files. Furthermore, all but three cases had court case information (charges, sentence length) that matched the court documents.[53] Thus, while the 295 rap sheets examined in this project are not statistically representative of all CPD rap sheets, this empirical examination did not reveal anything that would dispute claims that the rap sheets generally contain accurate information.

The rap sheets studied in 1984 were also found to be fairly *complete* in terms of arrest events and dispositions posted. For example, only six (2 percent) of the *Chicago* arrests that initiated the court cases in the research sample did not appear on the rap sheets. In addition, of the 1,835 arrest events, dating back to the early 1960s, that were recorded on the rap sheets, only 193 (10 percent) of the *Chicago* arrests were missing court dispositions.

The criminal history information provided by DSP, by contrast, has been documented to be less complete and less accurate. Audits of DSP's CCH system conducted by the Authority since 1979 have identified serious problems that adversely affect the timeliness and utility of the data. While a newly redesigned system is now operational, limitations of the previous system still have an impact on data entered prior to 1987.[54] These include programmatic constraints that limited the types and sequence of data that could be entered (for example, probation revocations could not be posted if the original probation sentence has already been entered); the lack of a substantial number of court dispositions; and inaccuracies in identification information (such as name, physical descriptors, etc.) that may preclude a "hit" on the CCH database on as many as 23,000 of the 1.54 million records maintained on the system (as of 1985).

Prior to 1987, the CCH system did not capture probation or parole violation information, nor did it capture information on successful completion of probation sentences.[55] Even more serious, as many as half of all arrests on the CCH system may lack final dispositions, which means that rap sheets will provide very little information about the outcomes of an individual's previous encounters with the criminal justice system. While DSP has accepted federal funds to be able to make the rap sheets of all active serious offenders complete, the general lack of dispositional information still seriously compromises the utility of the CCH rap sheet for making bond decisions.

This lack of court dispositions also presents an extra burden to prosecutors in their case preparations, since they must track down any missing dispositions on recent arrests to determine whether the defendant is currently on probation or parole. The defendant's

[52] In felony arrests, CPD forwards a copy of its arrest card to the FBI for posting on the individual's FBI rap sheet. At the time this project was being conducted, all arrests contained on the FBI transcript were subsequently entered on the CPD rap sheet, such that many arrests outside of Chicago could appear on the CPD rap sheet. However, these arrests from other jurisdictions seldom had dispositions recorded.

[53] It is possible that the information in these three cases had been merely coded incorrectly from the court documents.

[54] For further details on these audits, see the Authority's annual audit reports for 1986, 1985, 1983, 1981, and 1980, and *Management and Program Audit, Criminal History Components, Criminal Justice Information System, Illinois Department of Law Enforcement*, Office of the Auditor General, 1982.

[55] These types of criminal justice events actually represent a second disposition of a case, the original sentence of probation or a prison term being the first disposition. The original CCH system contained programmatic constraints that prohibited the posting of more than one disposition per charge. The CCH system is being redesigned to eliminate this constraint.

current status in the criminal justice system is an important factor in the bond decision. A petition for violation of probation requires that a bond be set in addition to the bond for the incident offense, while the filing of a "parole hold" carries an automatic denial of bond.[56]

Defendant's Prior Bond History

Currently, the only source of information on a defendant's prior bond history in Cook County is whatever bond forfeiture information may be posted on his rap sheet. That is, the prosecutor can inform the judge whether the defendant ever had a case stricken off the court call because of a failure to appear within 30 days of a scheduled court appearance. However, other important bond information, such as the amounts of bond set on previous charges, whether the defendant was ever able to secure release from custody, or whether the defendant was already out on bond when arrested for other crimes, is unavailable from any one source. Even habitual missing of court appearances, short of causing the case to be stricken from the court call, cannot be known, although this behavior might indicate a penchant for deliberate delay tactics, or at least a lack of responsibility on the part of the defendant. Thus some of the best information that a judge could use in making bond decisions, that of the defendant's *past* behavior when (if) released on bond, is severely limited.

An examination of the CPD rap sheets obtained in this research indicated that even bond forfeiture information may be less complete than is generally believed. While this analysis was based on a very small sample (46 cases where the defendant had failed to appear during the incident court case), we found that *only* those instances where the bond forfeiture was considered to be a "final" disposition in the case were posted on the rap sheets. (That is, the defendant did not return to court before the case was stricken off the court call.) Thus, while these 46 cases represented 104 missed court appearances, only 14 bond forfeiture warrants were indicated on the rap sheets.

The practice of reporting only some bond forfeiture warrants underrepresents both the number of missed court appearances and the number of bond forfeiture warrants issued. Because bond forfeiture warrants,[57] or charges filed for jumping bail, indicated on the defendant's rap sheet are the only bond history information available to the judge at the bond hearing, only the most serious cases of nonappearance actually become factors in the decision process. While it is appropriate to record only those warrants that are actually served, more complete records of bond history should be developed and maintained by the pretrial services agency established within each circuit. This information should be readily accessible for use in subsequent bond decisions.

Availability of Rap Sheets for Research Purposes

While it is generally true that the defendant's prior criminal history information will be available to the judge at the bond hearing, the rap sheet itself does not become part of the court case file. Rap sheets obtained for other purposes related to final disposition (such as sentencing decisions) may be found in the court files. However, as indicated by this research, rap sheets typically will be present only for defendants ultimately sentenced to prison and

---

[56] If missing information is unavailable by the first court hearing, the judge may place the defendant under oath to testify about his prior criminal history.

[57] State law governing the information that must be reported on the state rap sheets requires reporting of bond forfeiture information only if the issuance of the warrant is considered to be the final disposition in the case. (Ill.Rev.Stat.1985, chap. 38, par. 206-2.1.)

even then may be missing from the court file.[58] Thus reliance on the court case file to obtain information on prior criminal history for research purposes will result in very limited, unrepresentative data.

The availability of rap sheets from the state repository and from local law enforcement agencies for research purposes is limited by various laws and regulations.[59] Computer- or manually generated transcripts of criminal history information maintained by DSP can be released only to agencies with statutory authorization. These include all law enforcement agencies, units of local government and school districts (for the purpose of background checks on employees), among others. Researchers not connected with authorized agencies will most likely be denied access to CCH rap sheets for research purposes.[60] Release of *conviction* information maintained by local authorities is allowed as prescribed by any local regulations, such that this information might be more accessible for certain research purposes. In either case, researchers should expect lengthy negotiation and petition procedures to obtain permission to gain access to rap sheet information, and should expect that further "doubleblind" procedures might be necessary to ensure the confidentiality of the records. [61]

Once access to criminal history information has been obtained, sufficient identifiers must be available in the records to request the correct rap sheets. In Illinois, both the state CCH system and the Chicago Police Department's criminal history system are fingerprint-driven, meaning that submission of a person's fingerprints is the only *positive* means of ensuring the person's identity and corresponding criminal history. In lieu of fingerprints, the numbers assigned by the various identification bureaus are the best means of obtaining the correct rap sheets. If these identification numbers are not recorded, the person's name, race, sex and date of birth are the items used to search for possible criminal history records. However, if an alias was used, the correct records may not be located.

In the sample of 519 court cases examined in this project, 21 percent had all three identification numbers [State Identification Number (SID), Chicago Police Department Individual Record Number (IR), and the FBI number] used in this project. On the other hand, 24 percent had no identification numbers recorded in the case files. A majority of these cases without identifiers were from suburban districts, and were about equally distributed between cases terminated in the municipal and criminal divisions. It should be kept in mind, however, that the cases examined were terminated during 1982 and early 1983, just as a new criminal justice

---

[58] Rap sheets were present in only 100 (19 percent) of the court files examined. The remaining rap sheets used in this study were obtained directly from the Chicago Police Department.

[59] Ill.Rev.Stat.1985, chap. 38, par. 206-3 and 206-7; U.S. Department of Justice Rules and Regulations for Criminal Justice Information Systems (28 CFR 20 et seq.)

[60] A bill passed by the 85th Illinois General Assembly will allow public access to *conviction* information maintained by the state as well (Senate Bill 926). While this bill provides that DSP and other criminal justice agencies can charge a fee for processing requests for this information, it also states that these agencies have the discretion to waive that fee. The bill is currently awaiting action by the Governor.

[61] An example of such a procedure is found in *Pretrial Release: A National Evaluation of Practices and Outcomes*, The Lazar Institute, Washington, D.C., 1981. Double-compartment envelopes containing the coded data forms and defendant identifier sheets for each defendant were sent to the agency supplying criminal history information. The identifier sheet was then replaced by the defendant's rap sheet, with all identifiers removed.

identification process was being implemented in Cook County.[62] While there has been no other formal follow-up on this project, the Authority's 1986 audit of the state CCH system found that the disposition forms currently used by the Circuit Court Clerk of Cook County still do not include data fields for state and local identification numbers. Thus the court clerks must remember to enter these numbers, when available, in the forms' margins.

Researchers should expect that identification numbers, primarily Chicago Police Department IR numbers (for defendants ever arrested in Chicago), will be available for at least 90 percent of court cases initiated in the First Municipal District. However, it is likely that identification numbers, particularly SID numbers, will be missing for as many as half of the suburban court cases, making the procurement of criminal history record information that much more difficult.

Defendant's Social History

In addition to information about the current charge against the defendant and his criminal history, the defendant's social background is used to determine eligibility and amount of bond. This was one of the greatest areas of modification when the Bail Act of the Illinois Criminal Code was amended in 1985. The statute now specifies that the court must "...take into account [the defendant's] family ties, employment, financial resources, character and mental condition, length of residence in the community, and whether a foreign national defendant is lawfully admitted in the United States...." (Ill.Rev.Stat.1985, chap. 38, par. 110-5).

This information is used to establish the strength of "community ties" that will presumably make it less likely that the defendant will flee the jurisdiction and to determine the best conditions for release. However, guidelines as to what factors constitute satisfactory community ties are not specified in the law. Instead, each judge must decide on a case-by-case basis what combination of these factors, beyond the current charge and prior criminal history, will predict successful court appearances. This has been the source of continued controversy, and is likely to differ for each jurisdiction (Toborg, 1981).

The focus of most pretrial services programs has been to standardize and objectify this social information. Beginning with the Vera Foundation's Manhattan Bail Project in the 1960s, the assumption of bail reformers has been that a defendant's community ties could be used to both assess the risk of flight and determine the least restrictive conditions to ensure appearance in court (Hall, 1984). A myriad of interview instruments, each with its own scoring systems purported to predict successful court appearances and/or risk of danger to others in the community, have been developed in the last two decades.

In Illinois, a formal pretrial services program will begin operation in each circuit court in 1987. Such a program will be vital if conditions of release other than the cash deposit now used are to be successfully imposed, since decisions about the proper conditions can be made only with accurate, ***verified*** information.

---

[62] This process, initiated by the Ad Hoc Cook County Criminal Justice Committee, under the auspices of the Illinois Law Enforcement Commission (predecessor to the Illinois Criminal Justice Information Authority), was an attempt to standardize police procedures in Cook County with regard to the positive identification of offenders, and the subsequent documentation of the person's SID number on the arrest cards, court files, and Cook County jail mittimi generated for each case. A 1981 ILEC evaluation of the project conducted during 1981 revealed that, while the recording of the SID number by suburban police and court clerks had improved, only about 50 percent of suburban defendants had SID numbers recorded. The findings of this study corroborated that evaluation, in that 49 percent of the suburban cases examined did not have SID numbers recorded anywhere in the court files.

Availability of Defendant's Social History Information

Unlike the information on the defendant's current court case and prior criminal history, which can be obtained from official records, the information on community ties is usually reported by the defendant to his defense attorney (or in some cases, directly to the judge under oath). The judge can observe other demographic variables -- age, physical or mental problems, presence of family in the courtroom, and the defendant's general demeanor. In some courtrooms, it is standard procedure for defendants to be interviewed regarding their financial status (to determine both eligibility for a public defender as well as ability to post bond), while other judges may simply set bail for the amount of money the family was able to raise (in the case of less serious felonies). Observations of bond hearings in Cook County (see Part I) revealed that defendants' social information elicited by judges was the least standardized aspect of the hearings, with different judges focusing on different factors (for example, to some judges, marital status or number of children to be supported was important, while to others employment status was more significant).

In terms of obtaining information on defendants' social characteristics for the purposes of research, several sources may be found in the court case files. For example:

- Police arrest reports contain the defendant's age, race, sex, and place of birth.
- The Presentence Investigation Report (PSI), conducted by the probation department when ordered by the judge, has the most background information, including marital status, children, living arrangements, education, employment status, length of residence, and any *self-reported* mental or substance-abuse problems.
- State's attorney's Statement of Facts, prepared after a prison term has been imposed, may contain some limited defendant characteristics.
- Court case files may also contain other reports ordered by the judge, such as tests for drug abuse, physical condition, mental health, and so on.
- Some districts routinely use financial statements for the purpose of determining eligibility for a public defender.

It must be stressed, however, that there is little uniformity in the types of documents that will be found in the case files, with the least information available for cases terminated at the municipal level. At most, all case files should include a police report, sworn complaint form, and court sheet that records all court appearances (Half Sheet). Many of the other documents listed above will not appear unless the defendant is convicted at the criminal level, or has at least been subject to a trial.

Quality of Defendant's Social History Information

In the research conducted for this project, it was possible to ascertain, from the information in the court files, the gender of all 519 defendants, the race for all but six (1 percent), and the age at the time of arrest for all but 14 (3 percent). It was also possible to determine roughly, via the proxy measure of attorney type (private vs. public defender), the economic status of the defendants in 83 percent of the cases.[63]

However, more in-depth information about defendants' "community ties" and personal stability (for example, marital status, type and length of residence, education, and drug or mental problems) was notably absent from the court files. This information could be ascertained for about only 20 percent of the sample, as recorded in a PSI report. This report was not found for defendants acquitted or dismissed (35 percent of the sample) and, furthermore, was available for only 26 percent of those convicted.

One reason for the small number of PSI reports found is that defendants may waive their right to this service. At least 138 (27 percent) of the defendants in this sample chose to do so.[64] In a few other cases, the report had been ordered by the judge, but only an empty report envelope was found in the court file. In addition, the availablity of the PSI report differed among the six court districts, with proportionately more reports (35 percent) found in two of the suburban districts. Thus the PSI information obtained could not be considered representative of the entire sample, and was not used in subsequent analyses.

It is also important to note that, while some defendant social information will be available in the court files, these documents do not necessarily reflect the testimony heard, or characteristics observed (such as clothing, general demeanor, presence of family members, etc.) by the judge at the bond hearing. Furthermore, some amount of discrepancy was observed among the various documents in the file. For example, the defendant's age was frequently found to be younger in the current case compared to the first arrest recorded in the rap sheet. In one case, a woman represented herself as 10 years younger on the bond receipt than on the arrest report filled out days earlier. Since little of the information that is self-reported is actually verified, it is often difficult to determine which piece of information is "correct."[65]

External Factors

In addition to facts about the defendant and the current offense, the judge must consider many, often opposing, concerns of the rest of the criminal justice system, as well as public welfare. Some of these factors will be stated explicitly during the bond hearing, such as the bond recommendations made by defense and prosecution. The prosecution typically presses for a high bond, as insurance that the defendant will submit to further prosecution, while the defense counters with arguments for a low bond. Other factors external to the case, while possibly entering into the judge's decision, can be only inferred. These factors include the "norms" for appropriate bond types and ranges followed implicitly by judges in a given jurisdiction, as well as pressures exerted by jail crowding or sudden media attention to a case.

---

[63] This study did not attempt to collect more detailed financial information.

[64] It has long been held that many of those who waive that right have more extensive criminal records or other undesirable facts that might actually persuade the judge to set a more severe penalty. Findings from this research tended to corroborate this assertion, in that those with prior convictions chose not to submit to a PSI more often than those with no prior record.

[65] According to the ***Report on the Adult Probation Department***, prepared by the Special Commission on the Administration of Justice in Cook County in July 1986, even information collected for the PSI reports is frequently unverified and incomplete in terms of statutory requirements (p. 18).

For example, at the time this study was conducted, Cook County Jail was already at its court-ordered capacity of 4,500 inmates, and a program to release pretrial detainees charged with lesser offenses was in place. Interviews with judges indicated that some were following a recent directive from the chief judge to increase the use of "I" bonds (where defendants are released on their own recognizance without a cash deposit) for nonviolent offenders. At the same time, media attention was focused on several "sensational" cases involving defendants out on bond committing violent crimes. This might have indirectly influenced judges' decisions to set higher bonds in response to public opinion about the effects of pretrial release on public safety. In the absence of explicit guidelines (such as scoring systems based on empirical research) for determining which defendant factors are likely to indicate "good" or "bad" risks for pretrial release, such external factors may unduly influence the bond decision-making process.

In the context of research conducted on bond decisions, external factors that impinge on bond decisions often cannot be measured. Those factors acknowledged by the judge during the bond hearing will be reflected in the transcript of the proceeding. However, such transcripts are rarely, if ever, found in the court files, and are costly to obtain from the Court Reporter's Office (as much as $4.10 per page). In the case of historical events occurring during the period when the bond decision is made, researchers collecting data at some later time may not even be aware of their occurrence. Thus research seeking to model and predict judges' decision-making process in setting bond probably will be unable to quantify these external factors and their influence, if any, will not be given their proper weight.

Quality of Bond Information for Research Purposes

Central to research on pretrial decisions is the availability of bond information. As previously discussed, the primary sources of this data on a historical basis in Cook County are the court case files. Information that should be available includes:

- Whether the defendant was deemed eligible for bond;[66]
- The type of bond set (cash bond, or release-on-recognizance);
- The amount of bond to be posted;
- The date the bond was set;
- Whether the defendant was released (or posted bond); and
- The length of time in pretrial custody.

Equally important is information on court appearances, to determine the incidence of failure to appear for scheduled court events. Ideally, this should include:

- The number of required court appearances;
- The length of the entire court process;
- The number of missed court appearances; and
- Whether a bond forfeiture warrant was ordered (and executed) to bring a fugitive defendant back to court.

[66] In Illinois, defendants charged with certain serious offenses may be denied bond, and detainers can be filed to hold parole violators or illegal aliens in custody.

As court case files are public records in Illinois, most of this information will be accessible in *some* form in the court files. However, *tracing* the defendant's bail history from the documents actually found in the files is no simple matter. The contents of the court files are not arranged in chronological or any other systematic order, and the forms themselves are not always legible, particularly the second and third carbon copy of handwritten forms (such as bond receipts). The defendant's bail status (out on bond or in custody) is not consistently noted in the court records and often has to be "pieced together" from the records of court appearances (half sheet), bench warrants issued for missed court dates, mittimus papers to Cook County Jail, various trial motions, and even notes made by the court clerk on the outer file folder. Reconstruction of the bail history was one of the most time-consuming aspects of data collection in this project, as every effort was made to collect complete information on all of the bond factors enumerated above.

The primary sources of bond information in the court files include the following:

- The sworn complaint form, which was the best source of the initial bond set in the case.
- The court half sheet, which was a good source for the bond amount set by the judge and for any revisions to the original bond, as well as nonappearance of the defendant for any scheduled court event.
- Bond receipts, which indicated amount and date of bond posted.
- Copies of arrest warrants, which always included a bond amount.
- Mittimus papers to Cook County Jail, on which were recorded the bond amount to be posted, since defendants can post bond directly at the jail.
- Forms designating that the 10 percent bond deposit be turned over to the defendant's attorney (as payment for legal fees), which stated the posted bond amount.
- Notations about bond information made by the court clerk on the court file folder itself.

Most of the documents in the court file are handwritten and subject to problems of readability. In addition, the entire process of tracing the bond history in a case is open to discrepancy, for two reasons. First, the same person does not record the bond information throughout the case (since different clerks handle the file, errors in transcribing the information can occur). Second, the bond amount itself is subject to changes that are not always completely documented. Thus it was often unclear if successive mittimus forms had slightly different bond amounts because of clerical errors or if the judge had really changed the bond. Fortunately, approximately two-thirds of cases in this sample had only one bond set, which simplified the data collection considerably.

Efforts to obtain complete bond information for the 519 court cases examined in this project were fairly successful. For example, there were 13 cases (2 percent) in which it was impossible to determine any information about the first bond set in the case. The date the first bond was set (typically within 24 hours after arrest) was recorded in 90 percent of the cases, and the amount and type of the bond could be ascertained in 89 percent. Most of these cases where bond information was lacking in the court files were those that had been reinstated by the execution of a previously issued bond forfeiture warrant. In these cases, the original bond had been set at the time of the original arrest, and that information was not routinely incorporated in the reinstated court case file.

Also important to this study was determining the release status of the defendant. It was possible to determine whether the defendant had posted bond (or been released on an "I"

bond) in all but 31 cases (6 percent). Much more problematic, however, was determination of the actual date of release on bond. In some cases, it was known that a cash bond was set, and that the defendant was not in custody at the next court appearance, but a copy of the bond receipt was not present in the court file. Fortunately, it was possible to *estimate* the time these defendants spent in custody (if any), when time in custody was credited toward their sentence at conviction.

Summary

A summary of the findings regarding the quality and availability of pretrial information for bond decisions (and research) are presented in Table A.

Table A: Quality/Availability of Defendant Information

Information Elements (Sources)	General Quality	Availability in Court Files
Current charge information: Police arrest report/sworn complaint	Minimal narrative	90% of arrest-initiated cases
Prior criminal history: State (CCH) rap sheet	Accuracy good; as many as 50% of dispositions missing	Found in only 1% to 2% of sample files
CPD rap sheet	Accuracy good; complete for Chicago arrests	Found in 25% of conviction cases (with PSI or statement of fact)
Prior bond history: State (CCH) rap sheet	Only BFWs that are final dispositions recorded	Found in 25% of conviction cases (with PSI or statement of fact)
CPD rap sheet	Most BFWs recorded if defendant forfeits bond	Found in 25% of conviction cases (with PSI or statement of fact)
Defendant characteristics: police arrest report	Self-reported facts that result in consistency problems	90% availability in arrest-initiated cases
Rap sheet	Self-reported facts that result in consistency problems	Found in about 25% of conviction cases
Arrest warrant	Information from incident report, complaining witness, prior record	5% of cases
Social history: PSI report	Self-reported facts; some independent verification	Not found for those acquitted; found for 25% of those convicted

Table A highlights the fact that there is a lack of complete and *verified* information available to judges for pretrial decisions, and that even less of that information becomes incorporated into the court files. Although judges are told basic information concerning the defendant's current charge, prior criminal history, and community ties, the absence of complete information (as in the case of criminal history) and independent verification (as in the case of community ties), introduces further ambiguity into an already subjective decision-making process. Thus the traditionally lower rates of pretrial release by jurisdictions using subjective decision systems (Kirby, 1981) may be even lower where good data are not routinely available. That is, these judges, knowing they are not always getting the "whole story," may be less willing to release even apparently "good risk" defendants outright, while perhaps not setting sufficient bonds on other defendants, because some important piece of information was incomplete, unavailable, or inaccurate.

Part III: Descriptive Analysis

The remainder of this report presents findings of empirical analyses conducted in actual cases terminated in the Circuit Court of Cook County, with a special focus on the consistency of bond decisions and outcomes across similar types of defendants. Areas of consistent decision-making, despite an imperfect and subjective system, will reveal where the criminal justice system is "working" in Cook County, while areas of disparity will reveal where improved pretrial information will make the most difference.

One group of defendants was of particular concern in these analyses -- those determined to have the most serious criminal backgrounds at the time they once again entered the criminal justice system in Cook County. While other studies have focused on the factors that are associated with repeated criminal activity (Repeat Offender Project, Illinois Criminal Justice Information Authority, 1986; Klein, 1986), the data collected in this study afforded a unique opportunity to assess the *response* of the criminal justice system to these serious criminals at the earliest stages of the adjudication process. The findings on the degree to which serious, repeat offenders are subject to consistent pretrial decisions reveal both the extent to which information about defendants' criminal background is available to judges when they must make pretrial decisions, and the importance placed on that information when determinations are made about the most appropriate conditions for releasing such defendants from pretrial custody.

Selection of the Sample

The data presented in this report were obtained from a sample of 519 felony cases selected from all cases terminated in Cook County Circuit Court during 1982 and 1983.[67] These cases, which were selected from each of the six districts within the Circuit Court of Cook County, included cases terminated at both the municipal (pre-arraignment) and criminal (post-arraignment) levels. A more detailed description of the sampling methodology is presented in Appendix D.

All cases in the sample, whether selected from the municipal or criminal divisions, had experienced the same pretrial process, including at least one bond hearing.[68] Therefore, it made sense to consider the sample as a whole, rather than separate subsets representative only of a particular district within the circuit.

Preliminary analyses were conducted to ascertain whether the samples drawn from each district were similar enough in important variables to allow treating them as one larger sample, for purposes of analysis of pretrial decisions made in Cook County felony cases as a whole. The findings revealed that there were no statistically significant differences among the individual district samples in terms of defendants' sex, age, or primary arrest charge (defined below). Differences were observed, however, in the distribution of racial characteristics across the six districts. These differences were expected, as they reflect the population

[67] At the time data collection was begun in 1983, those cases terminated in 1982 and early 1983 could be assumed to be the most recent cases that had been terminated. Twenty-six percent of the cases in the sample were actually disposed of in 1983.

[68] See Part I of this report for a full explanation of the flow of cases through the Cook County Circuit Court system.

patterns of the Cook County area. However, the racial composition of each district was consistent with the racial distribution of all felony arrestees in those districts in 1982 (1982 I-UCR arrest statistics, Illinois Department of State Police; CPD Statistical Summary, 1982).

From these findings, we concluded that the entire sample of 519 cases could be considered representative of Cook County felony cases as a whole during 1982-83, and that the sample provided an adequate picture of the overall pretrial decision processes during that time.

Defendant and Case Characteristics

The primary demographic characteristics of the 519 defendants in the total research sample are presented in Figure 1. Slightly more than half of the defendants in the sample were black, 44 percent were white, and the remaining 4 percent were classified by the arresting officer as Hispanic. The overwhelming majority of the defendants, 91 percent, were male, which is consistent with the gender composition of defendants in the criminal justice system in general (Bureau of Justice Statistics, 1983).

The majority of defendants were young adults at the time of their arrest, which is consistent with most criminological research. Almost three-fourths of the defendants were between the ages of 17 and 30 at the time they were arrested, with 37 percent 21 years old or younger. The sample also included five persons (1 percent) over the age of 60, and 14 (3 percent) whose ages could not be determined from the information in the court files.

Finally, Figure 1 presents the age at which the defendants were first arrested as adults. This information was obtained from the defendants' criminal history records (rap sheets).[69]

Among defendants whose criminal history was know, 44 percent had first been arrested between the ages of 17 and 21. In Illinois, persons are considered adults in criminal matters at age 17. The small percentage who were calculated to have been less than 17 years old at the time of their first adult arrest may have committed serious crimes that caused them to be prosecuted as adults, or the birthdate (which is self-reported) recorded at the first arrest may have been inaccurate.

Arrest Characteristics - Definitions of Terms

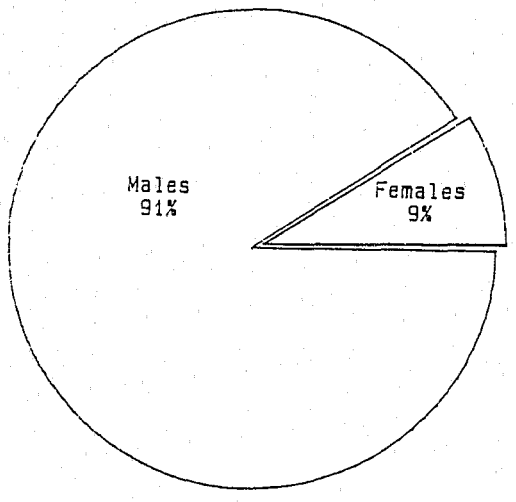
Incident Arrest

A key term used throughout this section is *incident arrest*, which is the arrest *event* that led to the court case under study. The incident arrest is distinguished from any other arrest that might have occurred while the defendant was out on bail, as well as from any other pending charges the defendant might have had at the time of arrest. In nine cases (2 percent), the incident arrest was actually an arrest on a bond forfeiture warrant (BFW) from a case initiated before 1982 (the sample period). These cases remained in the sample because the defendants were being prosecuted for bail violation, rather than for the original offense.

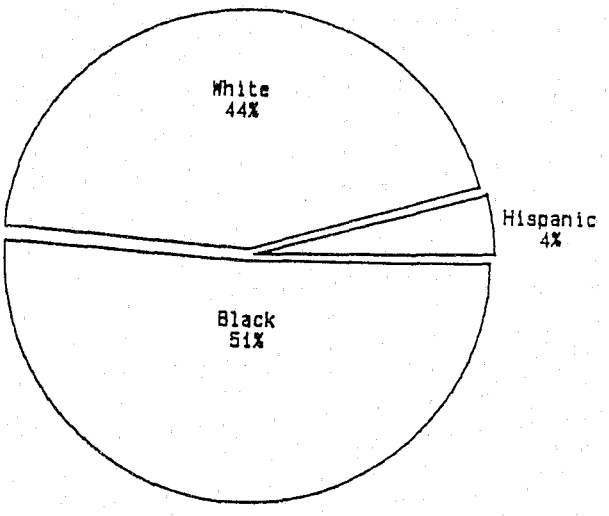
[69] CPD rap sheets used in this research were not available for 170 (33 percent) defendants, due to missing identification numbers, or the fact that the they did not have established arrest records in Chicago.

Figure 1: Demographic Characteristics of the Sample

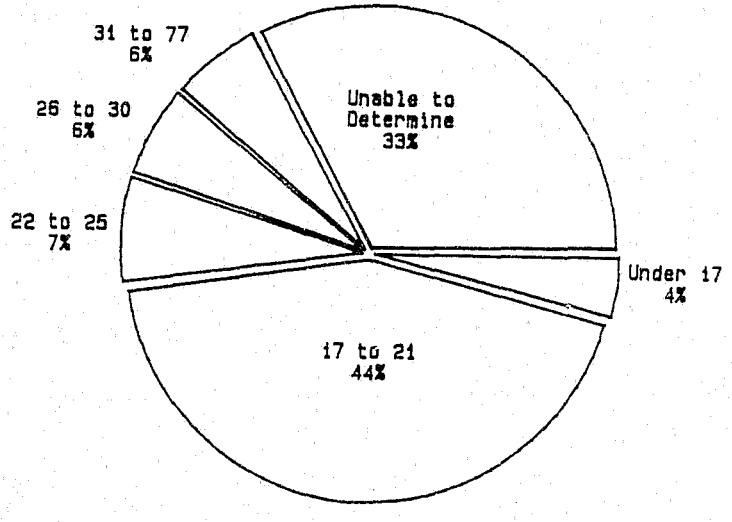
a) Sex



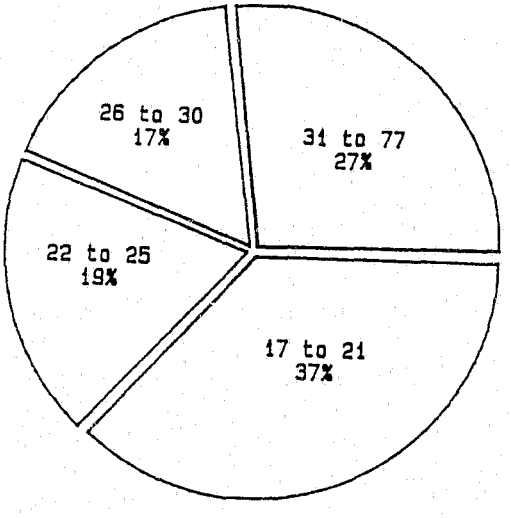
b) Race



c) Age at First Arrest



d) Age at Court Appearance



*Percentages may not add to 100% due to rounding.

Primary Felony Arrest Charge

Another key unit of analysis used throughout this section is the *primary felony arrest charge*. This is the most serious felony charge for which the person was arrested in the court case under investigation. While the term *incident arrest* is used in a generic sense to distinguish among several possible arrest events, the *primary felony arrest charge* is the specific designation of the most serious offense for which the defendant was arrested.

The convention used to determine the primary arrest charge when multiple, often related charges were filed by police and prosecutors was to select the charge that was the most serious according to Illinois criminal statutes. In instances where multiple charges were of equal statutory severity, the convention used was to choose the most inclusive. For example, if the defendant had been arrested for both manufacture with intent to deliver a controlled substance and possession of a controlled substance (both Class 4 felonies), the first charge was designated as primary arrest charge, since possession is often included in the manufacture-with-intent-to-deliver offense.

Primary Arrest Charge Type

The primary arrest charge for each defendant was categorized as follows:

> *Violent/personal:* This category includes all offenses that involve a threat, attempt, or actual infliction of physical violence. Included within this category are crimes involving property, but which are statutorily defined as forcible felonies, such as armed robbery and home invasion.[70]
>
> *Property*: This category includes all *nonviolent* crimes that involve theft, deception, or unlawful use or destruction of property.
>
> *Drug-related*: This category includes all offenses that involve the use, possession, manufacture, or sale of drugs and certain related materials. Specific offenses include possession of controlled substances, possession of a hypodermic needle, and so on.
>
> *Public order*: This category includes all other types of offenses that do not fall under the other categories. Specific offenses include escape, obstruction of justice, and certain "victimless" crimes such as gambling.

Table B shows the primary arrest charge types for the sample of 519 defendants. Forty-eight percent of the offenses were property offenses (48 percent), and 23 percent were violent offenses. Drug offenses accounted for about 18 percent of the total, and public order offenses made up the remainder.

Statutory Class of Primary Arrest Charge

One of the primary factors in bail decisions is the severity of the offense. While this can encompass many things, such as victim injury, amount of property loss, and so on, only limited information on circumstances of the offense is recorded in the court files. In our analyses, the severity of offense was gauged approximately by considering its statutory classification. The hierarchy of potential punitive disposition, as defined by Illinois statutes, was used to rank the offense types according to severity.

[70] Ill.Rev.Stat.1985, chap. 38, par. 2-8.

Table B: Primary Arrest Charges

	Number of Charges	Percent of Total Charges
Violent offenses		
Murder/attempted murder	12	
Rape	8	
Robbery/home invasion	51	
Aggravated assault	8	
Aggravated battery	31	
Simple assault and battery	9	
Total violent offenses	119	22.9%
Property offenses		
Burglary	108	
Theft	88	
Deceptive practices	32	
Other	16	
Total property offenses	244	47.0%
Drug offenses	94	18.1%
Public order offenses	48	9.2%
Bond jumping	9	1.7%
No arrest report found and/or direct indictment case	5	1.0%
TOTAL	519	100.0%

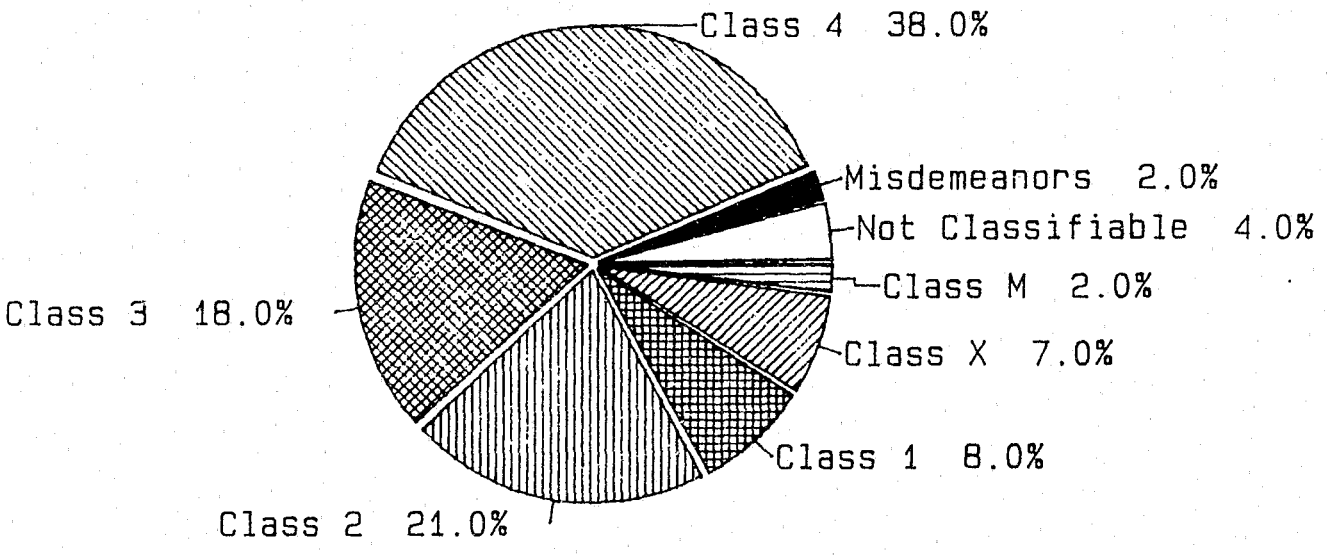
Illinois' criminal code defines six classes of felony offenses. These range from Class 4 (least serious) through Class 1, as well as Class X, which includes certain serious offenses that require a mandatory prison sentence upon conviction.[71] The sixth offense class, Class M, is murder.

Figure 2 presents the frequency of the primary arrest offenses by statutory class. The most frequent offense class was Class 4, the least serious felony type. Approximately 38 percent of the offenses were Class 4 felonies, followed by Class 2 (21 percent), Class 3 (18 percent), Class 1 (8 percent), Class X (7 percent), and Class M (2 percent). The statutory class of approximately 4 percent of all primary arrest offenses could not be determined, either for lack of an arrest record in the court file, or because the offense was bail jumping, for which

[71] Class X offenses include: attempted murder, aggravated criminal sexual assault, armed robbery, home invasion, certain violations of the Controlled Substances Act, and heinous battery (Ill.Rev.Stat.1985, chap. 38, par. 1005-1; chap. 56 1/2, par. 206.1).

the class is defined to be one less than the original charge (which was not known).[72] Further analysis revealed that a majority (53 percent) of the property offenses were concentrated in classes 3 and 4, while 61 percent of the violent crimes were Class 2 or greater. Thus, while property offenses were more frequent, they were generally of a less serious nature than the violent offenses. We also found that the drug offenses were all Class 4 felonies, which indicated that only small amounts of drugs were involved in the arrests, or that the results of lab tests on the type and quantity of the drugs were not available yet.

Figure 2: Primary Arrest Offenses (by Statutory Class)



Defendants' Previous Criminal History

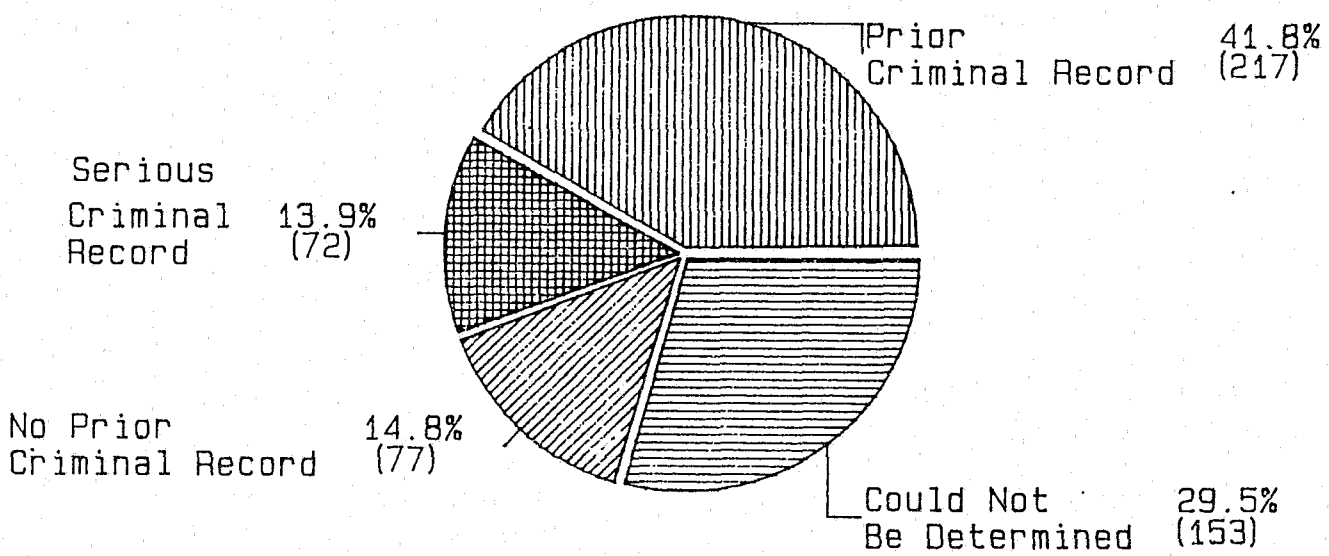
After the arrest charge, the defendant's prior criminal history is one of the most important pieces of information used in the bond decision. Chicago Police Department (CPD) rap sheets were the primary source of defendants' criminal history record information in this research. This source was chosen over the state rap sheets because, at the time this research was conducted, the Chicago records generally contained more dispositional information (at least for the Chicago arrests recorded). Since so few rap sheets were found in the court case files, it was necessary to obtain the rap sheets directly from the police department. While it would have been ideal to have had access to the actual rap sheets used by the judges in their bond decisions, it should be noted that *none* of the rap sheets generally found in the court files will be those produced by the prosecutor for bond hearings. Thus, in this type of *post hoc* research, the source and extent of criminal history presented

[72] Traffic violations were not considered in this research.

to the judge during the hearing cannot be known without actual transcripts of the event.[73]

When reviewing the following results, keep in mind that somewhat different findings may have been obtained had some other source of criminal history information been used. For example, CPD rap sheets might underestimate the total number of Illinois arrests experienced by the defendant, since only arrests made within the City of Chicago are required to be recorded. The only extra-jurisdictional arrests that would be routinely found on these rap sheets were any obtained from the FBI as part of CPD felony arrest processing. On the other hand, these findings may include ***more*** arrests for minor offenses than would have been counted had other rap sheet sources been used, since CPD rap sheets include Class C misdemeanors and municipal ordinance violations not required to be reported to the state CCH system.[74] Determination of whether defendants had a prior criminal record at the time of arrest was possible for approximately 70 percent of the sample.[75]

Figure 3: Criminal History Characteristics of the Sample



[73]For example, in most of the cases from the suburban districts, prosecutors probably had to rely on state CCH summary transcripts (LEADS). However, since these CCH summaries are cumulative records, it would have been impossible to exclude any arrests made **after** the termination of the court case under examination.

[74]For approximately 10 cases, the method used to assign a primary arrest charge determined that the arrest should be considered a misdemeanor offense. However, the actual case file indicated that the defendant was being charged with a felony, due to prior criminal history.

[75]Identification numbers were not found in 154 (30 percent) of the court files, so it was not possible to request rap sheets for these defendants.

Figure 3, which depicts the criminal history characteristics of the sample, shows that 289 (56 percent) defendants had an established criminal record that included at least one prior arrest. Another 77 defendants (15 percent) were verified as having no prior criminal record at the time of arrest. In addition, 72 defendants (14 percent) were identified as having a serious criminal record, defined as having served a previous prison term. This group of serious offenders is discussed in more detail below.

Of the 289 defendants with known criminal records, a substantial number had been arrested numerous times in the past.[76] While 64 (21 percent) had been arrested once before, and 55 (18 percent) had been arrested two or three times, 101 (34 percent) had been arrested four to 10 times, and another 50 (17 percent) had been arrested 11 to 20 times. The remaining 28 percent had been arrested more than 20 times, with three defendants arrested 40 times, and one defendant arrested 62 times. The median number of arrests per offender was five.

Although 23 percent of the arrests recorded on the rap sheets (for Chicago and outside the city) had missing dispositions, it was possible to determine that at least 202 defendants (75 percent of those with a prior arrest) had been convicted at least once, with 79 of those convicted of a violent crime. Figure 4 presents the number of convictions per defendant. Eighty seven (30 percent of those with a known rap sheet) had no conviction recorded on their rap sheet.[77] Twenty-five percent had one conviction recorded on their rap sheet, and almost as many (24 percent) had two or three convictions recorded. Even with some portion of dispositions missing, nearly 10 percent had more than six recorded convictions, with the highest being 23 recorded convictions. The median number of convictions per offender was 1.5.

At least 177 (88 percent of the 202 who were convicted) had a probation term recorded on their rap sheet, and 30 defendants had been sentenced to three or more probation terms. One defendant had been sentenced to seven separate probation terms over the course of his criminal career. Probation was by far the most frequent type of sentence experienced by those previously convicted.

Of the 202 defendants previously convicted, 80 (40 percent) had served a sentence in a county jail. While most had served only one jail sentence, one individual had served as many as 16 sentences, most lasting only a few days for misdemeanor offenses. In addition, 72 defendants previously convicted had served at least one prison sentence. This group is discussed in more detail below.

Prior History of Bond Forfeiture

An additional piece of information available from the rap sheets examined was whether the defendant had ever had a bond forfeiture warrant issued for nonappearance in court. While little other information on previous bond experiences (such as amounts set, whether the defendant actually was able to secure release, etc.) was recorded on the rap sheets examined here, a history of nonappearance in court and subsequent issuance of (and subsequent arrest on) a bond forfeiture warrant is an important factor in determining future bond types and conditions.[78]

---

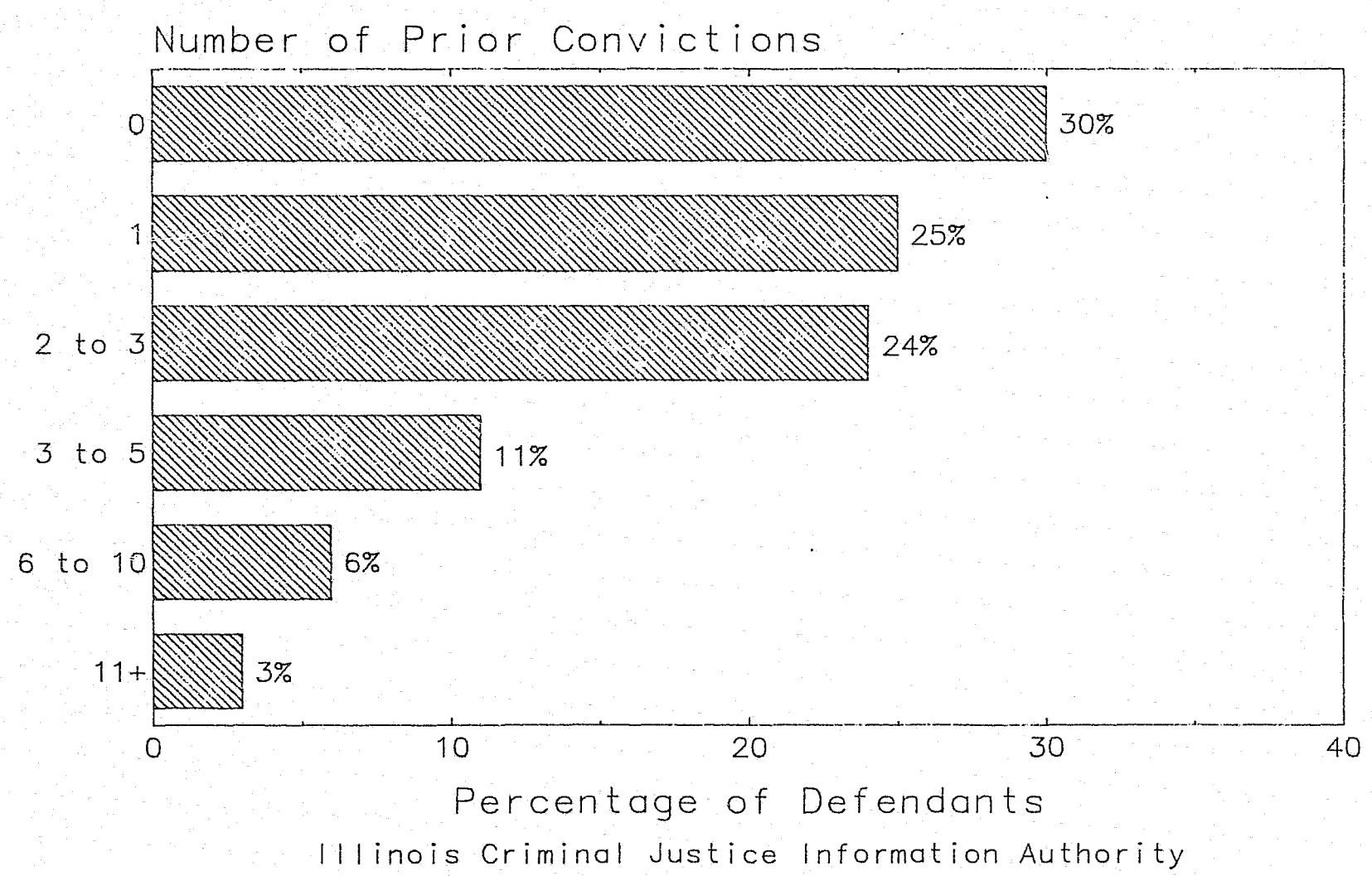
[76] Arrests for bond forfeiture warrants are not included here, but are discussed in more detail below.

[77] Because of the problem of missing dispositions, it could not be determined whether these defendants were never convicted, or whether the conviction was just not posted on the rap sheet. As discussed in Part II, missing dispositions occurred most often for arrests from jurisdictions outside of Chicago, as obtained from the FBI.

[78] The recording of bond information is optional on both the CPD and state CCH rap sheets, although the actual arrest on a warrant should be recorded.

Figure 4: Distribution of Prior Convictions

The majority of defendants for whom a criminal history record was available had at least one recorded conviction; 44% had multiple convictions recorded.



Of the 366 criminal history records examined in this study, we determined that 69 percent of the defendants did not have any bond forfeiture information posted on their rap sheet. Another 16 percent had one bond forfeiture warrant posted, while 11 percent had up to five such warrants on their records. Four defendants had more than 10 BFWs recorded on their rap sheet, with the highest being 19. The average number of bond forfeiture warrants was less than one (0.8), although it would appear that a small number of defendants chronically did not appear in court.

Serious, Repeat Offender Group

A growing concern in the criminal justice system is the fact that proportionally few criminals are responsible for much of the crime in our communities. Thus, in order for the criminal justice system to more effectively tackle the crime problem, these criminals who repeatedly commit serious crimes must be identified and dealt with effectively (Repeat Offender Project bulletins, 1986). In order to gain further insights into the response of the criminal justice system to this issue, the group of most serious, repeat offenders in this research was examined more closely.

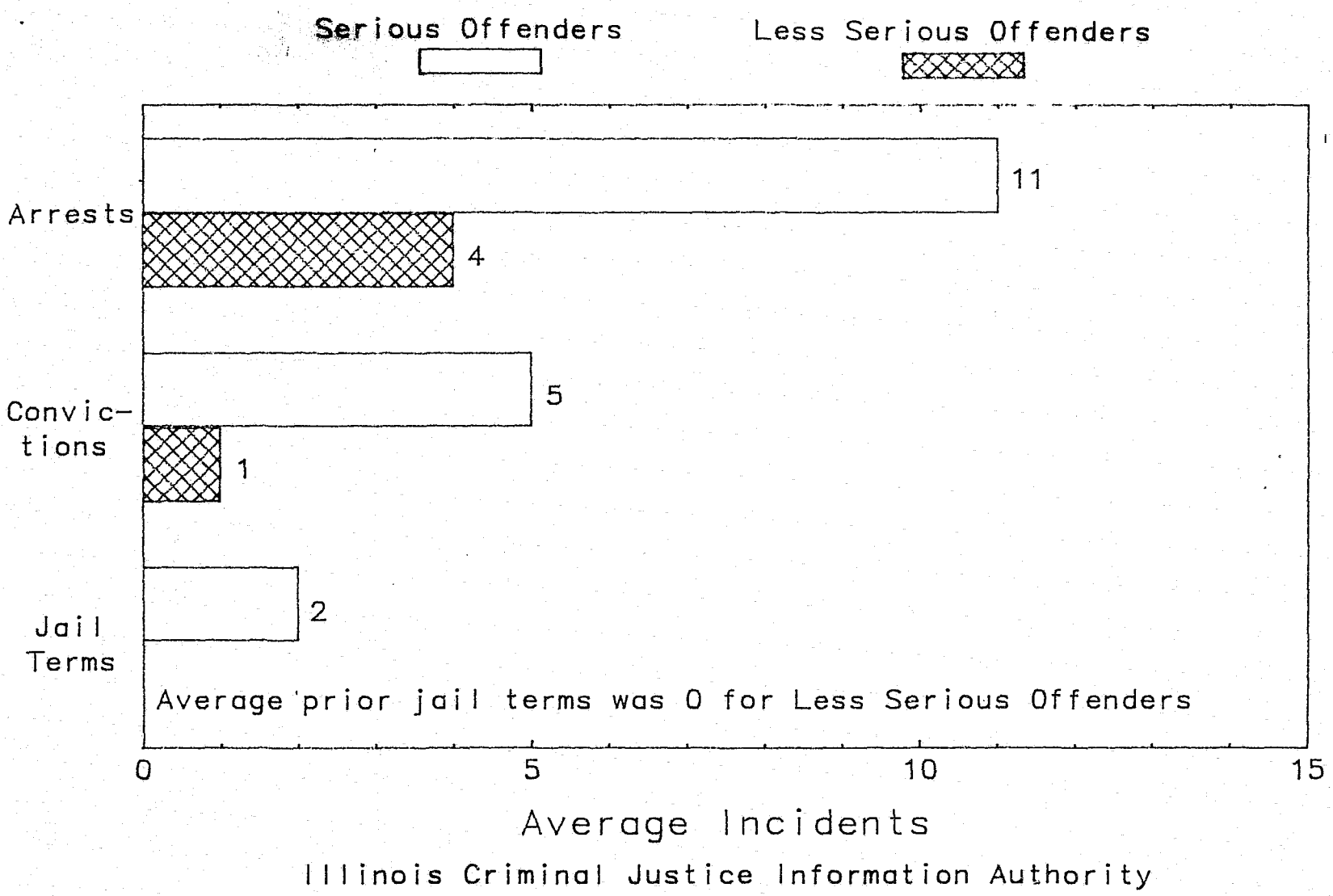
The sample of previously convicted defendants included 72 who had already served a prison term. This group of serious, repeat defendants (termed the SRO group in the rest of this report), constituted approximately 14 percent of the entire sample and were determined to be the most serious recidivistic offenders in the sample. By definition, these 72 offenders had already been convicted of at least one felony charge for which they had served a prison sentence, and were now back in the criminal justice system charged with another felony. Furthermore, this group of offenders was responsible for more than 60 percent of the previous convictions for violent offenses recorded for the entire research sample. Thus not only had the SRO defendants already served at least one prison term, they had disproportionately more violent prior criminal history experience than the rest of the sample. Taken together, these findings confirmed this group to be the one to which the criminal justice system should respond most seriously and effectively in the interest of public safety.

While more than half of the SRO group had served only one prison sentence, we found that another 20 percent of the group had served three or more terms. One defendant had already been incarcerated five times, including terms in an out-of-state prison and a federal institution.

Other criminal history characteristics of the SRO group were also compared to the rest of the sample, to determine if any real difference existed. The SRO group was found to be much older than the rest of the sample (average ages at the time of the incident arrest of 31 and 24, respectively). This might be expected, given that the SRO group had already spent time in prison. Also consistent with research by Hirschi (1983), the defendants in the SRO group had started their adult criminal careers at an earlier age than the rest of the sample (average ages at first arrest of 18 and 22, respectively). Considering prior arrests, convictions, and incarcerations, the SRO group had more, on average, than the rest of the sample (see Figure 5).

Figure 5: Serious vs. Less Serious Offenders: Comparison of Prior Criminal History Variables

Serious offenders averaged 11 prior arrests and five prior convictions.



Primary Arrest Charges of SRO Group

Analysis was conducted on the SRO group to determine if there were any differences in the types of offenses for which this group was arrested, as compared to the rest of the sample. Table C presents the breakdown of primary arrest offenses of the SRO group.

The ratio of violent to property primary arrest offenses group was markedly different than for the rest of the sample. Thirty-five percent of the serious offenders were arrested for a violent crime, compared to 23 percent of the entire sample Further analysis of offense severity revealed that 82 percent of the serious offenders were arrested for a Class 2 or greater offense, with 19 percent of the SRO group accounting for 29 percent of all Class X offenses in the research sample. Thus not only could the SRO group be considered the most serious based on their prior criminal history, but they continued to be involved in more serious types of criminal activity than the majority of defendants in this research sample.

Table C: Primary Arrest Charges: Serious, Repeat Offender Group

	Number of Charges	Percent of Total Charges
Violent offenses		
Murder/attempted murder	3	
Rape	3	
Robbery/home invasion	14	
Aggravated battery	4	
Resisting arrest	1	
Total violent offenses	25	34.7%
Property offenses		
Burglary	19	
Theft	9	
Deceptive practices	1	
Total property offenses	29	40.3%
Drug offenses	7	9.7%
Public order offenses	8	11.1%
Bond jumping	4	5.6%
TOTAL SERIOUS OFFENDERS	73	100.0%

Bond History of SRO Group

An analysis of the bond forfeiture history of the SRO group was also conducted, to determine if it differed from the rest of the sample. The findings presented in Figure 6 show that the SRO group consistently had more prior bond forfeiture warrants than the rest of the sample. For example, while approximately 30 percent of the remaining sample had at least one bond forfeiture warrant on their rap sheets, 52 percent of the SRO group had at least one such warrant recorded. In addition, all defendants with 10 or more previous bond forfeiture warrants belonged to the SRO group.

While most research on defendant failure-to-appear (FTA) behavior has focused on the association between nonappearance and the length of a given trial (Galvin, 1977; Thomas, 1976), a possible explanation for the difference in prior bond forfeiture warrants between the SRO group and remaining sample is that the serious group, as a whole, had more opportunity to miss court appearances, having been arrested more times than the average for the entire sample.

To test this explanation, defendants with five or more arrests in both groups were compared. The analysis revealed that only the SRO defendants had 10 or more BFWs recorded on their rap sheets, while more of the nonserious defendants had five or fewer BFWs. These differences were marginally significant statistically ($p < .07$), indicating that the high number of BFWs recorded for the serious offenders was not solely due to the fact they they had been arrested more often (and thus had more total court appearances) than the remainder of the sample. However, whether these missed court appearances were due to systemic factors that more often affect the SRO defendants (for example, where they were scheduled to appear for one case while in custody for another), or due to intentional defendant behavior, is not ascertainable from information recorded on criminal history records. However, a record of many BFWs would certainly have an impact on any subsequent bond decisions made, since the judge would likely presume that some, if not all, bond forfeitures were intentional.

Analysis of Bond Decisions

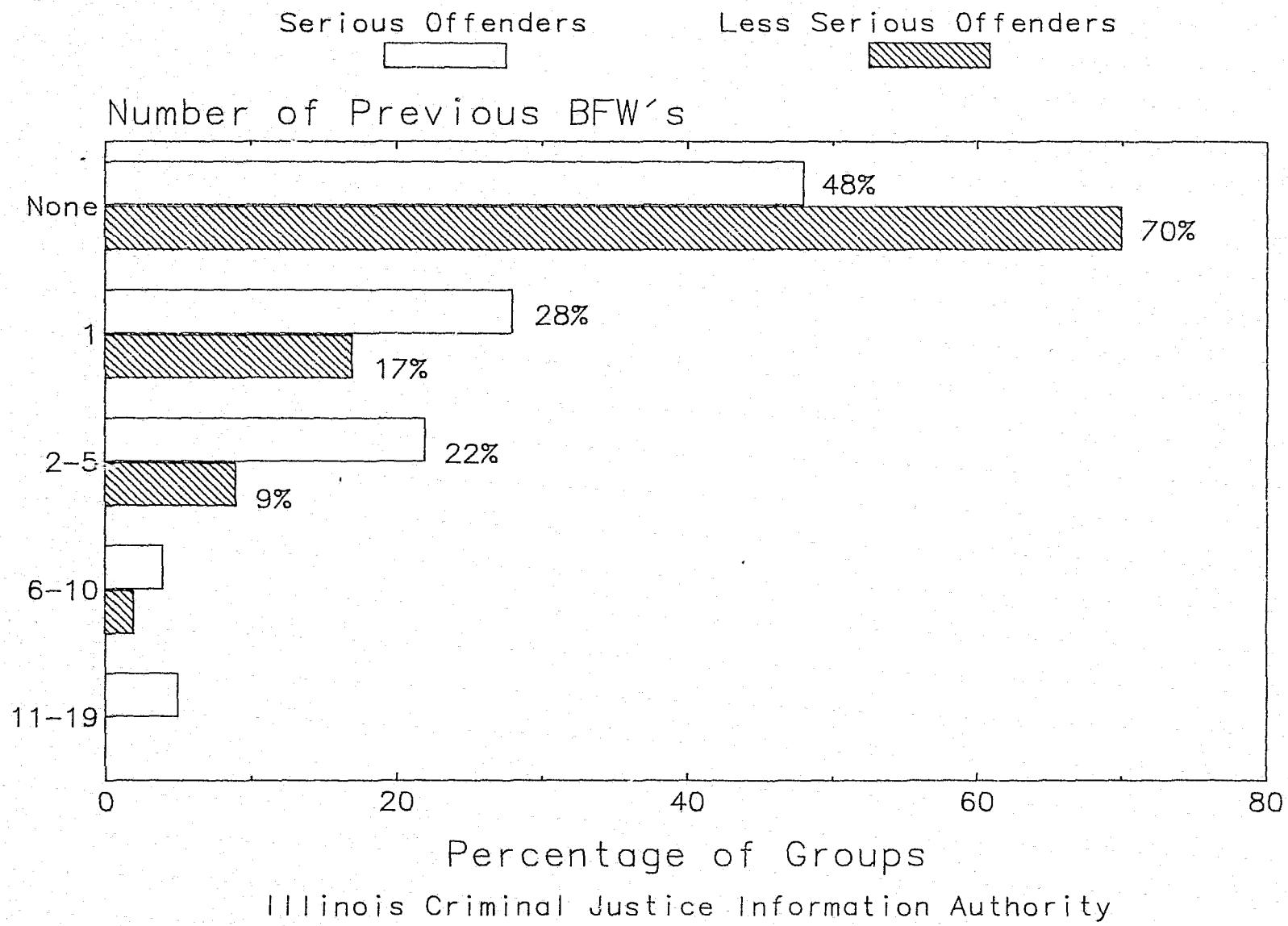
Bond Types

Information on the first bond decision (bond type and amount) was available in the court files for all but 48 (9 percent) of the 519 cases in this research sample. The types of bond set in these cases were as follows:

> *"D" Bonds (Detainer Bonds).* This was by far the most frequent bond type, applied in nearly 82 percent of the cases. "D" bonds require that the defendant post 10 percent of the total cash amount set by the judge, on the condition that the defendant appear in court on the date set.
>
> *"I" Bonds (Release on recognizance).* This type of bond applied in 6 percent of the cases examined, allows for the defendant to be released on his own recognizance, without having to deposit funds. However, a monetary amount for which the defendant would be liable, should he fail to appear in court, is set by the judge.

Figure 6: Previous Bond Forfeiture Warrants

More than half of the serious offenders had a history of one or more bond forfeiture warrants.



Bond Denied. There were five cases (1 percent) in which the initial bond decision was denial of bond. Three of these defendants were denied bond because they were charged with murder, and the other two defendants were being held on violation of parole detainers.[79]

Comparison of Bond Amounts

By comparing the bond types and amounts across other variables, a clearer picture emerges of how bond decisions are made. This research examined bond decisions at the aggregate level -- that is, the bond decisions for a sample of defendants as a whole, rather than decisions of a sample of decision-makers (judges). Furthermore, because the number of cases within each bond type is so small, the analysis examines bond decisions at the descriptive level, often focusing on examples of individual cases, rather than using more sophisticated, multivariate techniques that seek to *explain* which factors were more important in the bond decision. These descriptive analyses can serve as a foundation for more sophisticated research, by illustrating *how* bond decisions are made.

For the sake of comparability, the analyses discussed here are based only on the *first* bond decision and the *primary* arrest charge. While these generalized analyses provide valuable information about the sample as a whole, it is important to remember that numerous other factors, such as other concurrent charges or cases, the number of counts per charge, as well as the defendant's characteristics, might also affect the actual bond decision. When reviewing the results, it should also be kept in mind that defendants are required to post only 10 percent of the total cash bond set to secure release. Thus when comparing bond amounts, the difference between a bond set at $10,000 and $5,000 actually translates into a difference between $1,000 and $500 from the perspective of the defendant wishing to secure release (or that of the prosecutors or public who might prefer detention).

Bond Amounts Across Statutory Types

The median amounts of bail set on detainer (cash) bonds were compared across five statutory felony classifications (Class X and classes 1 through 4), in order to determine whether, as would be expected, bond amounts increased consistently with the severity of the offense.[80] Figure 7 presents the median bail amounts for each offense class.

As indicated in the figure, the expected relationship between offense severity (as determined by statutory class) and bond amount was, for the most part, true:

- The median bond set for Class X offenses was $25,100 and ranged from a high of $240,000 to a low of $1,000. The bond amount most often set was $25,000, established in 18 percent of the Class X cases where a cash bond was set.

- The median bond set for Class 1 offenses was $10,000 and ranged of $105,000 to a low of $1,000. The most frequent bail amount set was $5,000 (accounting for 17 percent of the Class 1 cases).

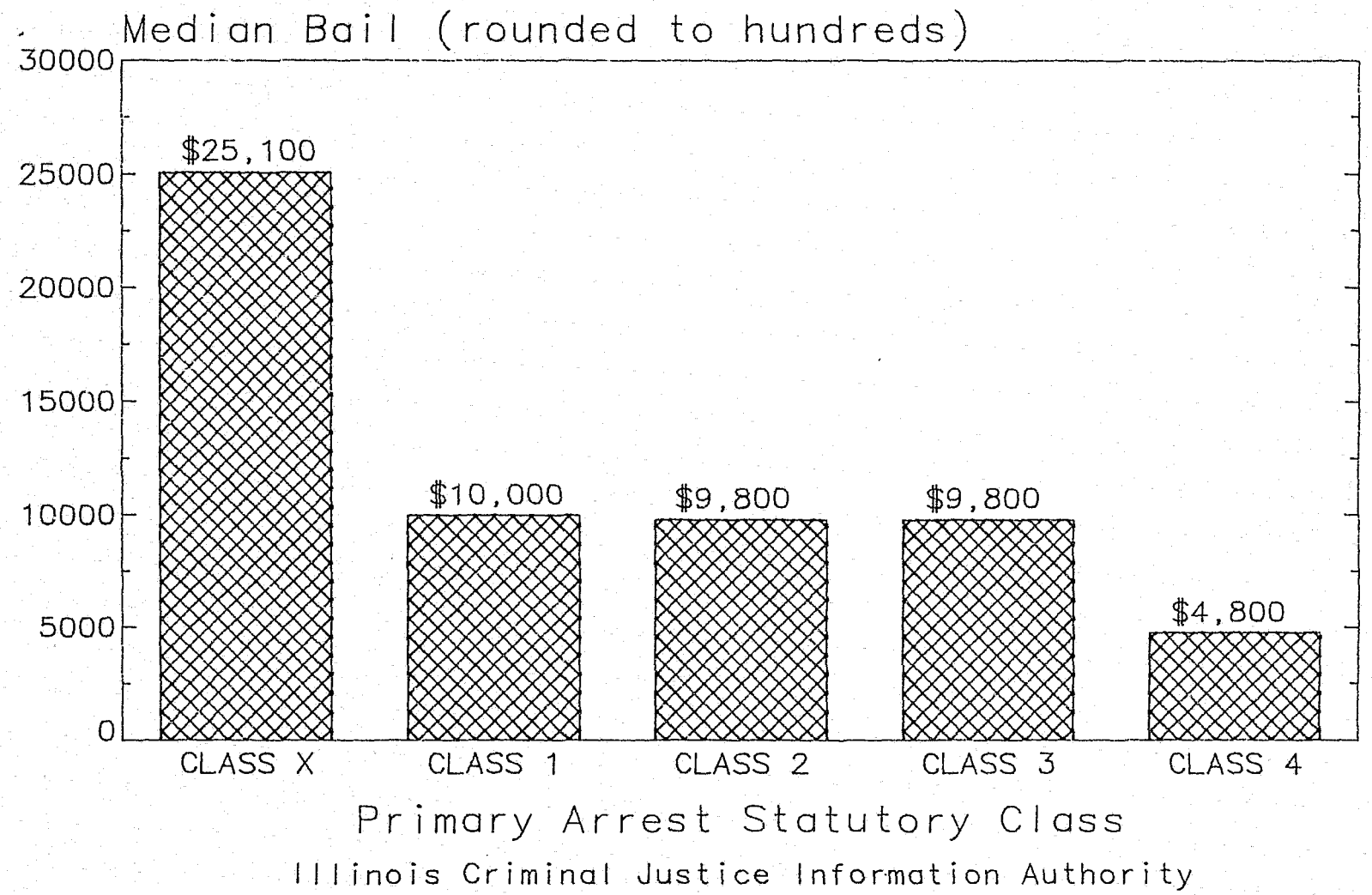
---

[79] It is interesting to note that six other defendants charged with murder were **not** denied bail, but were given the opportunity to post cash bonds ranging from $15,000 to $100,000. This would suggest that the evidence against those defendants did not indicate a great presumption of their guilt at this stage of the adjudication process.

[80] Class M (murder) cases were excluded from these analyses, since the number of these cases where an actual bond amount was set was too small for meaningful comparison.

Figure 7: Median Bail Amount (by Statutory Class)

Bail amounts generally increase with the seriousness of the offense.



- The median bond set for Class 2 offenses was $9,800 and ranged from a high of $100,000 to a low of $1,000, while the most frequent bail amount set was $5,000 (accounting for 21 percent of the Class 2 cases).

- The median bond set for Class 3 offenses was $9,800 as well, although the amounts ranged from a high of $250,000 to a low of $1,000. The bail amount set most often was $5,000 (accounting for 21 percent of the Class 3 cases).

- The median bond set for Class 4 offenses was $4,800 and ranged from a high of $100,000 to a low of $500. The most frequent bail amount set was also $5,000 (accounting for 20 percent of the cases).

The comparison of bail amounts across statutory class revealed no real distinction in bond amounts for the middle range of felony classes (classes 1 through 3), which would suggest that statutory class (except for the extremes) is not considered to be a particularly distinguishing characteristic in the bond decision. It is important to note that the bond decisions examined here were made by 146 different judges over the period of an entire year. In light of this fact, the consistency across decision-makers is even more striking.

Further analyses were conducted to determine why Class 3 offenses ranged higher than the more serious Class 1 or Class 2 offenses. The results indicated that the "extreme" bond amounts were set for violent primary arrest offenses. In fact, the sample included a greater proportion of Class 3 *violent* offenses (41 percent), as compared to Class 2 (22 percent), or Class 1 felonies (9 percent). This finding suggests that the presence or absence of violence is a more salient factor in a judge's bond decision than is the consideration of the possible sentence that may be imposed in the case (the legal significance of statutory class). The analysis also revealed that Class 3 defendants with bond amounts set at $100,000 or greater were evenly distributed between SRO defendants (with serious prior criminal histories) and non-SRO defendants, although *all* of the defendants had at least one previous conviction for a violent offense. This finding may imply that the judges were considering these prior convictions as possible predictors of further violence by the defendant if released before trial (assuming that prior criminal history information was available at the bond hearing).

Bond Amounts Across Offense Types

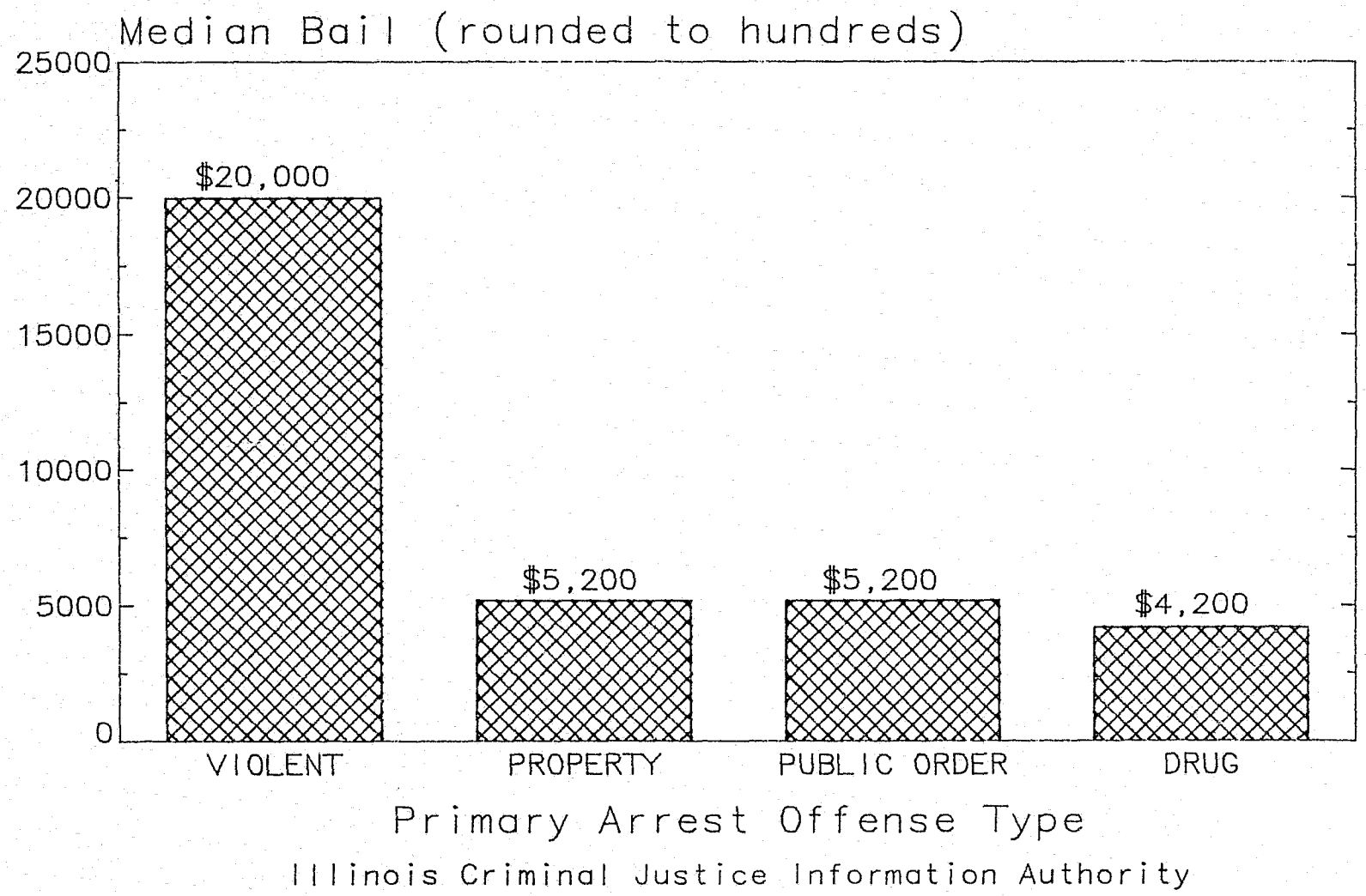
The median bail amounts set on detainer bonds were compared across the four offense types defined in this research (violent, property, drugs, and public order). Figure 8 depicts the median bail amounts set for these various offense types.

Violent offenses generally had the highest bail amounts set. The median amount set was approximately $20,000, and ranged from a low of $1,000 to a high of $250,000. The most frequent bail amount set for violent offenders was $25,000 (14 percent of the cases), with $10,000 set almost as frequently (in 13 percent of the cases). Further analysis revealed that that 40 percent of the defendants assigned $25,000 bonds were charged with Class X offenses, while close to 60 percent of those assigned $10,000 bonds were charged with Class 3 or Class 4 violent offenses. In addition, more defendants with the $25,000 bond had previous convictions for violent offenses than those with the lower bond amount (six defendants and two defendants, respectively).

The median bond amounts set for property offenses and public order offenses were much lower, at $5,200. Bail amounts for property offenses ranged from $500 to $50,000, while those for public order offenses ranged from $1,000 to $50,000. The most frequent bail amount set for both offense categories was $5,000, occurring in nearly one quarter of the cases in each category.

Figure 8: Median Bail Amount (by Offense Type)

Defendants charged with violent offenses receive the highest bail amount.



Drug offenses represented the lowest median bail amount, $4,200, with a range from $1,000 to $100,000. Again, the most frequent bail amount set was $5,000, occurring in approximately 21 percent of the cases. It should be noted that all drug offenses in this sample were classified as Class 4 felonies (least serious), so low bonds would be expected. The defendant with the highest bond amount ($100,000) had two prior bond forfeiture warrants, suggesting that the judge had been concerned about the defendant not appearing at future court hearings if a lower bond more in line with the rest of Class 4 offenses was set.

"I" Bonds

Distinct from the cash bond cases were the 29 cases in which defendants were released on their own recognizance and not required to post a cash deposit guaranteeing their subsequent appearance in court. These defendants were deemed by the judge to be good risks for keeping future court dates and not presenting a danger to the community while awaiting trial.

Although defendants granted "I" bonds are not required to post a cash deposit, a monetary amount is, nonetheless, set on the bond. The bond amounts for these 29 "I" bonds ranged from $1,000 to $75,000. Technically, defendants are liable for that amount should they not appear in court. It is interesting to note that, consistent with detainer (cash) bonds set in the least serious cases, the most common "I" bond amount was $5,000.

While the total number of "I" bond cases was very small, further analyses were conducted in order to determine if these cases were in any way different from those in which detainer bonds had been set.

An analysis of the statutory class of these 29 cases revealed that no "I" bonds were granted in Class X cases, although eight defendants charged with Class 1 or Class 2 offenses were released on their own recognizance (4 percent of all defendants charged with offenses in these classes). "I" bonds were granted most often in Class 3 or Class 4 offenses (approximately 9 percent of these two least serious classes overall).

Defendants whose primary arrest charge was a property offense were more likely to receive "I" bonds (9 percent of all property offense cases) than were those defendants charged with violent offenses (3 percent), drug offenses (4 percent), or other miscellaneous offenses (3 percent). Interestingly, the highest monetary "I" bond amounts (from $20,000 to $75,000) were set on serious property crimes (residential burglary, for example), probably because the defendants in those cases were 17-year-old first offenders. In making these bond decisions, the judges obviously were reluctant to detain those defendants before trial but set high monetary amounts on the "I" bonds to remind the defendants that their cases were quite serious (conviction of residential burglary carries a mandatory prison sentence in Illinois).[81]

Twenty-one percent of the defendants who received "I" bonds did not have a previous criminal history. However, one defendant charged with fraud had been arrested seven times previously and had served a probation sentence. Twenty-one percent of those granted "I" bonds were 17 years old, while another 14 percent were over the age of 30. Analyses comparing those defendants granted "I" bonds who had no previous criminal record with those who also had no previous criminal record but had been assigned detainer bonds failed to reveal any significant difference between the two groups.

From the analyses it appears that the granting of "I" bonds for felony charges was a fairly rare event in Cook County Circuit Court at the time these cases were processed in 1982-83. Furthermore, based on the data collected on defendants' demographic characteristics, prior

[81] Ill.Rev.Stat.1985, chap. 38, par. 1005-5-3 (2G).

criminal history, and type of primary arrest charge, there was no statistically significant difference between the group granted "I" bonds and those who were not, even among those defendants who had no prior criminal history. It should be remembered, however, that these analyses were based on very few defendants, so it cannot be concluded that "I" bonds were granted in a capricious manner. For the cases in this sample, some other factors not measured in this study, such as strength of evidence in the case or defendants' social ties, probably were more important in the decision to grant "I" bonds. The court observations discussed in Part I suggested that individual judges have a variety of motives for granting "I" bonds, ranging from sparing financial hardship to "testing" defendants' reliability to considering the need for medical treatment not available in jail. Thus little consistency in assigning "I" bonds would be expected under these circumstances.

Bond Decisions for SRO Group

To further explore how bond decisions were made in Cook County Circuit Court, the bond types and amounts set in the 72 serious, repeat offender cases were examined. This group of offenders in general had more extensive criminal backgrounds and were charged with more serious offenses than were the rest of the sample. Thus an examination of bond decisions in these cases provides insight into how such serious, repeat offenders are dealt with by the criminal justice system in Cook County.

The results of this analysis are presented in Figure 9, which depicts the median bond amounts set by statutory class, for the SRO group compared to the rest of the sample. While the number of SRO defendants in each statutory class group is very small, the findings are striking. For all classes, the median first bond imposed was much higher for the serious offenders than for the rest of the sample. The two SRO defendants charged with Class X offenses that had the highest bond amounts ($250,000) had records of prior bond forfeiture warrants as well.

Figure 10 presents the median bond amounts set by offense type, for the SRO group compared to the rest of the sample. The higher bond amounts consistently assigned to SRO defendants cannot be explained merely by the severity of the primary arrest charge, as the figure demonstrates. Not only are SRO defendants charged with violent offenses assigned higher bonds, but the SRO group, as a whole, had higher median bonds for *every* offense type, compared to the rest of the sample. For every offense type other than drugs, the median bond amount for the SRO group was more than *twice* as high as for the rest of the sample.

The fact that all SRO defendants were assigned detainer bonds, with 14 percent of these bonds set at $50,000 or higher, is further evidence that SRO defendants receive more severe bonds. Seventy-one percent of the SRO group were assigned bonds of $10,000 or more. Of those SRO defendants granted bonds of less than $10,000 (15 percent), all but two were charged with the least serious felonies (Class 4).

From these findings it is evident that the serious, repeat offenders were dealt with more severely at the first bond hearing than the rest of this sample charged with offenses of equal statutory severity. Thus it would appear that the judges making these bond decisions were aware that these defendants were more serious offenders. This implies that the judges were aware of the defendants' more serious criminal background and also that this was an important factor in the bond decision. This assumption is supported further by the finding that the average bond set for the SRO defendants charged with violent offenses was more than twice as high as that for less serious defendants also charged with a violent offense ($25,000 vs. $10,000, respectively). Thus some factor other than the nature of the incident offense had caused judges to set consistently higher bonds for the serious defendants.

Figure 9: Serious vs. Less Serious Offenders: Median Bond Amounts (by Statutory Class)

Serious defendants were assigned much higher bonds than were less serious defendants for all statutory classes.

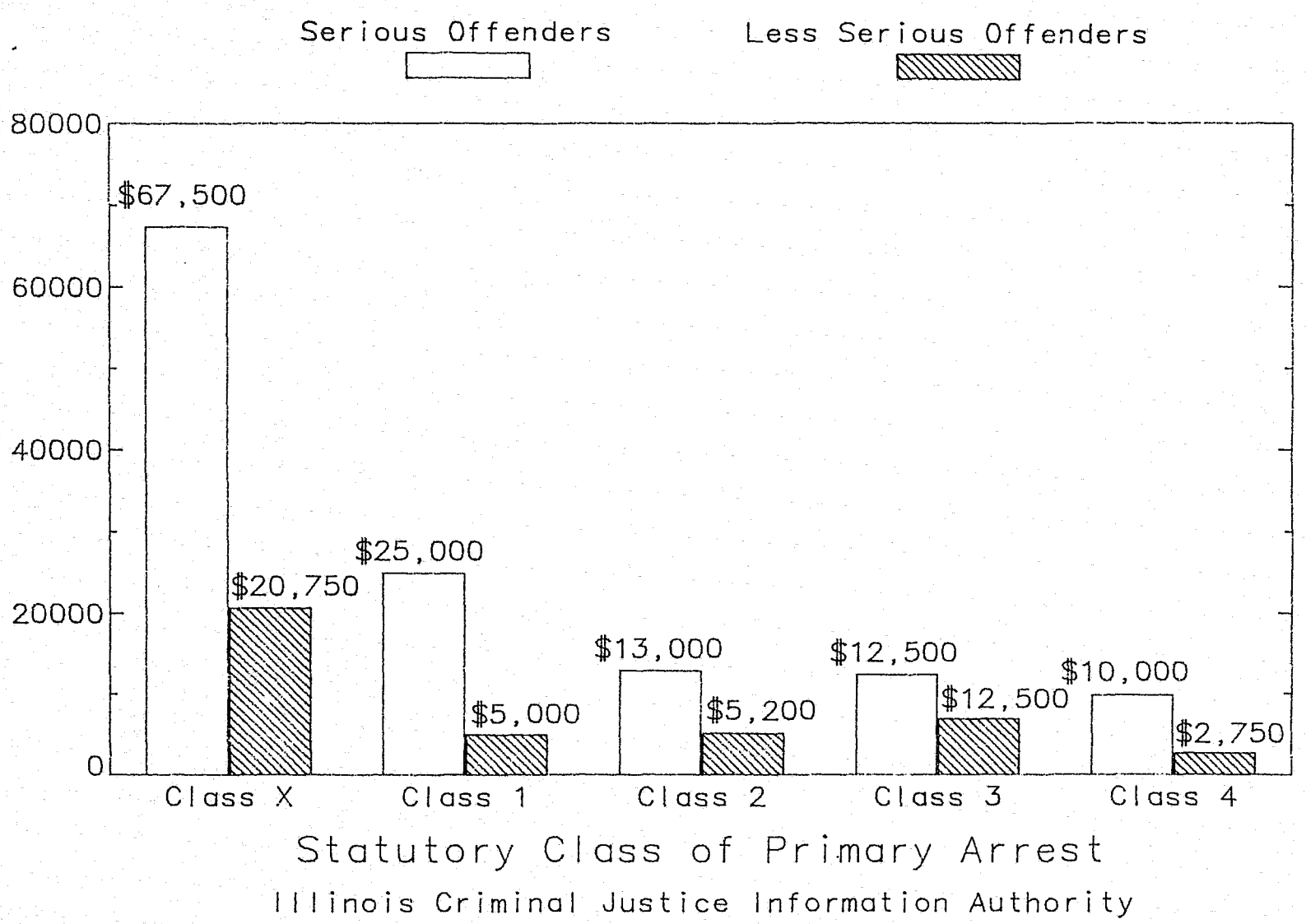
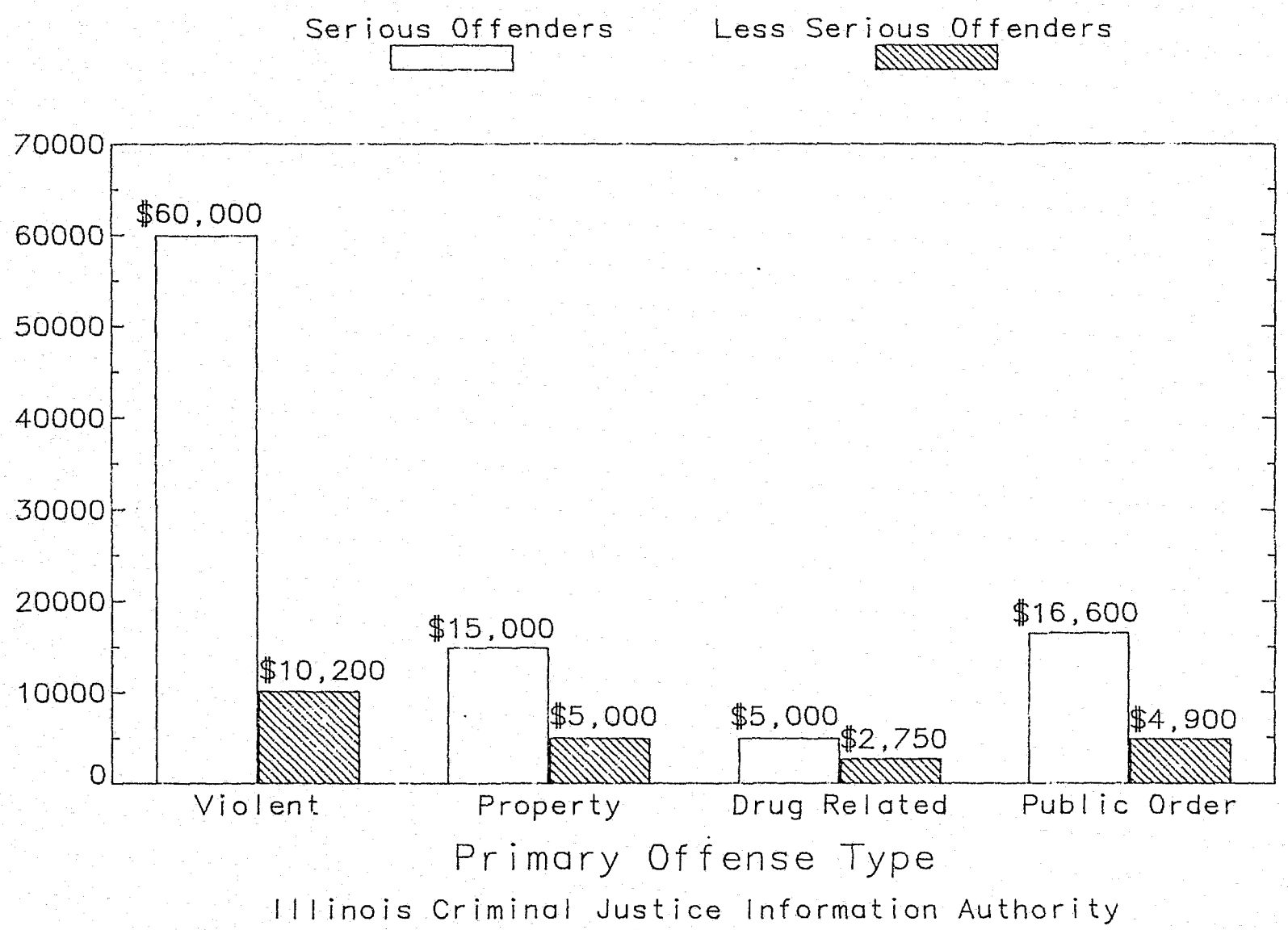


Figure 10: Serious vs. Less Serious Offenders: Median Bond Amounts (by Offense Type)

Serious defendants were assigned much higher bonds than were less serious defendants for all offense types.



Summary

Our analyses of bond amounts by various offense types, offense severity and defendant groups revealed several interesting findings. Consistent with expectations, bond amounts generally rose as offense severity and extent of prior criminal history increased. However, at the bond decision level, statutory class (except the extremes) did not appear to cause much differentiation in the bond amounts imposed. Instead, the findings suggested that the judges tended to rely more heavily on the distinction between violent and other offenses. This is particularly evident in the fact that bond amounts for lower statutory classes with a high representation of violent offenses (Class 3 in this sample) were often much higher than bond amounts for other types of offenses with a higher statutory class.

A second interesting finding was the consistency with which the most serious, repeat offenders, as a whole, were treated in bond considerations. This group tended to have higher bonds imposed, regardless of statutory class or offense type, compared to the rest of the sample. These findings imply that the judges were aware of their more serious prior criminal history and furthermore, that this knowledge was perhaps more important than the characteristics of the incident arrest event.

A third noteworthy finding was the remarkable *consistency* of bond decisions across judges. The bond decisions analyzed here were made by 146 different judges, in six geographically dispersed districts, across almost two entire years. The very fact that *any* patterns could be discerned in the data aggregated over so many decision-makers means that judges in Cook County are generally considering the same factors to be important in their decisions and, furthermore, are usually receiving sufficient information to be able to distinguish the most serious repeat defendants who come before them.

Pretrial Release

In a bond system dominated by cash deposits as the means to secure pretrial release, as is the case in Cook County, the ability to secure pretrial release depends not only on the judge's assessment of the likelihood of the defendant's future appearance in court, but also on the defendant's financial resources.[82] Thus unless the defendant's ability to pay is the primary consideration in making the bond decision, in most cases the judge's decision will not be the only factor that determines the number of defendants held in pretrial custody. As the U.S. Department of Justice's Bureau of Justice Statistics (1985) has pointed out, it is up to the *defendants* to determine the "costs" they are willing to pay to secure release (for example, some defendants find incarceration so onerous that they even are willing to plead guilty in order to be released sooner, while jail conditions may be better than the home environment for other defendants, who might actually avoid pretrial release).

While the purpose of this research was not to ascertain whether any defendants were being held in pretrial custody unnecessarily, we found it important to examine the *patterns* of pretrial release in Cook County. The county jail has been chronically crowded, with various measures (including special release programs and new construction) applied to alleviate the problem. These measures have all been guided by certain assumptions about the dynamics of the pretrial release process. It would be informative to define those dynamics empirically, to provide a baseline against which to evaluate future changes in the bail system.

---

[82] Currently in Illinois, judges may also consider the fact that defendants charged with certain crimes may pose a threat to the community if released before trial and may deny bond outright. However, these data were collected before such changes went into effect.

Release Status After Initial Bond

In all but 52 cases (10 percent) included in this sample, it was possible to ascertain whether or not defendants secured their release.[83] The various types of release status after the first bond decision are presented in Table D. As the table shows, 260 defendants (50 percent) were able to secure release. This group includes all of the 29 defendants who were granted "I" bonds and released on their own recognizance. Thus approximately 47 percent of those assigned detainer bonds were able to post the required bond deposit. The other 207 defendants (40 percent) were held in custody following the bond hearing, including the five defendants held without bail on murder and parole violation charges.

An analysis of the amount of bond that these defendants were unable to post revealed that 20 percent were being held for want of $100 to $500 (10 percent of the actual bond amount), and another 18 percent were unable to post $600 to $1,000. On the other hand, 26 percent of the defendants who were still in custody after the first bond hearing had "high" bonds set and would have had to have posted between $3,000 and $30,000 to secure their release.

Table D: Release Status After First Bond Decision

	Number of Defendants	Percent
Defendant out on bond*	260	50.1%
Defendant in custody**	207	39.9%
Defendant at large	22	4.2%
Indeterminable release status	30	5.8%
TOTAL	519	100.0%

*Includes 29 defendants released on their own recognizance
**Includes 5 defendants denied bond

Release Status of Serious, Repeat Offenders

Only 10 percent of the SRO group were able to secure release following the first bond hearing, in comparison to 46 percent of the rest of the sample who had been assigned detainer bonds. None of the serious defendants were granted an "I" bond. Of those who were released, all but two had been charged with a Class 4 offense (the least serious). That the vast majority of serious defendants were in custody after their initial bond hearing is still more evidence that they were being treated more severely than less serious offenders.

[83] Twenty-two defendants were technically "at large" after their initial bond hearing.

Length of Pretrial Detention

For approximately 85 percent of the sample, information in the court files made it possible to determine the total time spent in custody before the case's disposition. approximately 85 percent of the sample. Table E presents the distribution of the time spent in custody for the sample as a whole.

As the table demonstrates, 14 percent of all defendants spent less than 24 hours in custody; that is, they were arrested, had a bond set, and secured release in less than 24 hours. Included in this group are the 29 (6 percent) defendants who were granted "I" bonds. Another 17 percent of the defendants were released within one day of their arrest, and an additional 12 percent secured release within one week. At the other extreme, almost 11 percent of the defendants remained in custody for three to six months, and another 7 percent remained in custody for as long as a year. The most extreme case, a 22-year-old male, was held in the county jail for 491 days while on trial for robbery and aggravated battery.

Table E: Time Spent in Pretrial Detention

Number of Days	Number of Defendants	Percent	Cumulative Percent
Less than 24 hours	74	14.3%	14.3%
1	90	17.3%	31.6%
2-7	65	12.5%	44.1%
8-14	14	2.7%	46.8%
15-30	39	7.5%	54.3%
31-60	37	7.1%	61.4%
61-90	29	5.6%	67.0%
91-180	55	10.6%	77.6%
181-365	37	7.1%	84.7%
366 and over	3	0.6%	85.3%
Unable to determine	76	14.7%	100.0%
TOTAL	519	100.0%	

Application of Survival Analysis Methodology

To more clearly examine the rates at which the total sample of defendants secured release from custody, survival analysis was applied. This methodology, which permits the analysis of release rates over time, is discussed in greater detail in Appendix C.

A series of analyses were conducted to determine the *pace* at which defendants secured release, using both daily and weekly intervals. It is important to point out that the "exit" analyses were performed on the entire sample of defendants, such that release from custody

may have been the result of posting bond *or* final disposition of the court case (conviction or acquittal). This was necessary because the sample sizes for other subgroups of defendants (only those who posted bond, etc.) were too small for meaningful analysis using the survival methodology. It is also important to note that the defendants defined as having spent "no time" in custody were those who were arrested and posted bond within 24 hours. The data in the court files did not allow determination of how long, if at all, these defendants might have been held in police lockup prior to the setting of bond.

Pace of Release From Custody

The series of "exit curve" graphs presented in the following sections plots the rate of release from pretrial detention for all 460 defendants assigned cash bonds whose release status could be ascertained. The weekly plot is based on a 50-week period following each defendant's initial entrance into custody. This period was long enough to accommodate all but the most extreme periods of detention (which involved three defendants). The daily plots are based on the initial 14-day period following entrance into custody. This interval was the most critical period for securing release, and thus merited a closer examination.

It should be noted, however, that the daily plots occupy an extremely narrow span of time on the corresponding weekly graph, which results in a greatly diminished representation of the exit curve. This is only due to the contraction of the interval length.

Overall Exit Curve For Defendants

Figure 11a is a plot of the cumulative proportion of defendants remaining in custody at the end of each week, up to 50 weeks following entrance into custody.

The graph indicates that approximately 86 percent of the sample spent at least one day in custody. The steep curve during the first week indicates that this is a critical period for gaining release from pretrial custody. There was an actual exit rate of 44 percent during the first week. As the graph clearly demonstrates, the rate at which defendants exited from custody continually decreased over time until, at the end of 50 weeks, only three defendants (0.6 percent) remained in custody.

The corresponding daily graph (Figure 11b) plots each day of the first two weeks to more closely examine the critical exit period. The highest exit rate occurred during the first three days. While 83 percent of the defendants were detained at least one day, only 63 percent remained longer than two days, and 56 percent remained longer than three days. After this point, the rate of exit decreases much more gradually, with about 44 percent of the defendants remaining in custody after 14 days.

Exit Curves Across Subgroups of Defendants

It was also possible to examine the exit rates from pretrial custody for various subgroups of defendants, as defined by the statutory class of their primary arrest offense and by the offense type. As with the overall analysis just discussed, the entire sample was used for these analyses. It is recognized that there is no simple relationship between time spent in custody and the type of primary arrest offense, and that some of the factors that affect the total case disposition time probably do not hold equally across different types of offenses. For example, serious offenses are more likely to lead to lengthy trials, and drug cases may be dismissed early due to lack of timely lab reports. Thus the following analyses are offered for exploratory, descriptive purposes, from which future research can benefit.

Figure 11a: Pretrial Release Exit Curves for the Sample

The first week following an initial bond hearing is the critical period for gaining pretrial release.

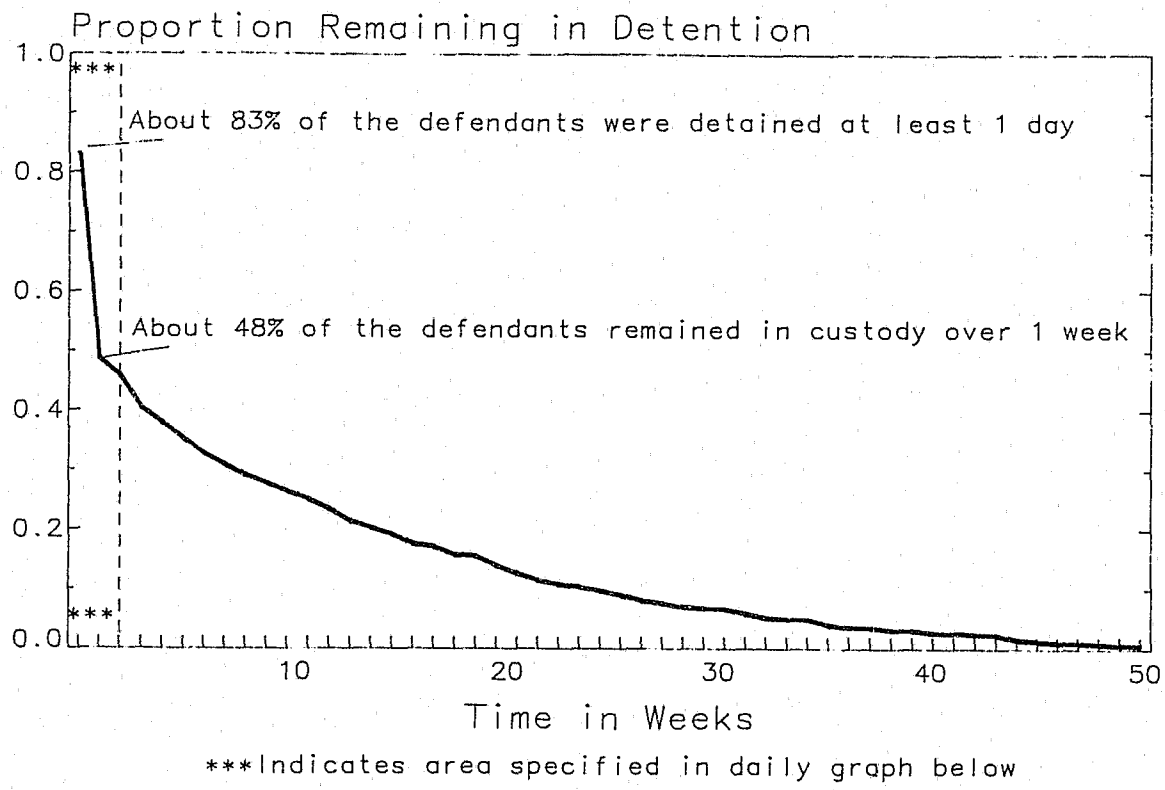


Figure 11b: Daily Plot of Pretrial Release Following Initial Bond Hearing

The highest exit rate occurs during the first three days after pretrial release.

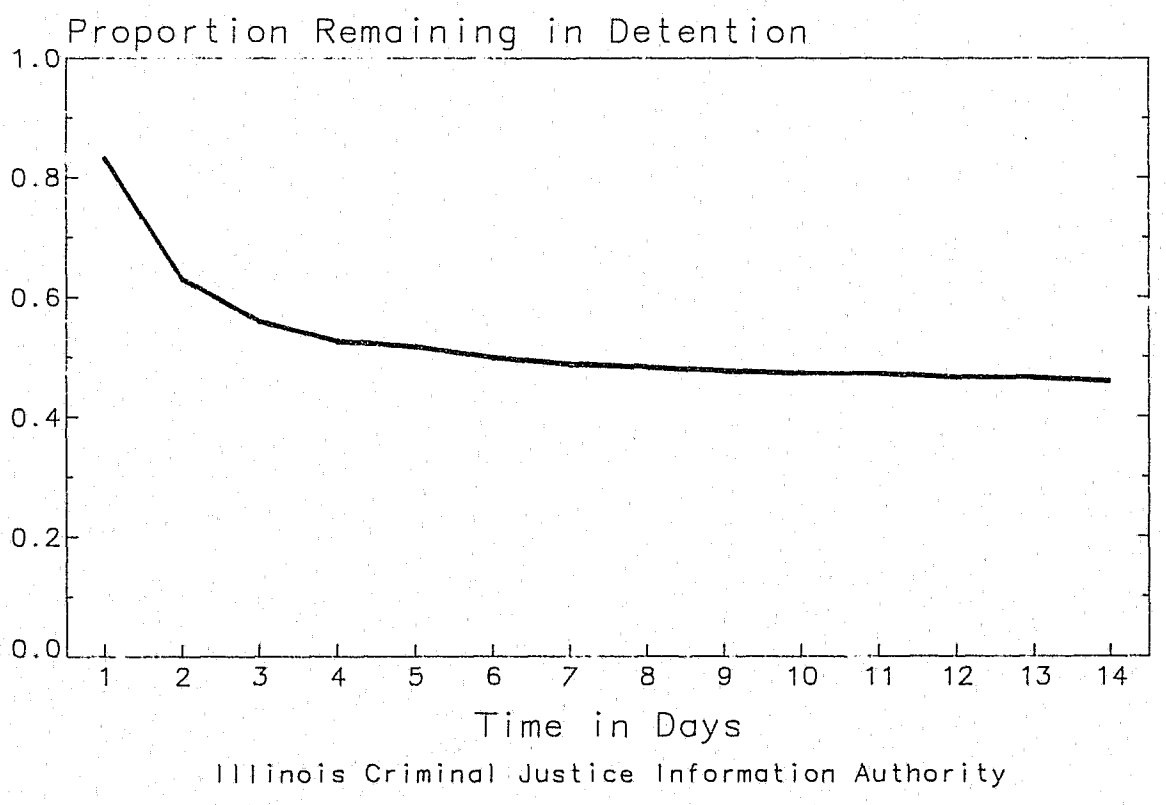
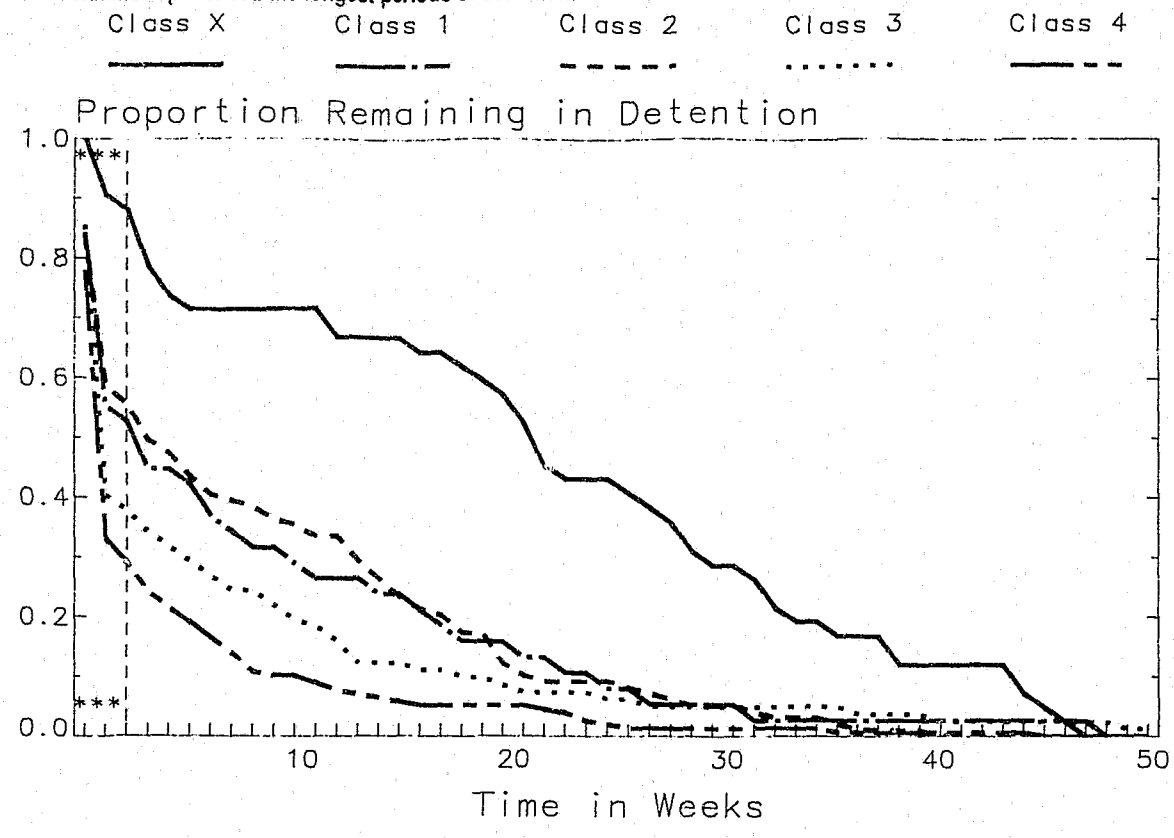


Figure 12a: Exit Curves From Pretrial Detention (by Statutory Class of Primary Arrest Charge)

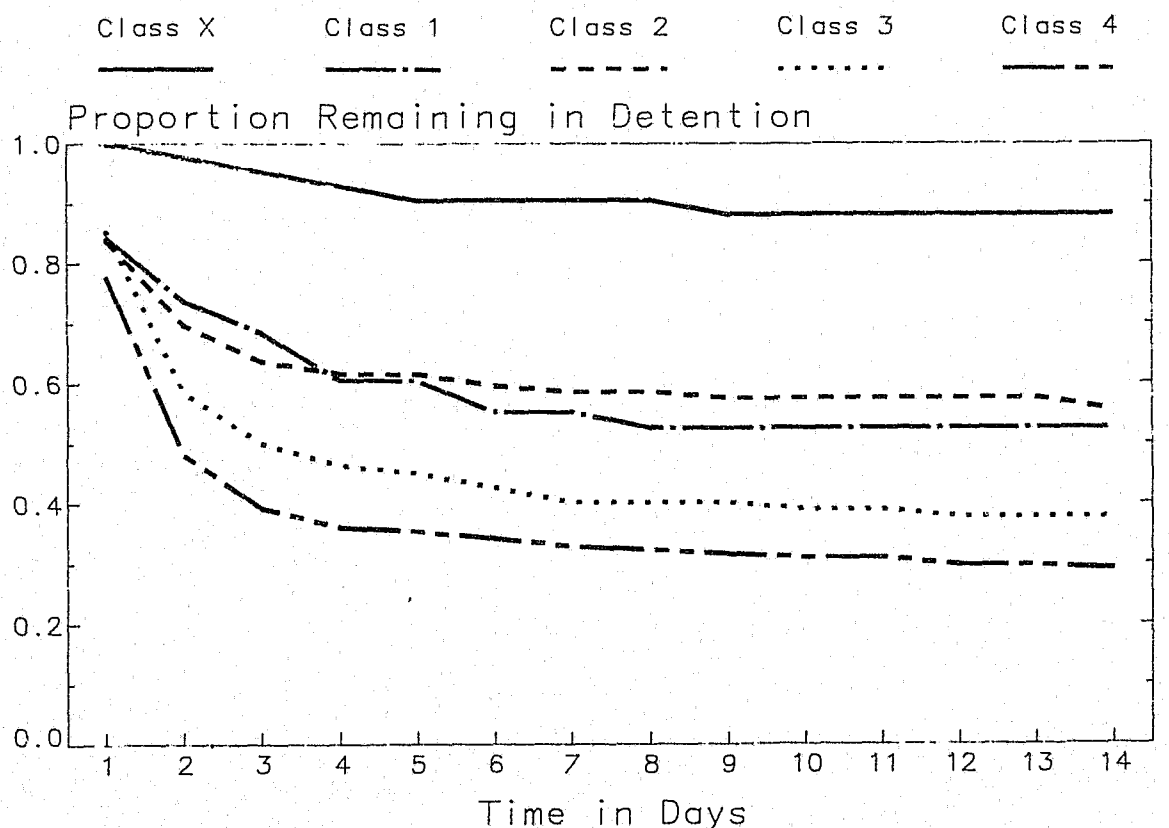
Class X defendants experienced the longest periods of detention.



***Indicates area specified in daily graph below

Figure 12b: Daily Plot of Pretrial Release (by Statutory Class)

90% of Class X defendants remained in custody the first two weeks following the initial bond hearing.



Illinois Criminal Justice Information Authority

Exit Curves Defined by Statutory Class of Primary Arrest Charge

Figures 12a (weekly) and 12b (daily) present comparisons of the pretrial exit rates for five subgroups of defendants, defined by the statutory class of the primary arrest charge (Class X and classes 1 through 4).

Based on the previous discussion of the bond types and amounts set for offenses of varying statutory severity, it would be expected that lower bonds set for less serious offenses would generally allow for increased exit rates in those cases, compared to the most serious cases. In general, this relationship was shown to be true.

Table F presents the proportion of defendants who remained in custody after 14 days, and at final disposition, by statutory class. There is clearly a relationship between statutory severity and the proportion of defendants who remained in custody during the course of the entire court case.

Table F: Percentage of Defendants Remaining in Custody (by Statutory Class)

Statutory Class	Percent Remaining After 14 Days	Percent Remaining at Final Disposition
Class X	90%	81%
Class 1	56%	50%
Class 2	53%	48%
Class 3	38%	34%
Class 4	29%	20%
SAMPLE OVERALL	46%	34%

The exit curve graphs portray the differences in the proportion of defendants charged with each class who secured release at the end of each weekly (and daily) interval. As can be seen from both the weekly and daily graphs, Class X defendants (the most serious) experienced longer periods of detention. Their exit rate did not drop precipitously after the first three days. In fact, 90 percent of the Class X defendants remained in custody after the first 14 days, and approximately 81 percent remained in custody until final disposition of their case. The "critical" period for Class X offenders appeared to be within the first five weeks, which corresponds to the average time it would take a case to be disposed of at the preliminary hearing stage. This suggests that very few Class X offenders actually posted the relatively high bonds set in their cases.

Although Class 1 and Class 2 subgroups are not clearly distinguishable in terms of their exit curves, both groups exhibit a slower rate of exit than either Class 3 or Class 4 offenders. Furthermore, these latter two groups demonstrate separate, identifiable patterns. Specifically, the Class 4 group exited more rapidly than than Class 3, and the proportion of Class 4 defendants who remained in custody over the first 14 days was consistently lower than that

of any other class. Based on the daily graph, it is clear that the critical period for release identified in the overall sample was accounted for primarily by Class 3 and Class 4 defendants, who exited at a rapid pace within the first two days following entrance into custody.

In summary, the rate at which defendants exited pretrial detention varied with statutory class, and in the expected manner. That is, the more serious the class of offense, the less rapid the pace of exit from detention, and the higher the proportion who remain in custody at the end of the court case.

Exit Curves Defined By Primary Arrest Offense Type

Another type of subgroup comparison conducted was the pace at which defendants charged with the various offense types (violent, property, drugs, other) exited pretrial detention. Figures 13a (weekly) and 13b (daily) present the exit curves for each group of defendants defined by offense type. Table G also shows the proportion of defendants still in custody after 14 days, and at final disposition.

As previously discussed, there were clear differences in the types and amounts of bond set for these different offense type groups, such that discernible patterns of release from custody would also be expected. The graphs depict these expected relationships.

Table G: Percentage of Defendants Remaining in Custody (by Offense Type)

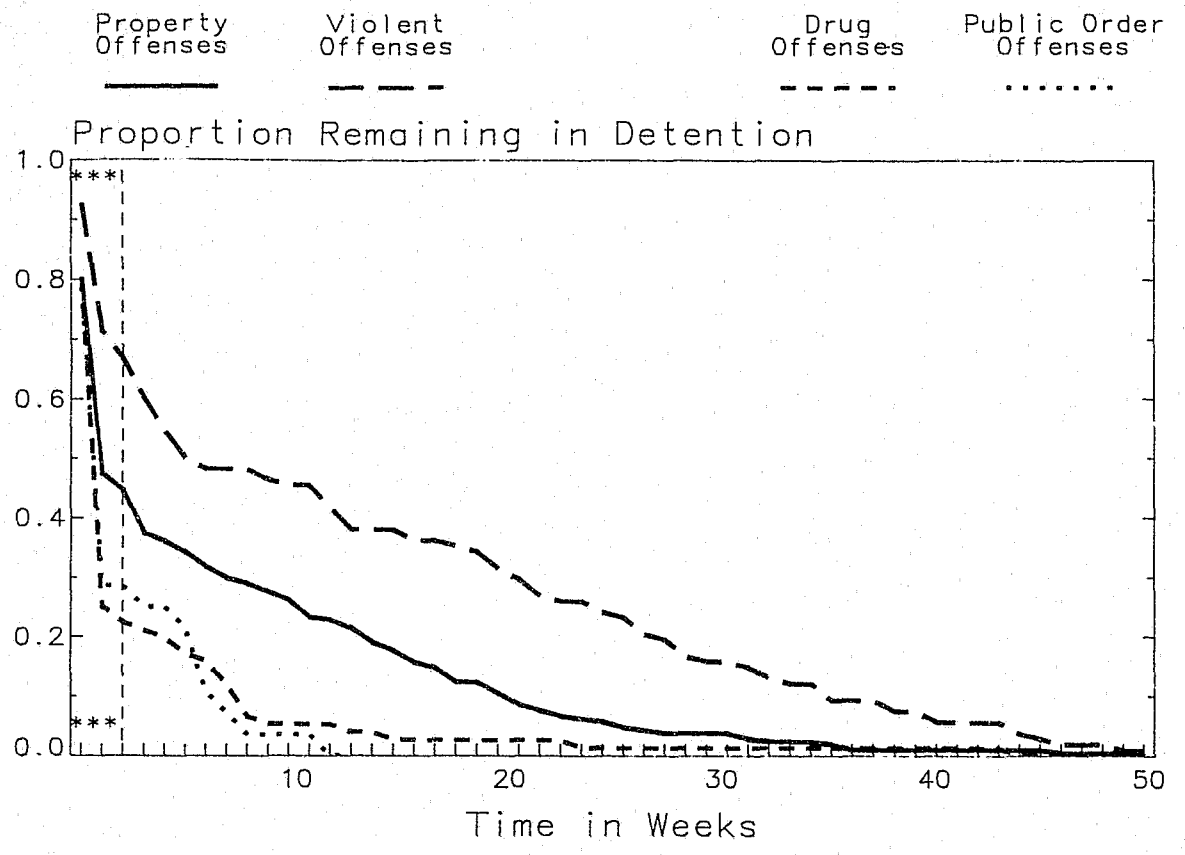
Offense Type	Percent Remaining After 14 Days	Percent Remaining at Final Disposition
Violent offenses	78%	60%
Property offenses	45%	39%
Drug offenses	22%	15%
Public order offenses	29%	14%
SAMPLE OVERALL	46%	34%

For example, it was determined that violent offenders had higher bonds set than the other offense types. As can be readily seen from the graphs, defendants charged with violent crimes exited pretrial detention at the slowest rate and did not show as precipitous an early exit pace (on the daily graph) as the other offense types. Furthermore, while 93 percent were detained at least one day, 78 percent remained after two weeks, and 60 percent remained in custody until final disposition of the court case.

Property offenders, the most frequent type of offenders in this sample (and in the criminal justice system as a whole), exhibited a more rapid exit pace than violent offenders, as well as a more clearly defined "critical" period of release. While 80 percent of the property offenders were detained at least one day, only 48 percent remained in custody more than one week. After this critical period, the pace of release slowed considerably, with 39 percent remaining in custody until the final disposition of the court case.

Figure 13a: Exit Curves From Pretrial Release (by Primary Arrest Offense Type)

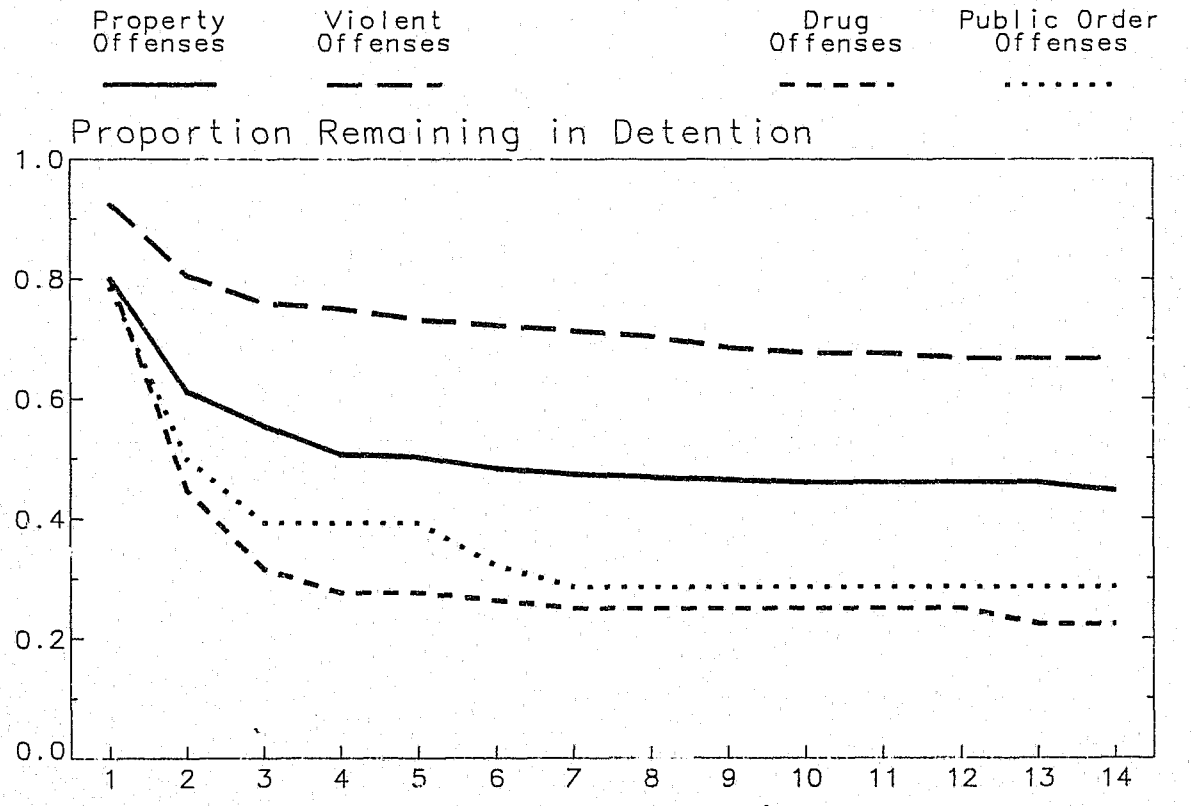
Violent defendants exited pretrial release at a slower rate than those charged with other types of offenses.



***Indicates area specified in daily graph below

Figure 13b: Daily Plot of Pretrial Release (by Primary Arrest Offense Type)

Less than half of all property offenders remained in custody for more than two weeks following the initial bond hearing.



The patterns for the drug offenders and public order offenders reflect the small number of cases as well as certain characteristics unique to these types of offenses. For example, the precipitous drop in drug cases within the first few days (80 percent spent at least one day in custody, while only 25 percent remained after one week) reflects the fact that 48 percent were dismissed early in the judicial process, at the preliminary hearing stage. In fact, this rate of early disposition for drug cases is nearly twice that of all the other offense types, where the average was 27 percent in each category disposed of at the municipal division level (preliminary hearing). All of these drug cases were the least serious felony class (Class 4), indicating that only small amounts of drugs were involved or that lab test results had not been received to upgrade the charges. In addition, offenders in these two groups were assigned lower bond amounts (particularly in the drug cases) than either violent of property offenders. At the final disposition of the case, only 15 percent of the drug offenders and 14 percent of the other (public order) offenders remained in custody.

Exit Rates for the SRO Group

The exit rates for the serious, repeat offender group were also compared against those for the rest of the sample. The results are presented in Figure 14. As previously mentioned, these SRO defendants had been assigned higher bonds, on average, than the rest of the sample. Thus, as expected, the exit rates for this group are much less than for the rest of the sample, with 72 percent of the group remaining in custody during their entire court case.

Summary

The applications of survival analysis conducted in this research represent new approaches to the description of pretrial data. By depicting the *pace* at which defendants secured release at the end of specified time periods (here, weeks and days), certain "critical" periods of release could be identified for the sample of felony defendants overall, as well as for various groups of defendants characterized by offense type or severity.

The general patterns of release of various subgroups of defendants revealed information that was "masked" in more conventional analyses. For example, clearly pronounced differences in the proportion of Class X or violent offenders, as compared to less serious offenders, would not have been as evident had the exit curves not been calculated. These differences clearly show that the criminal justice system in Cook County is responding more severely to defendants charged with serious offenses and is responding in a selective manner that indicates these serious offenders are being identified early in the criminal justice process.

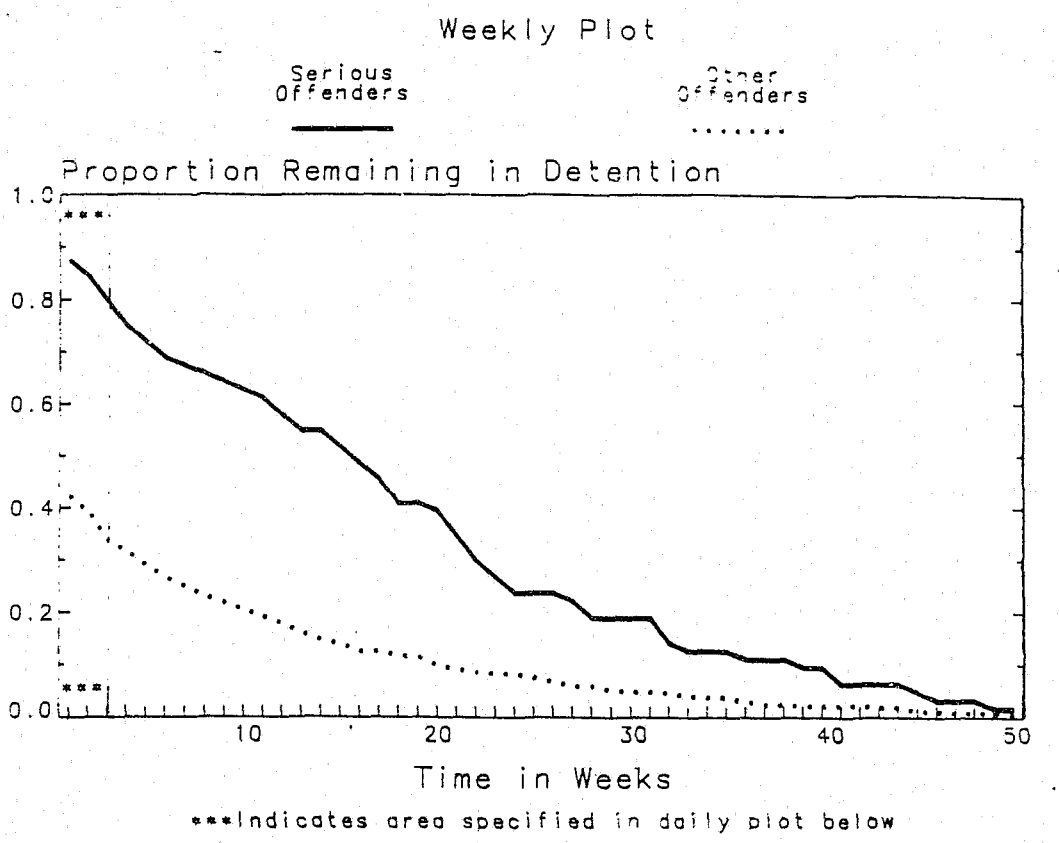
Misconduct While Out on Bond

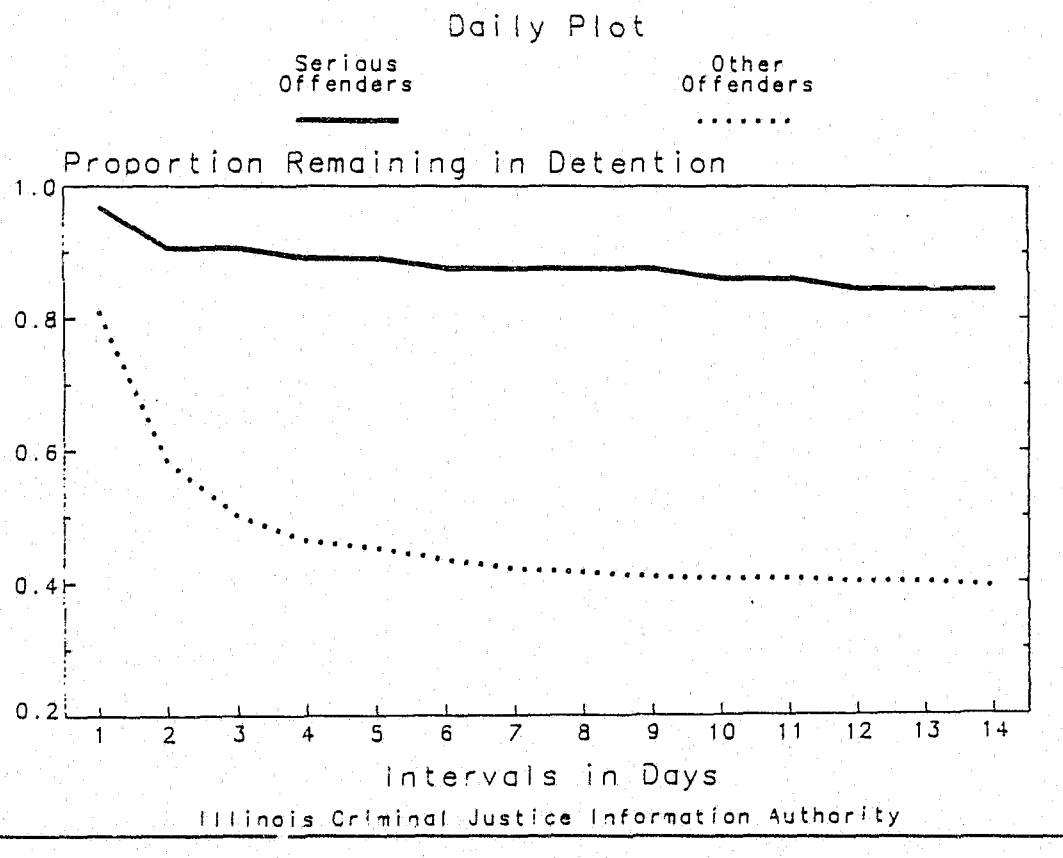
Failure to Appear in Court

The primary purpose of bail is to ensure that the defendant will appear in court. In being released from custody before trial, defendants must provide some guarantee (by posting cash or pledging their word) that they will comply with all conditions set on their release, including, generally, not leaving the state without court permission and not violating any criminal statute of the jurisdiction.[84] The number of defendants who subsequently fail to appear in court and furthermore, the number of defendants arrested for other crimes during the pretrial period, are considered to be key indicators of the quality of bond decisions and pretrial procedures in the jurisdiction (Kirby, 1979).

[84] Ill.Rev.Stat.1985, chap. 38, par. 110-10 (1-14).

Figure 14: Exit Curves for Serious, Repeat Offenders





Problems in the definition of failure to appear (FTA) have long been recognized in the pretrial field (Mahoney, 1975). However, three clearly distinct types of FTA behavior can be identified:[85]

> *Aggregate FTA rate:* This term refers to all defendants who fail to make any of their court appearances, for any reason.
>
> *Technical FTA rate:* This term refers to those cases where the defendant missed a court date because of some non-deliberate reason, such as not knowing the court date, being ill, going to the wrong courtroom, and so on. Research has shown that this group constitutes the largest group of FTA defendants, and that certain system-related interventions (such as reminder notifications, pretrial supervision, etc.) can substantially reduce this type of FTA.
>
> *Deliberate FTA rate:* This term refers to those defendants who consciously miss their court date. The extreme subset under this category is the *fugitive* category, or those who are intentionally absent from court long enough to have a bond forfeiture warrant issued for their arrest, and/or actually forfeit their bond deposit.

From these definitions, it is clear that *the reason* for defendants' failure to appear for court proceedings should be considered when using the incidence of FTA as a measure of adequate pretrial procedures (including bond decisions). Technical FTA, while costly to the judicial system in terms of delayed court cases, does not necessarily indicate that those defendants were actually "bad risks" for release on bail.

Unfortunately, it is not always possible to ascertain the cause of nonappearance from official court records or other documents, such as rap sheets.[86] In this research, FTA behavior could only be examined along a continuum of severity, from those cases where no appearances were missed to those that were stricken off the court call because the defendant never appeared in court. It could not be determined whether those defendants who occasionally missed court dates (that is, those in the middle of this continuum) did so deliberately or not.[87]

FTA Rates for the Sample

From the information in the court files, it was possible to determine the number of defendants who missed any court appearance and, furthermore, the number who deliberately never showed up in court. Table H presents the distribution of missed court appearances, excluding the 170 defendants (33 percent) who were in custody until final disposition (and who were transported to each court appearance from the county jail by sheriff's police).

As the table shows, 276 defendants (79 percent of those released on bond) did not miss any scheduled court date, for a defendant-based FTA rate of 21 percent (73/349). However, 27 of the 73 defendants who missed at least one court date (37 percent) returned to court

---

[85] Source: Kirby, 1979.

[86] There was some evidence from examining the Chicago Police Department rap sheets used in this research that bond forfeiture warrants were posted only after the defendant had been absent from court long enough to forfeit his bond (30 days from the first missed appearance). Therefore very few, if any, technical FTAs would be recorded on criminal history records.

[87] At the time the cases in this research were processed through Cook County Circuit Court (1982-83), there was no pretrial screening agency in operation. Without such an agency to closely monitor (and record) defendants' pretrial behavior, the incidence of technical FTA could not be precisely known.

within 30 days, and thus they did not have a judgment entered against their bond deposit.[88] If these 27 defendants are assumed to be technical FTAs, then the overall FTA rate for those defendants who deliberately failed to appear could be as low as 13 percent (46 out of 349). This rate for deliberate FTA defendants is substantially lower than the overall aggregate rate of 21 percent, illustrating the importance of precise definitions of FTA behavior.

Table H: Failure-to-Appear Behavior

	Number of Defendants	Percent
All court appearances made	276	79.1%
One court date missed*	27	7.7%
Bond forfeited once**	39	11.2%
Bond forfeited more than once***	7	2.0%
TOTAL	349	100.0%

*Excludes 170 defendants not released from pretrial custody
**Involved at least two missed court appearances per defendant
***Involved at least four missed court appearances per defendant

In this research, data also were collected on the total number of court appearances each defendant was required to attend. Thus it was possible to compute appearance-based FTA rates. Again excluding the 170 defendants (33 percent) who were in pretrial custody until final disposition, it was found that the remaining 349 defendants had been required to attend 2,348 court appearances after securing release.[89] Of these, a total of 145 had been missed for any reason, for a 6 percent overall appearance-based FTA rate. If the 37 missed court appearances assumed to be non-deliberate are excluded, the appearance-based FTA rate for deliberate FTA defendants was approximately 5 percent (108 out of 2,348 appearances). When compared to the defendant-based FTA rate behavior (13 percent), the appearance-based FTA rate (5 percent) indeed minimizes the impact of missed court appearances where the number of required appearances is high.

"Time at Risk" and FTA Behavior

One common finding in research on FTA behavior in various jurisdictions is that FTA rates appear to increase as the length of time defendants spend on release increases, and that

[88] See Part I of this report for an explanation of the procedures that take place when defendants fail to appear in court.

[89] The total number of scheduled court appearances for these defendants was actually 2,519, including approximately 171 appearances made while still in pretrial custody. These 171 (7 percent) appearances were excluded from this analysis.

"time at risk" is more important than other factors (prior criminal record, community ties, severity of the present charge, etc.) in accounting for the FTA behavior of defendants (Clarke, 1976; Schaffer, 1970). While the sample used in this research was not chosen to examine this type of *causal* relationship, several differences were observed between defendants who had forfeited their bonds and the rest of the sample, and between defendants who forfeited and those who had a previous history of bond forfeiture but had made all scheduled court appearances in the incident case.

The 345 defendants who were released on bond were required to attend a total of 2,348 court appearances after their release on bond. Of these, 120 defendants were disposed of during the preliminary hearing stage, requiring, on the average, four court appearances. The average number of court appearances per defendant who actually went to trial was nine, with a range of court dates from 15 to 28. It took, on the average, 114 days to dispose of these 345 cases, with a range of one day to 707 days. On average, each defendant spent about 1 percent of the total time it took to dispose his case actually in custody, although about 3 percent of the defendants spent as much as 75 percent to 92 percent of their total case time in custody.

Analyses comparing the 46 defendants who forfeited their bonds at least once with those defendants who made all court appearances when released on bond revealed several interesting findings. First, a higher proportion of defendants whose cases were disposed of at the preliminary hearing stage missed court appearances and forfeited their bonds than those who went to trial (17 percent vs. 11 percent, respectively). This finding suggests that defendants who planned to abscond did so early in their court case, and that the probability of missing court appearances did not necessarily increase as the length of trial increased (for deliberate FTA behavior).

On the other hand, identification of defendants who would be likely to forfeit their bonds was not clear-cut in this sample. Comparing those defendants who had forfeited their bonds in the incident case with defendants who had a prior history of bond forfeiture but who had made all scheduled court appearances did not reveal any significant differences in the number of previous convictions or previous bond forfeitures.

There were significant differences, however, in the primary arrest charges between the group that forfeited and those with a forfeiture history who made all court appearances. Twenty-seven percent of the non-forfeiture group were charged with violent offenses, compared to only 13 percent of the forfeiture group. On the other hand, 33 percent of the forfeiture group were charged with Class 4 (least serious) drug offenses, compared to 15 percent of the non-forfeiture group. Both groups included three defendants charged with bail jumping from another case.

Primarily due to the larger number of violent charges, the non-forfeiture group had much higher bond amounts set, on average, than the forfeiture group ($10,000 and $2,500, respectively). Furthermore, the non-forfeiture group spent almost twice as much time in custody, on average, than the forfeiture group, and their cases were disposed of in about half the time (an average of 110 days and 217 days, respectively). Thus the primary differences between the two groups appeared to be the relative lack of *opportunity* for the non-forfeiture group to abscond (since they spent more time in custody and had their cases disposed of more quickly).

Effect of FTA Behavior on Court Caseloads

Examination of FTA behavior for this sample also revealed some implications for the Cook County court system. These findings were all directly related to missed court appearances. For example, it took twice as long, on the average, to dispose of the cases of the BFW

defendants compared to the rest of the sample, since the BFW cases were continued at least once each time the defendants failed to appear. These BFW defendants also spent more total time in custody than the rest of the sample (averages of 34 days and 10 days, respectively), again primarily due to resumption of pretrial detention once they were arrested on the BFW (or in some cases, voluntarily returned to court). Finally, the BFW defendants were required to appear for more court dates than the rest of the sample (nine and five appearances, respectively), again because of additional procedures associated with bond forfeiture and reinstatement of cases stricken off the court calendar when the defendant failed to appear.[90] Thus it was quite evident that missed court appearances were creating an extra burden on the court system, in terms of longer periods needed to reach final disposition, additional court dates, and longer pretrial detention periods. For these reasons alone it would be in the court system's best interest to reduce FTA behavior as much as possible.

Summary

The findings on FTA behavior hold several implications for the Cook County court system. First, even though prosecutors actively bring charges against defendants for jumping bail, as many as 13 percent of the defendants in this sample willfully forfeit their bonds at least once, with 3 percent of all defendants becoming fugitives with their cases stricken off the court calendar pending their return to court.[91] This rate of bond forfeiture is about average for jurisdictions without a pretrial services agency to monitor defendants' behavior. Thus the probability of additional punishment for bail jumping will not deter some defendants from trying to escape justice. Second, the one significant difference observed between defendants who forfeited and those who did not (where both groups had prior history of bond forfeiture) was the *opportunity* to abscond. There appears to be a trade-off between preventing bond forfeiture via pretrial detention and increasing case disposition time if potential bond forfeiture defendants are released and fail to appear. The costs and benefits of these alternatives will vary depending on whether jail crowding or overloaded court dockets is the more pressing problem.

Rearrest While Out on Bond

A second type of pretrial misconduct, the commission of other crimes while awaiting trial, is even more costly to the criminal justice system. These costs include loss of public confidence in the system's ability to ensure community safety and additional operating costs associated with apprehension and prosecution of the offenders. Yet accurate data on the prevalence of this problem was among the most difficult to obtain of all the defendant information considered in this research.

Without a pretrial services agency to monitor and record defendants' behavior while out on bond, the only source of arrest information on this sample was Chicago Police Department rap sheets.[92] Reliance on rap sheets, however, poses several limitations on the information that can be determined regarding pretrial rearrest. First, only those criminal incidents that come to the attention of the police can be recorded. Second, it cannot be determined whether the actual *incident* occurred during the pretrial period, or whether the defendant was arrested after an investigation of an earlier incident. Finally, there is an inherent lag in the posting of arrest information to the rap sheets, requiring that the timing of the rap sheet examination be long enough after the disposition of the case to ensure that all pretrial arrest

[90] See Part I of this report for a more detailed explanation of the bond forfeiture process.

[91] Illinois is one of the few states that actively prosecutes bail jumping. In 1984 alone, the Cook County State's Attorney's Office initiated 485 cases against this type of defendant.

[92] State identification numbers were not available for sufficient numbers of defendants to use state CCH rap sheets.

incidents will have been recorded. In this sample, 14 percent of 168 defendants released on bond who had CPD rap sheets had neither the incident offense arrest recorded nor any subsequent arrest activity, even though the rap sheets were requested approximately one year after the incident offense arrest.

Figure 15 presents the incidence of pretrial rearrest for the 322 defendants in the sample whose release status was known and whose criminal history was available. More than half (55 percent) of this group were in custody during their entire court case, and thus had no opportunity for pretrial rearrest. Thirty-two percent were released from custody and were not rearrested before trial, while another 13 percent were rearrested at least once.

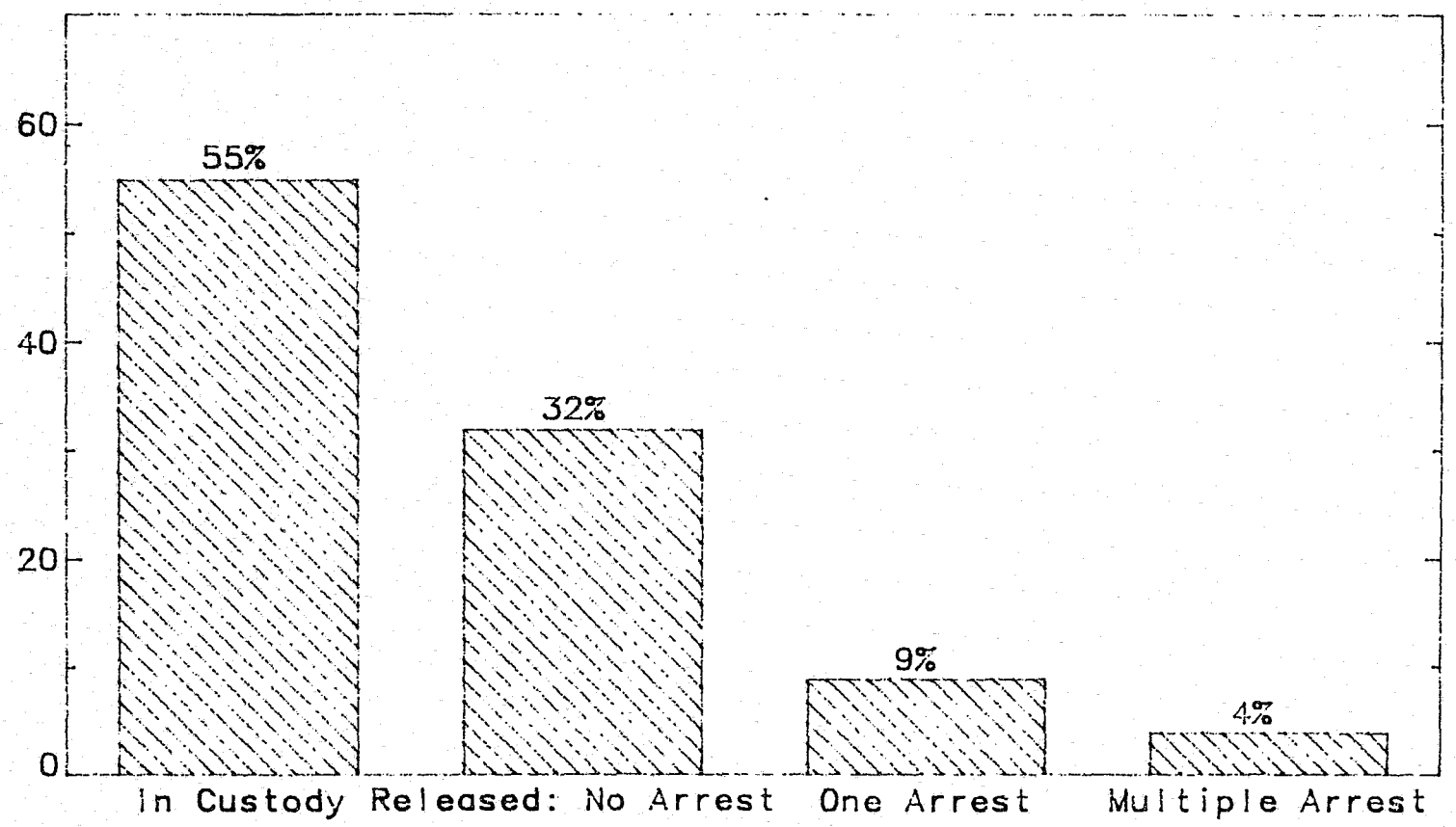
Table I, which presents the rearrest charges by offense type, shows clearly that property offenses accounted for 41 percent of the total. Violent offenses and public order offenses each represented 22 percent, while drug offenses accounted for 15 percent of the rearrest charges. Approximately one-fourth of the public order offenses were directly related to involvement in the incident court case, as they were charges of interfering with the judicial process (for example, contempt of court and escape).[93] Research has shown that the longer the court case, the greater the probability of pretrial arrest (BJS, 1985). In this sample, 30 percent were rearrested within a month of their release from pretrial custody for the incident offense, while 16 percent were rearrested more than six months after their initial release. Taking the length of the court case into account, 73 percent of these defendants were rearrested before their court case was half over, while only 18 percent were rearrested more than three-quarters into their court case. As with FTA behavior, this sample of defendants became involved in pretrial misconduct earlier in their court cases than generally found in other research.

Several factors might account for these findings. For example, this sample included cases terminated at the preliminary hearing stage as well as after trial. While it is not known at the initial bond hearing whether the case will ever get to trial, a certain proportion of cases (at least 9 percent of this sample) are disposed of at the preliminary hearing stage due to pretrial misconduct (for example, when a defendant's case is stricken off the court record because of failure to appear, or perhaps consolidation of the incident and rearrest cases to expedite prosecution). Another confounding factor was the finding that 35 percent of the rearrested defendants also had forfeited their bond at least once in the incident case. Both FTA behavior and pretrial rearrest were found to increase court disposition time. The incident court cases for the rearrested defendants lasted twice as long, on the average, than for the rest of the sample (225 days vs. 114 days). Thus, when taking court case length into account, defendants would appear to have been rearrested early in their court case, when the case might have been almost over had they not been rearrested. Finally, as previously discussed, the predominance of rearrest soon after the incident arrest could have been the result of police investigations of earlier (or related) crimes, and not actual pretrial misconduct.

[93] Rearrest on a bond forfeiture warrant was not counted as a pretrial rearrest in these analyses, since these were considered part of failure to appear behavior. If these arrests were included, the number of rearrested defendants would have increased another 5 percent, to 44 percent of the defendants who were released on bond (and whose rap sheets could be examined).

Figure 15: Incidence of Pretrial Rearrest*

The majority of defendants were not rearrested during the course of their court case.



*Based on 322 defendants whose pretrial release status was known and whose rap sheets were available.

Table I: Rearrest Charges

	Number of Charges	Percent of Total Charges
Violent offenses		
Rape/deviate sexual assault	2	
Robbery	4	
Aggravated battery	9	
Unlawful restraint	1	
Total violent offenses	16	21.9%
Property offenses		
Burglary	1	
Theft	22	
Motor vehicle theft	3	
Criminal damage to property	4	
Total property offenses	30	41.1%
Drug offenses	11	15.1%
Public order offenses	16	21.9%
TOTAL	73	100.0%

*New arrests that occurred during course of incident case; rearrest on bond forfeiture warrants not included.

Further analyses were conducted to determine the types of defendants who were most likely to be rearrested. While the number of cases (43) was too small for anything but descriptive analysis, the findings were consistent with other research on pretrial rearrest (Kern, 1986; BJS, 1985). For example, a majority of the rearrested defendants were male (86 percent); were aged 25 or younger at the time of their arrest for the incident offense (60 percent); had been arrested, on the average, six times in the past; and as a group, accounted for a third of all defendants in the entire sample who forfeited their bonds. Only three of these defendants had a violent primary arrest charge in the incident case, while 44 percent had been originally arrested for a property offense. Twenty-six percent were originally arrested for a drug offense, with the remaining 21 percent were originally arrested for a public order offense. That these characteristics mirror those of the sample as a whole indicates that there was no identifiable subgroup (for example, women charged with violent crimes, etc.) that was more likely to be rearrested before trial.

Only about one-fourth of the pretrial rearrest charges were of the same offense type as the incident arrest charge, and no offense type seemed to be any more likely to be repeated on

pretrial release (for example, defendants originally charged with violent or drug offenses were as likely to be rearrested for a property or public order offense as another violent or drug offense).

A more disconcerting finding was the fact that 35 percent serious, repeat offender (SRO) group who were released from pretrial custody were rearrested during the course of the incident court case, and that three of these seven defendants were rearrested *multiple* times. These multiple arrests would indicate that pretrial arrest information was not reaching the judge in time for the bail hearing on the rearrest case, since that should have been a prime consideration for increasing bond to achieve pretrial detention, especially for these serious offenders. These findings also corroborate other research on recidivists (ROP bulletins, 1986) indicating that those with extensive prior criminal histories (as exhibited by the SRO group) are likely to return to criminal activity at the next opportunity. Finally, these findings on the SRO group tend to corroborate the work by Achen (1985), who determined that as many as 50 percent of defendants detained before trial would have been involved in pretrial misconduct had they been released. That such a high percentage of released SRO defendants were rearrested before trial suggests that the pretrial detention of 72 percent of this group was actually in the best interest of public safety, in that as many as 15 percent more may have been rearrested prior to the conclusion of the incident court case.

Summary

This preliminary investigation into the incidence of pretrial rearrest revealed some interesting findings. The vast majority (87 percent) of the sample included in this analysis were not rearrested; this can be attributed to the fact that more than half were not released before trial, and thus had no opportunity for pretrial rearrest. On the other hand, 4 percent of this sample were rearrested *multiple* times after release from custody. A second important finding was that there appeared to be little relationship between the type of offense for which the defendant was originally arrested and the subsequent rearrest charge. That is, defendants charged with violent or drug offenses were as likely to be rearrested for some other type of crime as for another violent or drug offense. Finally, we found that the serious, repeat offenders were more likely to be rearrested before trial than were those with less serious criminal histories, suggesting that pretrial detention of the majority of this group (72 percent) was actually in the best interest of public safety.

Appendices

Appendix A: Definitions of Terms

Most of the definitions in this appendix come from the Bureau of Justice Statistics' *Dictionary of Criminal Justice Data Terminology*. Readers are encouraged to consult this publication for definitions of terms not included here.

ARRAIGNMENT: The hearing before a court having jurisdiction in a criminal case, at which the defendant, after being identified, is informed of the charge(s) and of his rights, and then required to enter a plea.

ARREST DISPOSITION: The actions taken by various criminal justice agencies signifying that a portion of the justice process is complete and jurisdiction is terminated or transferred to another agency. Dispositions for arrests include the following: charges filed by the police or not; decision to prosecute by the state or not; conviction or acquittal by the court; sentencing; and successful completion of sentence, or violation of sentence conditions.

ASSISTANT STATE'S ATTORNEY (PROSECUTOR): An attorney employed by a governmental agency whose official duty is to conduct criminal proceedings on behalf of the people against persons accused of committing criminal offenses.

BAIL: The money (or property) pledged to the court or actually deposited with the court by a defendant to secure release from legal custody pending further criminal proceedings after arrest. The amount of cash bail deposit is usually 10 percent of the bond set (see below).

BOND: A document guaranteeing the appearance of a defendant in court as required, and recording the pledge of money or property to be paid to the court if he does not appear.

BOND FORFEITURE WARRANT: A document issued by a judicial officer directing law enforcement officers to arrest an identified person who has violated the conditions of bail, usually a defendant who has not appeared in court on a specific date.

BOND HEARING: A judicial proceeding during which a judicial officer determines the appropriate bond type and amount for a defendant.

COMPLAINT: A formal document submitted to the court by a prosecutor, law enforcement officer, or other person, alleging that a specific person(s) has committed a specific offense(s) and requesting prosecution.

DEFENDANT: A person formally accused of an offense(s) by the filing in court of a charging document.

DOUBLEBLIND: A research technique, used most often in evaluating the effects of a drug or treatment, in which neither the subject nor the researcher knows who is specifically receiving the treatment under study.

FELONY: A criminal offense punishable by death or incarceration in a penal institution.

GRAND JURY: A body of persons who have been selected according to law and sworn to hear the evidence against accused persons and determine whether there is sufficient evidence to bring those persons to trial.

MISDEMEANOR: A lesser criminal offense punishable by imprisonment or confinement in a local correctional facility for less than a year.

MANDATORY SUPERVISED RELEASE (VIOLATION OF): The failure to adhere to conditions set on the conditional release from prison. This period of conditional release is statutorily defined to begin once the inmate has been confined for a time period equal to the full sentence, minus any statutory "good time." [See PAROLE (VIOLATION OF).]

NOLLE PROSEQUI: The end of adjudication of a criminal charge by the prosecutor's decision not to pursue the case; sometimes called "nolle pros."

PAROLE (VIOLATION OF): The failure to adhere to terms set on the conditional release from a prison. These conditions always include not committing another offense and regular reporting to a parole officer or other specified persons; they may also include not associating with known offenders, remaining within a designated geographic area, and so on. Parole differs from Mandatory Supervised Release (see above) only in that the release decision is at the discretion of a paroling authority, rather than being statutorily defined.

PRELIMINARY HEARING: The proceeding before a judicial officer in which three matters must be decided: whether a crime was committed; whether the crime occurred in the territorial jurisdiction of the court; and whether there are reasonable grounds to believe the defendant committed the crime.

PRETRIAL PROCESS: The criminal judicial proceedings relating to a defendant arrested for a criminal offense beginning with arrest and including all proceedings through preliminary hearing.

PROBATION (VIOLATION OF): The nonadherence to certain conditions of behavior placed on the conditional freedom granted by a judicial officer to an adjudged person as an alternative to confinement. These conditions always include not committing another offense, and may also include paying restitution or a fine, seeking treatment for a drug or alcohol problem, reporting to a probation officer, and may even include serving some portion of the probation sentence in jail.

PUBLIC DEFENDER: An attorney employed by a government agency or sub-agency, or by a private organization under contract to a unit of government, for the purpose of providing defense services to indigents.

RAP SHEET: A historical compilation of a defendant's contacts with criminal justice agencies documenting arrests, arresting offenses, and outcomes of judicial proceedings. In this paper, two types of rap sheets are referred to: those compiled by the Illinois Department of State Police and those compiled by the Chicago Police Department.

STRICKEN ON LEAVE TO REINSTATE (SOL): The temporary terminating of adjudication of a criminal charge by a prosecutor's decision to pursue the case at a later date.

STREET VALUE: An estimate of the amount of money a certain amount of a suspected narcotic or other controlled substance would be sold for illegally.

WARRANT: Any of a number of writs issued by a judicial officer, which direct a law enforcement officer to perform a specified act and afford him protection from damage if he performs it.

Appendix B: Description of Cook County Municipal-Level Felony Courtrooms

All courtrooms described in this appendix handle felony cases from bond hearing through preliminary hearing, unless otherwise noted.

1st District -- City of Chicago

Specialized Courtrooms

- *Branch 64 - Auto Theft (Observed on 7/21/83)*

  This courtroom handles all felony and misdemeanor cases involving theft or vandalism of motor vehicles within the city limits. It is located at the Municipal Court Building, 1100 S. State St.

- *Branch 28 - Central Gun Court (Observed on 7/21/83)*

  This courtroom handles all felony and misdemeanor cases involving unlawful use of weapons and related offenses (aggravated assault with a weapon, battery, no firearm identification, etc.), within the city limits. It is also located at the Municipal Court Building.

- *Branch 25 - Narcotics Court (Observed on 7/13/83)*

  This courtroom handles narcotics cases in which gangs and organized crime are involved. Although other types of felonies may be also involved in the arrest, the narcotics charge is the primary consideration in assigning the case to this courtroom. Thus related charges that are usually heard in other specialized courtrooms (unlawful use of weapons, for example), are handled in this branch court instead. This court is located at the Criminal Courts Building, 2600 S. California.

- *Branch 57 - Narcotics Court (Observed on 7/19/83)*

  This courtroom handles all felony narcotics cases that do not involve gangs or organized crime. Again, other types of felonies included in the arrest would also be handled here, instead of in the other specialized courts. It is also located at the Criminal Courts Building.

- *Branch 66 - Felony Court, Homicide (Observed on 7/19/83)*

  This courtroom handles all homicide and felony sex cases that occur within the city limits. Due to the sensitive nature of these cases, this courtroom is uniquely designed. Defendants out on bond, family members, and other observers must sit in the outer area, which is separated from the main courtroom by glass doors; they are allowed in the main courtroom when only their case is called. This allows for more privacy during

the bond and preliminary hearings. This courtroom is located in the Criminal Courts Building.

- *Branch 44 - Felony Court Central (Observed on 7/13/83)*

  This courtroom handles all other types of felony cases (such as burglary, robbery and theft) not assigned to the specialized courts that occur in Police Area 3. It is also located at the Criminal Courts Building.

Police Area Courtrooms

Four of the six police area headquarters within Chicago contain felony and misdemeanor court facilities. These courtrooms handle all nonspecialized cases (robbery, burglary, theft) that occur within that police area. These courtrooms include:

- *Branch 48 - Police Areas 1 and 2 (51st and Wentworth; Observed on 8/15/83)*
- *Branch 43 - Police Area 4 (Harrison and Kedzie; Observed on 8/29/83)*
- *Branch 50 - Police Area 5 (Grand and Central; Observed on 8/18/83)*
- *Branch 42 - Police Area 6 (Belmont and Western; Observed on 8/4/83)*

Districts 2 Through 6 -- Cook County Suburbs

The five suburban districts handle every type of felony case that occurs within that district. Unlike the First District, there are no specialized felony courts. In addition, some of these districts with fewer court facilities may assign both misdemeanor (especially traffic offenses) and felony bond calls to the same courtroom.

- *District 2 - Skokie (Observed on 9/12/83)*

  This district has a newly built civic center containing 20-25 courtrooms. The municipal-level felony courtroom operates on a "key schedule," by which each of the 27 municipalities within the district are assigned court dates on which their cases are heard. This practice serves to distribute the court caseload more evenly. However, it also has some bearing on the bond decision, because dates for continuances are dictated by this schedule. If a judge learns that a nonviolent defendant who is unable to post bond will be forced to remain in custody longer than two weeks (because a legal holiday interrupts the normal schedule, for example), the judge may reconsider the bond for an amount closer to what the defendant can post.

- *District 3 - Niles (Observed on 9/7/83)*

  This district does not have a centralized court facility. Felony bond calls for the entire district are held at the police headquarters in Niles, while most misdemeanors are handled at the police stations within each municipality. Misdemeanor cases demanding jury trial and all felony arraignments and trials are held in another municipality within the district (Des Plaines).

- *District 4 - Maywood (Observed on 10/3/83)*

  This district contains a centralized civic center that contains 15-20 courtrooms. This district is unique, in that all felony bond calls are held in a courtroom that does not also handle preliminary hearings. Defendants are brought in by the arresting jurisdiction for bond hearings, after which future appearances in the preliminary hearing courtroom are scheduled. This latter courtroom also operates on a "key schedule" for each municipality. (The preliminary hearing court was not scheduled for observation.)

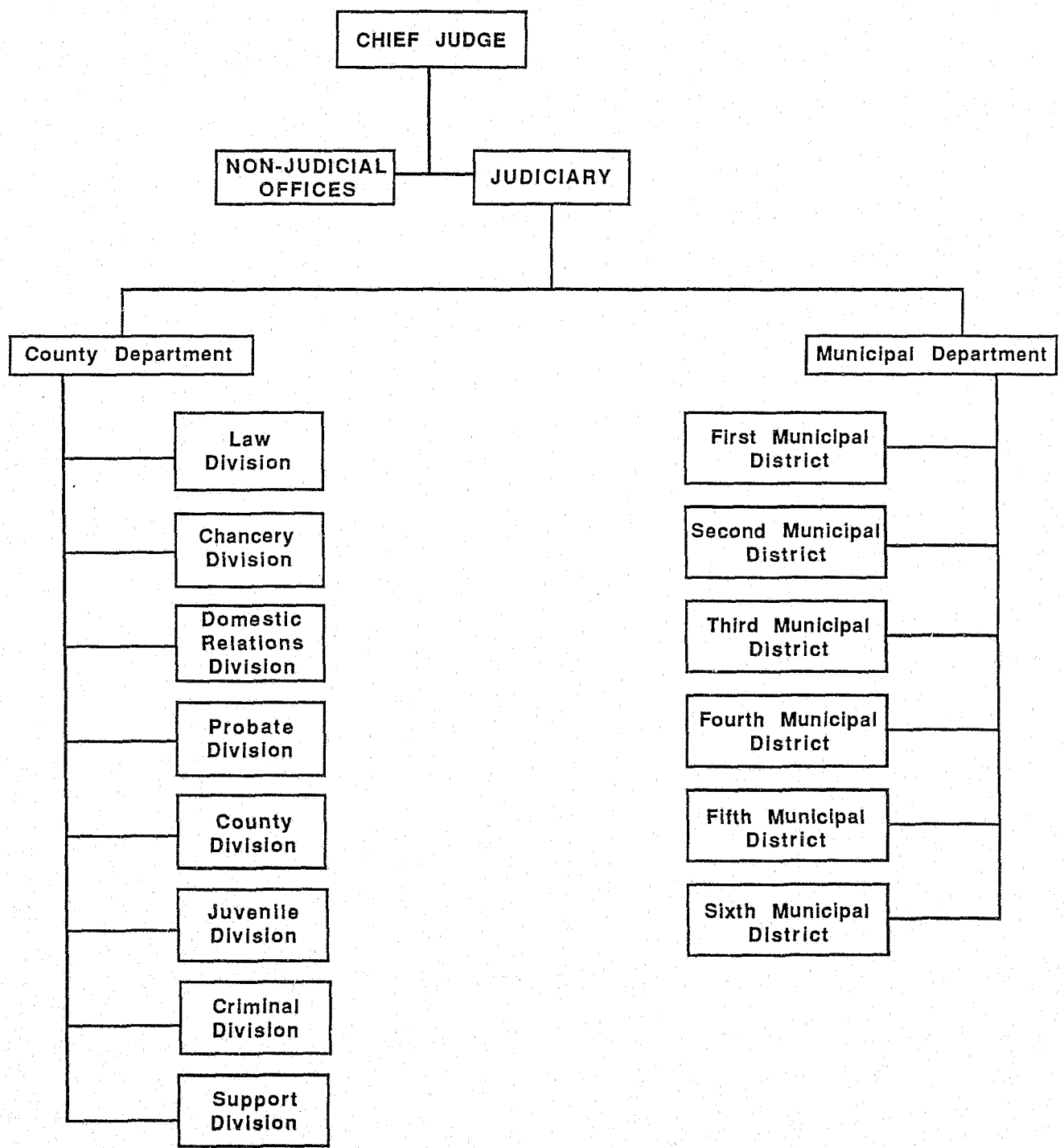
- *District 5 - Chicago Ridge (Observed on 10/11/83)*

  This district does not have a civic center in which all courtrooms are centralized. Misdemeanor cases are handled in each individual municipality, while civil and all felony cases (along with all court clerk functions) are currently handled in one location (a small, crowded schoolhouse). Due to the lack of facilities, as well as considerations for the speedy disposition of cases, the felony courtroom handles all arraignments as well as bond and preliminary hearings. Also unique to this district is the present practice of not rotating judges through the felony courtroom. This has reduced the time it takes to dispose of cases (the target is 60 days from bond hearing to arraignment).

- *District 6 - Markham (Observed on 10/5/83)*

  This district also contains a centralized civic center that houses 20-25 courtrooms. As in the other suburban districts, all felony cases are handled here, although a "key schedule" is not used. Because of the large volume of cases processed in this district, and the practice of allowing several preliminary hearings (which can be time consuming procedures) to be scheduled on any given date, the court call tended to be the longest of any observed (extending well into the afternoon).

Appendix C: Organizational Chart of the Cook County Circuit Court



Appendix D: Sampling Methodology

The sampling methodology employed in this research depended largely on the organization of the Cook County Circuit Court and the flow of information within the circuit.

As described in detail in Part I, felony cases begin in the Municipal Department, in any one of its six districts. Felony cases in which probable cause is determined (via a preliminary hearing or grand jury indictment) are transferred from the Municipal Department to the Criminal Division of the County Department. The transfer of cases from Municipal Department to Criminal Division makes the tracing of cases through the court system somewhat problematic, since the case number assigned at the municipal level is terminated upon transfer to the criminal level, and a new criminal level case number is assigned.

Compounding this case-tracking problem is the fact that, while the same general procedures for court information processing hold for the entire circuit, there are some variations across the districts. For example, the filing schemes for court case files are slightly different in each district. In District 1 (City of Chicago), the files for cases terminated in the Municipal Department are stored in a different building than the files terminated in the Criminal Division. For cases that proceed to the criminal level, the documents in the municipal court case file (arrest report, sworn complaint form, any executed warrants, probation or parole violation forms, etc.) are forwarded to the Criminal Division and become part of the defendant's total court file. In most of the suburban districts, however, the two types of files may be stored in the same location, although the file contents will not be merged for cases that are transferred from the municipal level to the criminal level. Thus, the entire case history (both pretrial decisions *and* ultimate case disposition) cannot be ascertained unless the defendant's municipal and criminal files are both obtained.

To facilitate the tracking and management of cases through the court system, the Circuit Court operates two computerized information systems. The Court Information System (CIS) keeps track of all cases and generates the daily court calls in the Municipal Department, while the Criminal Felony System (CFS) provides the same function in the Criminal Division. Some defendant and bond information is captured on these systems, although the primary purpose is to record the action taken by the judge at each court appearance, as well as the next scheduled event. Once the case is terminated or transferred to another division, the case is removed from the information system. Thus, neither system is particularly amenable to research applications.

In order to conduct research on bond decisions over time, currently it is necessary to conduct primary data collection from manual files. The research presented in Parts II and III relied on documents in the court case files, although records maintained by the State's Attorney's Office may also contain some of the requisite information.

The sampling methodology used to generate the research sample of 519 felony cases was as follows:

- A randomly selected sample of 208 cases were drawn from the total 7,151 felony cases terminated in the Criminal Division of the First District during 1982. Systematic random case selection was employed, using a list of court cases terminated in 1982. This methodology ensured that the findings from these cases would be representative of the total population of felony cases that reached the arraignment stage and reached

a final disposition during calendar year 1982, in the City of Chicago.[1]

- An additional sample of 151 felony cases were selected from the criminal divisions in the five suburban districts.[2] Due to the unavailability of lists of court cases terminated in 1982 in the suburban districts (such information is kept only for the previous six months), it was impossible to use true systematic random selection for the suburban felony files. Instead, the total number of cases in each suburban district was estimated from the size of the files maintained in each clerk's office, and a systematic selection formula was devised to ensure that an equal number of cases was selected from each file cabinet, up to the total number of cases needed for that district. This procedure ensured that the sample was selected from the entire range of cases initiated and terminated throughout 1982.

- In order to more fully assess the bond decision process, another sample of 160 felony cases was obtained from all cases terminated in 1982 at the Municipal Division in all six districts within Cook County. Lists of these cases for the entire year were unavailable for these cases as well. Thus the same systematic sampling procedure used to draw the suburban criminal division cases was used again here.

[1]The interested reader is referred to Herbert Arkin's ***Handbook of Sampling for Auditing and Accounting***, for a detailed discussion of the sampling formula used.

[2]These districts are: District 2 - Skokie; District 3 - Niles; District 4 - Maywood; District 5 - Chicago Ridge; and District 6 - Markham.

Appendix E: Survival Methodology

Survival analysis was first applied in the medical and engineering fields, where it is desirable to know the rates at which "terminal events" occur in a given population or group. For example, it has been used to assess the rates over time at which cancer symptoms appear for groups of patients subject to different medical treatments.

One facet of survival analysis is a calculation of the "cumulative" proportion of the sample who have yet to experience the specified "terminal event" (for example, securing pretrial release), at the end of each succeeding time interval (at the end of each week, month, etc.). When plotted on graphs, these cumulative proportions depict a "survival" curve representing the proportion of subjects experiencing the terminal event over time. These graphs are particularly useful in pinpointing "critical periods" in which the terminal events occur rapidly, as represented in a steep slope in the graph.

The application of survival analysis to criminal justice data is relatively new and has been used primarily in analyzing the rates at which ex-offenders return to criminal activity.[1] This is one of the first attempts to apply survival analysis techniques to data on release from pretrial custody. The terminology used in survival analysis may imply that its use is limited to events that result in only "failure" or "terminal" events. However, there is nothing within its procedures that precludes its use in other applications as well.

In the examination of pretrial custody data presented in this report, the "terminal event" is the release from pretrial detention. The term "exit event" is used to describe this activity, since it more aptly describes the phenomenon under observation than the traditional term "terminal event."

To appropriately use survival analysis, several methodological criteria must be met:

A starting event must occur.

> The starting event for this sample of felony defendants is the point at which they were offered the option of pretrial release, generally at the first bond hearing. The fact that some defendants did not spend time in custody after the initial bond hearing is not inconsistent with the logic of survival analysis, since these cases are construed as "terminal events" that occurred before the beginning of the first interval (at the end of the 0th interval).

A terminal ("exit") event must not occur before a starting event.

> This criterion is also satisfied in these data. Those cases in which "I" bonds were imposed were not included in the analyses, since these defendants automatically gained release from pretrial detention. All defendants assigned cash bonds were tracked after the initial bond hearing, where they would be in pretrial custody until bond was posted.

---

[1] See Markovic, J., *Pace of Recidivism in Illinois*, Illinois Criminal Justice Information Authority, 1986, for a more detailed description of survival analysis applied in criminal justice recidivism research.

A terminal ("exit") event must be defined in such a way that it is impossible to occur more than once.

The "exit" event is defined in this research as the *initial* release, thus satisfying this third criterion. Although it is possible that an individual could have been released, re-detained, and released again during the pretrial period, *only* the first release was defined to constitute the exit event. Instances in which more than one release occurred were very few.

Appendix F: Calculating Failure-To-Appear Rates

An unresolved issue in failure-to-appear (FTA) research is the proper methodology for calculating the FTA rate for a group of defendants. The two most prevalent methods are *defendant-based* and *appearance-based* calculations (Kirby, 1979). Different conclusions about FTA behavior in a given jurisdiction may be reached depending on which method is used. The use of several methods of FTA rate calculation also makes cross-jurisdictional comparisons problematic unless the method used in each jurisdiction is explicitly stated.

> *Defendant-based FTA rate:* This rate is usually expressed as a percentage of all released defendants who fail to appear on at least one occasion. Multiple missed appearances by the same defendant are not included in the calculation. This method is used most often, since it requires less information to compute than other methods. However, this measure does not take into account that some defendants have more court appearances and thus have longer "times at risk."
>
> *Appearance-based FTA rate:* This method calculates the rate as the number of missed court appearances divided by the total number of scheduled court appearances. For example, if a sample of 500 defendants had a total of 1,000 scheduled court dates, and 50 of those were missed (by 30 defendants), the FTA rate would be 5 percent (50 out of 1,000). In contrast, the defendant-based FTA rate for this same example would be 6 percent, or 30 defendants out of the total 500.

Appearance-based FTA rates have the advantage of taking into account the length of court processing, to prevent jurisdictions from being "statistically penalized" for technical FTA defendants (who may unintentionally miss only one appearance out of many). On the other hand, the total number of scheduled court appearances for a group of defendants may not be known without extensive data collection. Another drawback is that inefficient court jurisdictions that average a high number of court appearances per defendant may actually appear more effective (since a single missed appearance out of many will seem "insignificant").

Bibliography

Achen, Christopher
1985 *Statistical Methods for Quasi-Experiments.* Los Angeles: University of California Press.

Administrative Office of the Illinois Courts
1978-1984 *Annual Report to the Supreme Court of Illinois.* Springfield: Administrative Office of the Illinois Courts.

Angel, A., Green, E., Kaufman, H., and Van Loon, E.
1971 "Preventive Detention: An Empirical Analysis." *Harvard Civil Rights - Civil Liberties Law Review.* 6:301

Arkin, Herbert
1984 *Handbook of Sampling for Auditing and Accounting.* New Jersey: McGraw-Hill.

Chicago Police Department
1982 *Statistical Summary.* Chicago: Chicago Police Department.

Clarke, Stevens H., Freeman, J.L., and Koch, G.G.
1976 "Bail risk: A multivariate analysis." *Journal of Legal Studies.*5:341.

CONSULT, Ltd.
1977 *Evaluation of the Cook County Special Bail Project.* Chicago: Prepared for the Joint Evaluation Committee of the Chicago-Cook County Criminal Justice Commission and the Illinois Law Enforcement Commission.

Galvin, John, Busher, W., Greene-Quijano, W., Kemp, G., Harlow, N., and Hoffman, K.
1977 *Instead of Jail: Alternatives to Pretrial Detention.* Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, LEAA, U.S. Department of Justice.

Goldkamp, John
1979 *Two Classes of Accused.* Cambridge: Ballinger Publishing Co.

Goldkamp, J.S., and Gottfredson, M.R.
1985 *Policy Guidelines for Bail: An Experiment in Court Reform.* Philadelphia: Temple University Press.

Hall, Andy
1984 *Pretrial Release Program Options.* Washington, D.C.: U.S. Department of Justice, National Institute of Justice, Office of Development, Testing and Dissemination.

Hirschi, T., and Gottfredson, M.
1983 "Age and the explanation of crime." *American Journal of Sociology.* 80 (3):552.

Illinois Criminal Justice Information Authority

1983 *Annual Audit Report 1982-1983.* Chicago: Illinois Criminal Justice Information Authority.

1985a *Repeat Offenders in Illinois.* Chicago: Illinois Criminal Justice Information Authority.

1985b *Illinois' Justice Assistance Program: Fiscal Year 1986 Plan.* Chicago: Illinois Criminal Justice Information Authority.

1985c *Annual Audit Report 1984-1985: Illinois' Computerized Criminal History System.* Chicago: Illinois Criminal Justice Information Authority.

1986a *Annual Audit Report 1985-1986: Court Disposition Reporting and Processing.* Chicago: Illinois Criminal Justice Information Authority.

1986b *The Impact of Prior Criminal History on Recidivism in Illinois.* Chicago: Illinois Criminal Justice Information Authority.

1986c *The Pace of Recidivism in Illinois.* Chicago: Illinois Criminal Justice Information Authority.

1986d *Advisory on Warrant Mileage Limitations.* Chicago: Illinois Criminal Justice Information Authority.

Illinois Criminal Justice Information Council

1980 *Annual Privacy and Security Audit Report.* Chicago: Illinois Criminal Justice Information Council.

1981 *Annual Privacy and Security Audit Report.* Chicago: Illinois Criminal Justice Information Council.

Illinois Department of State Police

1985, 1982 *Crime in Illinois.* Springfield: Illinois Department of State Police.

Illinois Judicial Conference

1978 *Report of the Study Committee on Bail Procedures.* Springfield: State of Illinois.

Illinois Law Enforcement Commission

1980 *Criminal Justice Information Process for Cook County.* Chicago: Illinois Law Enforcement Commission.

1981 *How to Trace Crimes Through the Illinois Criminal Justice System.* Chicago: Illinois Law Enforcement Commission.

Illinois Local Government Law Enforcement Officers Training Board

1980 *Local Law Enforcement Officer Census, State of Illinois - January, 1980.* State of Illinois.

Kern, Richard

1986 *Development of a Pretrial Risk Assessment Instrument: A Pilot Study.* Richmond, Va.: Virginia Statistical Analysis Center, Department of Criminal Justice.

Kirby, Michael

1979 *Failure-to-Appear: What Does It Mean? How Can It Be Measured?* Washington, D.C.: Pretrial Services Resource Center.

Klein, S., and Caggiano, M.

1986 *The Prevalence, Predictability, and Policy Implications of Recidivism.* Santa Monica, Calif.: RAND Corporation.

Locke, J.W., Penn, R., Rick, J., Bunten, E., and Hare, G.
1970 *Compilation and Use of Criminal Court Data in Relation to Pre-Trial Release of Defendants.* (Technical Note 535) Washington, D.C.: National Bureau of Standards, U.S. Department of Commerce.

Mahoney, Barry
1975 *An Evaluation of Policy-Related Research on the Effectiveness of a Pretrial Release Program.* Denver: National Center for State Courts.

Office of the Auditor General, State of Illinois
1982 Management and Program Audit, Criminal History Components, Criminal Justice Information System, Illinois Department of Law Enforcement. Springfield: State of Illinois.

Pryor, Donald
1982 *Practices of Pretrial Release Programs: Review and Analysis of the Data.* Washington, D.C.: Pretrial Services Resource Center.

Raab, Robert J.
1983 "Preliminary Hearing," in *Prosecution of the Criminal Case.* Chicago: Institute for Continuing Legal Education.

Schaffer, Stephen
1970 "Bail and Parole Jumping in Manhattan in 1967." (Mimeo) New York: Vera Institute of Justice.

Special Commission on the Administration of Justice in Cook County
1986 A Report on the Adult Probation Department. Chicago: Special Commission on the Adminstration of Justice in Cook County.

Thomas, Wayne
1976 *Bail Reform in America.* Los Angeles: University of Los Angeles Press.

Toborg, Mary
1981 *Pretrial Release: A National Evaluation of Practices and Outcomes.* Washington, D.C.: National Institute of U.S. Department of Justice.

United States Department of Justice, Bureau of Justice Statistics
1983a *Report to the Nation on Crime and Justice.* Washington, D.C.: Bureau of Justice Statistics.
1983b *Pretrial Release and Misconduct.* Washington, D.C.: Bureau of Justice Statistics.